

May 20, 2011

Marlene Dortch  
Secretary,  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Ex Parte* Notice  
CG Docket Nos. 10-207 and 09-158 (Bill Shock)  
CC Docket No. 98-170 (Truth in Billing)

Dear Ms. Dortch:

A recent segment on the *Today Show* reported that customers of AT&T's iPhone and iPad are being systematically overcharged for data usage.<sup>1</sup> Independent researchers ran several tests that showed AT&T customers using the iPhone or iPad were routinely overcharged between 7% and 15%, and all the way up to 300%, for data usage.<sup>2</sup> The researchers also found that AT&T iPhone and iPad customers were being charged for "phantom data." The researchers described phantom data as "unusual activity on the bill in the middle of the night when we're all sleeping" that leads to data charges.<sup>3</sup>

The *Today Show* also interviewed the father of a family who is an AT&T iPhone customer. Since he does not use his phone much, he selected the lowest data plan available. Within only a few days, he found that he incurred a \$15 overage charge for exceeding his data limit. He is yet another example of how American families are experiencing overage charges when they receive their wireless phone bills.

As more carriers move to a metered data usage plans and away from "unlimited" data plans, consumers will need to be informed of how much data they are using, whether or not they are actively searching the web or using applications. Smartphones like the iPhone and Android phones are becoming more and more popular among consumers of all ages. Yet, not all consumers realize the extent or amount of their data usage, as is shown by the father's story on the *Today Show*.

Consumers Union urges the Commission to act on both its Bill Shock and Truth in Billing proceedings. Consumers need to be made fully aware of when they will be reaching their usage limits prior to receiving the overage charge. As we proposed in the Bill Shock proceeding, wireless carriers must give notification – free of charge - to consumers when they are nearing

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<sup>1</sup> See Lisa Myers (reporter), "Is AT&T fleecing iPad, iPhone users?" *Today Show*, <http://www.msnbc.msn.com/id/21134540/vp/43090699#43090699>. Video last viewed on May 19, 2011.

<sup>2</sup> See *id.* See also Jorgen Wouters, "Lawsuit Accuses AT&T of iPhone and iPad Overcharges," *Wallet Pop*, Feb. 2, 2011, <http://www.walletpop.com/2011/02/02/lawsuit-accuses-atandt-of-iphone-and-ipad-overcharges/>. Last viewed on May 20, 2011.

<sup>3</sup> See Lisa Myers (reporter), "Is AT&T fleecing iPad, iPhone users?" *Today Show*, <http://www.msnbc.msn.com/id/21134540/vp/43090699#43090699>. Video last viewed on May 19, 2011.

their monthly data, voice, and/or text messaging allotments for their plans.<sup>4</sup> Additionally, as we suggested in the Truth in Billing proceeding, the Commission should also require clear and upfront disclosure of overage fees and usage limits at the point of sale.<sup>5</sup>

Pursuant to Section 1.1206(b) of the Commission's rules, 47 C.F.R. §1.1206(b), this letter is being filed electronically with your office today.

Respectfully Submitted,



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<sup>4</sup> See Reply Comments of Consumers Union, *In the Matter of Empowering Consumers to Avoid Bill Shock*, CG Docket No. 10-207.

<sup>5</sup> See Comments of Consumer Federation of America, Consumers Union, Free Press, Media Access Project, New America Foundation, and Public Knowledge, *In the Matter of Truth in Billing and Billing Format*, CC 98-170.