

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”)</b>	)	<b>CG Docket No. 11-116</b>
	)	
<b>Consumer Information and Disclosure</b>	)	<b>CG Docket No. 09-158</b>
	)	
<b>Truth-in-Billing and Billing Format</b>	)	<b>CC Docket No. 98-170</b>

**COMMENTS OF THE INDEPENDENT TELEPHONE &  
TELECOMMUNICATIONS ALLIANCE**

The Independent Telephone & Telecommunications Alliance (“ITTA”) hereby submits its comments with respect to the July 12, 2011 *Notice of Proposed Rulemaking* (“NPRM”) issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceedings.<sup>1</sup> In the *NPRM*, the Commission seeks comment on proposed rules designed to assist consumers in detecting and preventing the placement of unauthorized charges on their telephone bills, an unlawful practice commonly known as “cramming.”<sup>2</sup>

ITTA agrees with the Commission that consumers should be empowered to address unauthorized charges on their telephone bills, but disagrees that additional FCC regulation is necessary to achieve this objective. Rather, ITTA believes that voice providers, consumer

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<sup>1</sup> *In the Matter of Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”); Consumer Information and Disclosure; Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, CG Docket Nos. 11-116, 09-158, CC Docket No. 98-170 (rel. July 12, 2011) (“NPRM”).

<sup>2</sup> *See, e.g., Long Distance Direct, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 3297, ¶ 14 (2000) (concluding that the placement of unauthorized charges for or in connection with telephone service constitutes an unjust and unreasonable practice in violation of Section 201(b) of the Communications Act, 47 U.S.C. § 201(b)).

advocates and other industry stakeholders can voluntarily work together with the Commission to build on existing industry practices to assist consumers in addressing cramming issues.<sup>3</sup>

ITTA's members are mid-size telephone companies that provide a range of voice, data, and video services to approximately 19.5 million access lines in 44 states. In today's competitive environment, ITTA members and other voice providers have every incentive to protect subscribers from unauthorized charges and have measures in place to address cramming. Such providers comply with the Commission's truth-in-billing guidelines,<sup>4</sup> offer customers blocking options for third-party charges, work with customers to ensure that erroneous third-party charges are removed from their bills, and actively monitor behavior of third-party vendors to eliminate bad actors. Given the increasingly crowded communications marketplace, where consumers are free to choose among a variety of services from any number of entities, it is imperative that voice providers have such policies and practices in place to ensure continued customer satisfaction and loyalty.

That said, ITTA agrees with the Commission that additional education to better familiarize consumers with third-party billing and options to block such charges from subscriber bills could be beneficial.<sup>5</sup> ITTA members have been exploring voluntary measures that would be useful to increase consumer awareness of such issues, for example, through information contained in subscriber bill inserts. The Commission should acknowledge these industry efforts to address cramming issues and embrace industry self-regulation, rather than government-

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<sup>3</sup> See, e.g., Anti-Cramming Best Practices Guidelines, [http://www.fcc.gov/Bureaus/Common\\_Carrier/Other/cramming/cramming.html](http://www.fcc.gov/Bureaus/Common_Carrier/Other/cramming/cramming.html).

<sup>4</sup> See 47 C.F.R. § 64.2401 (requiring that customer bills: (1) be clearly organized, clearly identify the service provider, and highlight any new provider that did not appear on the customer's bill during the previous billing cycle; (2) contain full and non-misleading descriptions of the charges appearing on the bill; and (3) contain clear and conspicuous disclosure of any information that the consumer may need to inquire about or dispute charges on the bill).

<sup>5</sup> *NPRM* at ¶ 5.

imposed rules, as a means to address the concerns raised in the *NPRM*. To the extent that the Commission believes the adoption of additional safeguards are necessary, however, it should ensure that such requirements will actually be effective and beneficial to consumers and that such regulations give voice providers the ability to respond flexibly based on market demands.

**I. Any Regulations Adopted By The Commission Should Be Designed To Achieve Maximum Consumer Benefit While Affording Flexibility To Voice Providers In Implementing Such Requirements.**

The Commission seeks comment on a number of proposals that require disclosure of certain information to subscribers, dictate the manner in which such information is disclosed, and potentially require significant changes to providers' business practices and operations. Such changes would have far-reaching impacts on the day-to-day commercial activities of voice providers and their communications with customers. In addition to ensuring that any requirements the Commission adopts "will significantly benefit consumers, and, in fact, clarify important issues for them," the Commission should make sure that voice providers are afforded adequate flexibility to implement such changes in a manner that is consistent with their business practices and the particular needs of their customers.<sup>6</sup>

More specifically, the Commission seeks comment on information disclosure obligations that would require voice providers who offer subscribers the option to block third-party charges from their telephone bills to clearly and conspicuously notify subscribers of this option at the point of sale, on each bill, and on their websites.<sup>7</sup> The Commission also seeks comment on whether to require voice providers to provide the Commission's contact information on all telephone bills and on their websites so that consumers will know where to send complaints.<sup>8</sup> As

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<sup>6</sup> *Id.* at ¶ 73.

<sup>7</sup> *Id.* at ¶ 40.

<sup>8</sup> *Id.* at ¶ 51.

part of this inquiry, the Commission requests input on the content of such disclosures, as well as the placement, font size, and other relevant factors that would be necessary for such notifications to be effective.<sup>9</sup>

While ITTA agrees that disclosure of relevant third-party billing and related information on voice providers' websites could be beneficial to subscribers (indeed, some ITTA members provide such disclosures on a voluntary basis), the Commission should refrain from requiring providers to disclose this information on every subscriber bill or at the point of sale. The number of subscribers affected by third-party charges will vary from billing cycle to billing cycle, and it would be highly burdensome to require voice providers to include disclosures on every single bill when only a small percentage of subscribers may actually incur any third-party charges in a given month. Such an obligation also would run counter to ongoing efforts of voice providers to reduce the already significant expense associated with issuing subscriber bills. For instance, some providers currently are moving from single- to double-sided bills as a cost-reduction measure. Requiring voice providers to incorporate information on call blocking options and FCC contact information in each bill could put such efforts in jeopardy.

Likewise, a requirement that voice providers disclose third-party billing information at the point of sale would be overly broad and would likely lead to consumer confusion. Signing up for voice service is a very fact- and detail-intensive process, which is only made more complex when a customer is also interested in options for video and broadband services that may be offered by the provider. Injecting an additional requirement for voice providers to disclose third-party billing information as part of the point-of-sale contact is unlikely to be effective or relevant to the customer, particularly when he/she is a new customer that has never been billed.

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<sup>9</sup> *Id.* at ¶ 42.

The Commission should avoid adopting rules that would make point-of-sale communications with customers less meaningful and more time consuming.

The Commission also should avoid adopting any specific requirements regarding the content or format of any disclosure requirements it adopts in this proceeding, consistent with its previous approach in allowing service providers “considerable discretion” and “flexibility in the manner in which they satisfy their truth-in-billing obligations.”<sup>10</sup> There are “typically many ways to convey important information to consumers in a clear and accurate manner,” and voice providers are in the best position to determine how information about third-party billing and blocking should be communicated to their customers so that it is meaningful and effective.<sup>11</sup>

In addition, the Commission seeks comment on whether voice providers should be required to provide accurate contact information for third-party vendors on their telephone bills.<sup>12</sup> The Commission also is considering a proposal to regulate the manner in which voice providers present information to their subscribers by requiring providers to place charges from non-carrier third parties in a bill section separate from carrier charges, and seeks comment on this proposal.<sup>13</sup> ITTA does not object to a requirement to disclose contact information for third-party vendors, so long as the Commission permits voice providers maximum discretion in providing the information that would be most relevant to consumers. ITTA also does not object to a requirement that third-party charges be placed in a separate bill section. Some ITTA members already do this voluntarily because of its usefulness to subscribers in understanding their bill.

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<sup>10</sup> *Truth-in-Billing First Report and Order*, 14 FCC Rcd 7492, ¶¶ 6, 10 (1999).

<sup>11</sup> *Id.* at ¶ 10.

<sup>12</sup> *NPRM* at ¶¶ 55, 59.

<sup>13</sup> *Id.* at ¶¶ 45, 48.

Finally, the Commission seeks comment on several proposals that would require voice providers to make certain changes to their billing practices. For instance, the Commission seeks input on whether voice providers should be required to offer subscribers the option to block third-party charges from appearing on their telephone bills; prohibited from assessing an additional fee for blocking services; required to screen third parties for prior rule violations or other violations of law before agreeing to place their charges on telephone bills; and/or prohibited from including third-party charges on telephone bills altogether.<sup>14</sup>

Such requirements would be unnecessarily intrusive and contrary to the public interest. Voice providers should have maximum flexibility in participating in third-party billing arrangements based on marketplace and consumer demand. Despite some of the concerns raised by the Commission in the *NPRM*, third-party billing is an established and legitimate enterprise that offers benefits to consumers.<sup>15</sup> The Commission should not limit voice providers' ability to respond to consumers and the market flexibly and efficiently by adopting regulations dictating billing, blocking and fee requirements for third-party charges on subscriber bills.

Voice providers also should not be required to screen third parties for prior rule violations or other violations of law before agreeing to place their charges on telephone bills. This requirement would be extremely burdensome and difficult to implement. ITTA believes that the common industry practice of monitoring the activity of third-party billers and taking corrective

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<sup>14</sup> *Id.* at ¶¶ 60, 62, 64.

<sup>15</sup> Many voice providers have billing and collection agreements with third party billing enterprises, commonly known as "clearing houses," pursuant to which the clearing house provides billing events to the voice provider for placement on the subscriber's bill. A common example of such an arrangement is where a collect call is placed and the carrier of that call does not have a billing relationship with either the consumer that accepted the responsibility for paying for that call or with the consumer's voice provider. The clearing house collects the necessary information concerning the billing event and then provides it to the voice provider for billing the customer.

action in response to consumer complaints is a simpler and more cost effective means of addressing unlawful behavior.

**II. Any Regulations Adopted By The Commission Should Apply Equally To CMRS And Interconnected VoIP Providers.**

The Commission seeks comment on whether any of the proposed rules or requirements discussed in the *NPRM* should also apply to wireless and interconnected VoIP services.<sup>16</sup> While ITTA is a strong proponent of continued industry self-regulation in this area, ITTA supports the application of any requirements the Commission adopts in this proceeding to CMRS and interconnected VoIP providers. The application of such requirements would be consistent with the principles of regulatory parity by assigning various providers of similar services similar obligations. Moreover, it would ensure that consumers have access to information required by the Commission as a result of the proceeding regardless of the underlying technology employed by their voice provider.

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<sup>16</sup> *NPRM* at ¶¶ 52-53, 69.

### **III. Conclusion.**

The Commission should refrain from unnecessary and overreaching regulation and encourage resolution of cramming issues through voluntary industry action. However, to the extent that the Commission determines to adopt rules in this proceeding, it must ensure that such rules allow voice providers flexibility and discretion with respect to their implementation. Moreover, any regulations adopted as a result of the *NPRM* should apply equally to wireless and interconnected VoIP services in the interest of regulatory parity and broader consumer awareness.

Respectfully submitted,

By: /s/ Genevieve Morelli

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October 24, 2011