Before the Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (Cramming)	)))	CG Docket No. 11-116
	)	
Consumer Information and Disclosure	)	CG Docket No. 09-158
	)	
Truth-In-Billing Format	)	CC Docket No. 98-170

COMMENTS OF AT&T INC.

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October 24, 2011

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AT&T Inc. (AT&T), on behalf of its subsidiaries, respectfully submits these comments in response to the Notice of Proposed Rulemaking (NPRM) in the above-captioned docket, wherein the Commission seeks comment on measures to prevent the placement of unauthorized charges on bills for common carrier and other services, a practice known as "cramming."

I. INTRODUCTION AND SUMMARY

AT&T supports the Commission's decision to open this proceeding to examine ways to curb cramming. Cramming is a complex issue that continually evolves as unscrupulous actors find new ways to scam consumers. In the NPRM, the Commission asks whether it should adopt additional measures to prevent cramming, proposes specific rules, and seeks comment on other potential solutions. In framing the discussion, the Commission references information in the record on cramming, specifically, data from the Commission, the Federal Trade Commission (FTC), state governmental entities, various law enforcement entities, and the Senate Commerce Committee. Based on that data, the Commission concludes that cramming appears to be a persistent problem that likely impacts millions of consumers. The Commission tentatively concludes that additional regulatory intervention is required, and seeks comment on a number of measures to prevent cramming, the most significant being a ban on carrier third-party billing.

While additional, narrowly targeted regulatory measures may be appropriate in some circumstances, a complete ban on carrier third-party billing would be grossly excessive and wholly unjustified for several reasons. First, the record here does not support such a draconian remedy. Cramming is certainly an issue that must be dealt with, but when viewed in context, the reported instances of cramming, which number in the thousands annually, pale in comparison to the number of consumers with third-party billed charges, which number in the tens of millions. Further, because there is nothing in the record to suggest that cramming occurs in the wireless industry to any significant degree, a ban on wireless carrier third-party billing, as a first-step, clearly would be excessive. Similarly, for the wireline industry, claims that wireline cramming is "widespread" or "pervasive" are to a large degree speculative, and without supporting, concrete evidence cannot be the basis for a complete ban on wireline third-party billing. Such a ban would unnecessarily eliminate carrier billing of "traditional" third-party services, such as toll, dial around, and operator-assisted services, which for decades have been billed on wireline carrier bills and, based on the record and AT&T's experience, are not the primary source of cramming complaints. A more targeted approach would be more appropriate.

Second, there are alternative, less draconian solutions that can effectively deter cramming. AT&T has adopted a number of measures that have drastically reduced the number of cramming complaints it receives, such as detailed application processes for third-party providers and customer consent requirements for telephone billing, including double opt-in for wireless services and Internet transactions. Further, the wireless industry has adopted and enforced industry-wide standards that contribute to cramming-prevention. Lastly, agencies with law enforcement responsibilities, including the Commission, are aggressively investigating and imposing penalties against entities engaged in this unscrupulous conduct. These efforts offer more targeted measures to deter cramming.

Third, a ban on carrier billing would adversely affect the economy. Wireless carrier third-party billing is a meaningful and arguably significant positive contributor to the economy. Many businesses rely on this service because it reduces their operational costs and is both convenient for and expected by consumers. Further, a ban on wireless carrier third-party billing would eliminate a multi-billion dollar industry.

If, however, the Commission concludes that additional federal regulatory intervention is required, it should ensure that any measures it adopts are narrowly tailored and impose no greater burdens than are necessary to address cramming. AT&T has expended significant resources to proactively combat cramming. Stringent, inflexible rules that force carriers to re-engineer or significantly alter their bills, billing processes or sales procedures would prove burdensome and unnecessary, particularly where multiple effective methods can successfully combat cramming.

Provided that carriers are given this flexibility, AT&T would not oppose certain narrowly targeted regulatory measures to address cramming. In particular, AT&T would not oppose the Commission's proposal to require carriers to provide third-party bill blocking and to notify customers of that option through appropriate point-of-sale disclosures, on bills and on websites. Further, AT&T would not oppose a requirement that billing carriers separate their charges (including those of their affiliates) from third-party charges on the bill. AT&T has been an industry leader in adopting these measures and believes they can be highly effective in deterring cramming. AT&T would not support the Commission's proposed rule that carriers include on their bills Commission contact information for consumer inquries and complaints.

Finally, the Commission should ensure that it has the requisite legal authority to adopt any of the proposed or contemplated measures. This is particularly important to the extent the Commission is considering extending its cramming measures not only to carrier billing of non-common carrier charges, but also to the billing practices of "non-carriers," a term that includes VoIP providers and, presumably, broadband Internet access providers. Contrary to the suggestion in the NPRM, the Commission does not have authority to regulate carrier third-party billing services pursuant to Section 201(b). That provision expressly applies only to *common carrier services* and practices associated therewith, and the Commission has previously held that such billing services are not common carrier services under Title II of the Act. Likewise, the Commission cannot exercise its Title I jurisdiction to regulate these billing practices because they are not interstate communications by wire or radio and, thus, they fall outside the Commission's subject matter jurisdiction under Title I.

II. DISCUSSION

A. The Commission should not ban carrier third-party billing.

In the NPRM, the Commission concludes that cramming appears to be a persistent problem that must be addressed. In support of this finding, the Commission cites the number of complaints received by the Commission and FTC, specifically 2000 to 3000 Commission cramming complaints each year between 2008 and 2010 and over 7000 FTC cramming complaints in 2010.[1] The Commission highlights comments submitted by various state

[1] NPRM, ¶¶19-24.

commissions in the *Consumer Information NOI* proceeding,[2] wherein they claim that cramming is on the rise, both for wireline and wireless consumers.[3] Additionally, the Commission references inquiries and investigations of cramming conducted by the Senate Commerce Committee, which suggest that cramming *could* be a widespread problem.[4] In light of this data, the Commission concludes that there is strong evidence that cramming affects many more consumers than reported and that current Commission rules and industry practices may be insufficient to address this issue.[5] The Commission thus asks whether it should adopt additional rules to prevent cramming, including completely banning carrier third-party billing.

As AT&T explains below, a ban on carrier third-party billing is neither necessary nor warranted.

(1) The record is insufficient to warrant a complete ban on carrier third-party-billing.

A ban on carrier third-party billing would be excessive and wholly unjustified, given the record. AT&T recognizes that cramming occurs and many customers may be unaware that they have been crammed. But the alleged *widespread prevalence* of cramming is based largely on speculation. For AT&T in particular, the number of customers billed third-party charges is small in comparison to its total customer base. For example, in September 2011, AT&T issued bills to 23 million wireline customers and only 1.8 million of those bills — roughly eight percent — included third-party charges. Assuming AT&T's numbers are representative of the wireline

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[2] *Consumer Information and Disclosure, Truth-in-Billing and Billing Format, IP-enabled Services,* Notice of Inquiry, 24 FCC Rcd. 11380 (2009).

[3] NPRM, ¶¶25-34.

[4] NPRM, ¶¶35-36.

[5] NPRM, ¶¶37-39.

industry, based on the Commission's most recent wireline subscriber numbers[6] —149 million wireline voice connections[7] — 12 out of 149 million wireline voice customers are billed third-party charges. Of that number, the *actual* number of wireline customers that have been crammed is even smaller and likely significantly so. This certainly is the case for AT&T. In September 2011, only a tenth of a percent — approximately 2100 — of AT&T's wireline customers that were previously billed third-party charges alleged a cram. Even assuming — as the Commission does — that the actual number of subscribers affected by cramming is significantly higher, that assumption would not support the drastic response of completely banning all carrier third-party billing.

This is particularly so with respect to wireless carrier third-party billing. The total number of wireless subscribers reported by the Commission in May 2011 was approximately 291 million[8] — almost twice the number of wireline voice connections. In comparison, the number of reported cramming complaints for wireless customers was only in the thousands. The Commission even recognized in the NPRM that the overwhelming "majority of cramming complaints filed with the Commission and FTC relate to wireline, not wireless, service."[9] Specifically, between 2008 and 2010, only 16 percent of the cramming complaints filed with the Commission were for wireless, which equates to 320 to 480 complaints. For the FTC, the

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[6] *Local Telephone Competition: Status as of December 31, 2010*, Industry Analysis and Technology Division, Wireline Competition Bureau, at 2 (October 2011).

[7] This number includes 117 million retail local telephone service connections and 32 million VoIP connections. *Id.*

[8] *Annual Report and Analysis of Competitive market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fifteenth Report, 26 FCC Rcd 9664, ¶ 158 (2011) (*15th Report*).

[9] NPRM, ¶19.

percentage was even smaller — a mere 10 percent for 2010.[10] The states have had similar experiences, reporting that the majority of cramming complaints they receive involve wireline, not wireless service.[11] Given these facts, a *ban* on wireless carrier third-party billing as a first step would be overly excessive. If regulatory action here is warranted at all, other more targeted measures would be appropriate.

Similarly, a ban on wireline carrier third-party billing would be overbroad. While the record reflects that thousands of wireline consumers have been affected by cramming, it also reflects — even if by default — that millions of consumers have not. In AT&T's experience, the overwhelming majority of third-party charges on its wireline bills are *legitimate*. A complete ban on wireline carrier third-party billing unnecessarily would punish the majority of third-party providers who submit customer-authorized charges on AT&T and other wireline carrier bills. Further, such a ban would encompass "traditional" third-party services, such as toll, dial around, correctional inmate calls, directory services, operator-assisted services, and other adjunct-to-basic services, which neither the record nor AT&T's experience suggests are the primary source of cramming inquiries. These services are closely connected to local service and historically have been billed on wireline bills. Consumers in fact both expect and understand that toll and other closely related services will be billed on their telephone bills. Moreover, given that the Commission has jurisdiction over most providers of these services, it can — as it recently has — take enforcement action against those providers that engage in cramming.[12] Thus, even if the

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[10] *See Consumer Sentinel Network Data Book for January-December 2010, Appendix B3: Consumer Sentinel Network Complaint Category Details,* at 80, Federal Trade Commission (March 2011).

[11] NPRM, ¶¶29, 31-32.

[12] The Commission recently issued a Notice of Apparent Liability against four providers of dial around toll services. NPRM, ¶8.

Commission were to somehow conclude that a ban on wireline carrier third-party billing is warranted, it should, at a minimum, permit the continued billing of traditional third-party services.[13]

(2) Other measures exist to deter cramming.

There are other viable solutions to prevent cramming that in fact work. AT&T, as a provider of billing and collection services, has implemented numerous measures to address cramming that have drastically reduced the number of cramming complaints it receives. First, to aid consumers in detecting and preventing cramming, AT&T's charges (including affiliate charges) and third-party charges are displayed in separate sections or subsections on its bills. If a customer alleges a cram, AT&T immediately removes the charge from the bill, including any associated late fees, and proactively offers third-party bill blocking.

Second, AT&T has robust contractual measures in place to prevent cramming by third-party providers. In the wireline context, AT&T's contracts with billing and collection clearinghouses (billing aggregators)[14] — the entities that deal directly with third-party providers that include charges on AT&T wireline bills — require these entities to adhere to multiple anti-cramming provisions. Specifically, each clearinghouse must do the following:

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[13] At least one state, Vermont, has taken this approach. Specifically, this year the Vermont State Legislature adopted a ban on wireline carrier third-party billing, except billing for toll, dial around, operator-assisted calls, collect calls and inmate calls. 9 V.S.A. § 2466.

[14] AT&T also contracts directly with third-party billers, but AT&T's direct third-party billing customers are large companies that primarily offer traditional telecommunications and related services. These service providers generate far fewer cramming complaints than the smaller entities that bill through clearinghouses. However, AT&T's contracts with these larger customers also contain many of the same anti-cramming measures as those that apply to the clearinghouses.

- complete an extensive application and approval process for each third-party biller prior to submitting billing for that provider;

- actively oversee third-party providers and ensure that these providers notify customers of their service, pricing and telephone billing prior to purchase *and* obtain customer consent for the purchase and telephone billing;

- ensure that third-party providers do not engage in deceptive or potentially misleading marketing of their products and comply with certain minimum authentication and transaction verification requirements, including obtaining double-opt-in consent (confirm purchase twice) for Internet-based transactions;

- provide customers a self-service website through which customers can submit and resolve billing disputes and request a bill block; and

- pay AT&T a fee of $150 for each alleged instance of cramming.

Additionally, each clearinghouse is subject to a cramming complaint threshold (complaints cannot exceed .75% of bills issued per month) and is audited annually to ensure compliance with the cramming-related contractual provisions, as well as federal and state billing requirements.[15] As a result of these efforts, since January 2010, the number of wireline cramming complaints received by AT&T has dropped 87 percent — clear evidence that these solutions work.

Similarly on the wireless side, AT&T's contractual arrangements with billing aggregators require them to comply with industry standards and AT&T's cramming policies. Specifically, AT&T Mobility requires double-opt-in[16] for all third-party content billed on the wireless bill. AT&T Mobility certifies all third-party content programs before they are commercially available

[15] See Attachment A, which further details AT&T's anti-cramming measures.

[16] Wireless customers must "double-opt in" to complete the purchase and authorize telephone billing. First, the customer authorizes the purchase and telephone billing for the product or service. Second, the customer has to confirm the purchase and telephone billing using the mobile device. For example, a customer purchasing a third-party app from a website would use his mobile device to complete the purchase and authorize telephone billing by either inputting a PIN code that is received via text message or responding Y to a text message. "Double opt-in," particularly the requirement that the user must have possession of the device to complete the purchase, thus prevents cramming on the front end and likely has been a strong contributing factor to the low number of wireless cramming complaints.

to customers to ensure compliance with AT&T's cramming policies. AT&T Mobility has refund rate thresholds in place, which if surpassed, will trigger an investigation.[17] Further, AT&T Mobility continually conducts audits to ensure compliance. As a result of these measures and others, the number of third-party purchase inquiries, which may include complaints of unauthorized charges, received by AT&T Mobility has dropped 38 percent since January of this year, again evidence that measures other than a ban on carrier billing are effective.

Additionally, there are other key measures and activities that have and will continue to play a key role in deterring cramming. The wireless industry in particular has historically been proactive in this area. Specifically, the Mobile Marketing Association (MMA), the leading global non-profit trade association representing over 700 companies in the mobile industry,[18] has adopted industry-wide standards requiring double opt-in for all premium charges billed on wireless bills; clear disclosure of all costs at the point of sale; and implementation of an industry-wide auditing program.[19] Further, MMA and CTIA continually work together to prevent unauthorized billing. For example, CTIA in conjunction with MMA hired a company for industry-wide monitoring of compliance with the MMA Consumer Best Practices. The results of these audits are shared with all of the major carriers in an effort to increase enforcement of those standards. Another example involves the recent discovery of Trojan horse apps that sign customers up for premium SMS services. CTIA convened a working group of carriers, used its monitoring provider to investigate, and engaged the FTC in an effort to combat this egregious

[17] In AT&T Mobility's experience, customer refund rates are a good indication of a problem with a premium SMS service.

[18] Members include advertisers, service providers, handset manufacturers, agencies, and software providers.

[19] *See* Mobile Marketing Association, U.S. Consumer Best Practices, Version 6.1.

behavior. This approach, i.e. identifying an industry-wide issue, then working together to determine an industry-wide solution, is the norm in the wireless industry and is an instrumental factor in keeping the reported number of wireless complaints low.

Further, agencies with law enforcement responsibilities, including state commissions, the FTC, and this Commission, are aggressively investigating and taking action against entities involved in cramming.[20] Such actions, and the severe financial penalties imposed against these unscrupulous actors, necessarily will continue to play a vital role in reducing cramming.

Thus, there are other proven solutions in the marketplace to deter and prevent cramming. While these measures are not foolproof and possibly could be refined or supplemented, they clearly demonstrate that a ban on carrier billing would be neither appropriate nor warranted.

(3) A ban on carrier third-party billing would adversely affect the economy.

A ban on carrier billing also would adversely affect the economy. Mobile devices are used for much more than making telephone calls. Data usage on handsets, for example, was expected to increase to 73% for 2010.[21] Today, mobile phone users increasingly are using their devices to access a host of third-party applications, including web searching, news, email and messaging, social networking, photo-sharing, music and video streaming, and game applications.[22] Similarly, these consumers, particularly Smartphone users, are using their mobile devices for mobile commerce, including mobile banking, mobile shopping and mobile

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[20] *See, e.g.,* NPRM, fn.8.

[21] *15th Report*, ¶343.

[22] As of January 16, 2011, there were over 400 thousand applications available to consumers at the Apple Store. *15th Report*, chart 45.

payments.[23] Mobile commerce, as this Commission has recognized, is a growing industry, with estimates of mobile commerce spending being $500 million to $1.3 billion in 2009 and $12 billion in 2013.[24] Some estimate that the mobile payments industry in particular is poised for significant growth worldwide for 2012 and beyond, with estimates as high as $630 billion by 2014.[25] To meet this growing demand for mobile-related products and services, thousands of application developers and businesses — from large companies to one-man shops — are introducing new and innovative mobile applications and related products and services into the market. Further, traditional brick-and-mortar and web-based companies are starting to use mobile payments as a method for purchasing their products and services, all of which result in additional jobs and overall growth for the mobile industry and economy as a whole.

Carrier third-party billing of mobile applications and mobile-related products and services is an integral part of the mobile ecosystem. Many developers of these products and services, particularly those that use short message codes for customer authorization of their products, use carrier billing. Further, wireless consumers expect that their wireless bill will be a one-stop shop for all products purchased by and/or used on their device and in fact have been buying and billing mobile-related products to their wireless bill for well over a decade. The only thing that has changed is the variety of third-party applications and products available for purchase using the mobile device. Moreover, given that wireless consumers must use their mobile device to authorize wireless billing of third-party services — a significant cramming-

[23] For example, although not yet widely available, mobile phone users can use their mobile device to pay for purchases in select retail stores. *15th Report*, ¶ 362.

[24] *15th Report*, ¶357.

[25] "Mobile Pay or Mobile Mess: Closing the Gap Between Mobile Payment Systems and Consumer Protections," Consumer Union, June 2011 (quoting Liz Gannes, http://gigaom.com/2010/05/13/mobile-payments-to-reach-633b-by-2014/).

prevention measure — wireless carrier billing is both a convenient and effective billing regime for the mobile industry.

B. If the Commission determines that additional cramming-prevention measures are necessary, it should ensure that they are flexible and narrowly tailored.

If the Commission however concludes, based on the record, that additional regulatory intervention is required to prevent cramming, the Commission should ensure that any measures adopted are narrowly tailored and impose no greater burdens or restrictions than are reasonably necessary to deter cramming. In this regard, the Commission should not adopt inflexible notification or formatting rules that force carriers — particularly those like AT&T that have already expended significant resources to prevent cramming — to re-engineer or make significant changes to IT systems and processes for billing and customer communications.

In the NPRM, the Commission proposes to adopt several requirements to further assist consumers in detecting or preventing cramming, including requiring wireline carriers to (1) offer third-party bill blocking and notify customers of the feature at the point-of-sale, on bills, and on the carrier's website; (2) place carrier and non-carrier charges in separate sections on the bill, and (3) disclose Commission contact information on carrier bills and carrier websites. AT&T addresses each below.

(1) Third-party bill blocking

The Commission proposes to require all carriers to offer third-party bill blocking and to notify customers of the feature at the point-of-sale, on the bill, and on carrier websites. AT&T offers third-party bill blocking and has proactively taken measures to notify customers of this feature. Specifically, AT&T Mobility notifies customers of bill blocking on its website and at the point of sale in the Wireless Customer Agreement (WCA) and the Customer Service

Summary (CSS).[26] AT&T also offers third-party bill blocking to all customers that allege a cram.

AT&T would not oppose a requirement that carriers offer third-party bill blocking, so long as carriers are not required to block traditional third-party services. As AT&T has explained, these services are not the primary source of cramming complaints and generally are not blocked by carriers that offer third-party bill blocking options.[27] To block these services, AT&T would have to reprogram its billing systems, resulting in significant costs. Likewise, AT&T would not oppose a requirement that carriers notify customers of their third-party bill blocking options at the point-of-sale, on the bill and on carrier websites, provided that AT&T would not have to change its existing processes and would have the flexibility to determine the format and manner in which the disclosure is made.

The Commission's proposed rule appears to give carriers such flexibility.[28] Under the proposed rule, carriers, for example, might choose to include the notification in an insert included in the bill or in the body of the bill to satisfy the "on each telephone bill" requirement. To comply with the "point-of-sale" requirement, carriers might choose to disclose the blocking feature in the service summary or in the terms and conditions for service. The California PUC recently adopted a similar rule that requires wireless and wireline carriers to notify customers in

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[26] The CSS is a short and easy-to-read reference tool for wireless customers. It provides a detailed summary of the services and products purchased, highlights the associated charges for those services, including third-party charges, taxes, surcharges and fees. It also includes the key terms and conditions for service, including information regarding how customers can block charges. See Attachment B, which includes a sample CSS.

[27] Bill blocking protocols were largely developed around the same time that billing for toll services was required for equal access. As a result, bill blocking generally has not prevented the billing of certain regulated services, such as toll and operator services.

[28] The proposed rule states, "Common carriers that offer subscribers the option to block third-party charges from appearing on telephone bills must clearly and conspicuously notify subscribers of this option at the point of sale, on each telephone bill, and on each carrier's website." NPRM at 36.

writing of the blocking feature at service initiation.[29] To comply, AT&T provides the disclosure in its wireline service confirmation booklet and in its WCA and CSS. AT&T would not oppose such a requirement by the Commission. By contrast, a broader interpretation, such as requiring carriers to make the disclosure during a sales call, would neither be appropriate nor effective. Sales calls are lengthy and consumers receive a significant amount of information during such calls regarding their purchase. The practical result is that many consumers may not pay attention to the service-related disclosures. Providing the disclosure in the terms of service, a service summary (or similar notice), in bills and/or on a website, however, would afford customers the opportunity to read and digest information about the third-party bill blocking feature at their leisure, thus ensuring that consumers have access to all pertinent information should they decide to activate the feature.

(2) Separating carrier and third-party charges on the bill

The Commission proposes to require carriers to display carrier and non-carrier charges in separate sections on their bill. AT&T has taken great effort to distinguish third-party charges from AT&T charges on its bills. AT&T's wireline bills, for example, display all third-party charges (including non-AT&T affiliated carrier charges) in a separate page on the bill.[30] In its wireless bills, AT&T separately identifies third-party monthly charges in a subsection of the "Monthly Charges" section and third-party purchases and downloads in a subsection of the

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[29] *See Order Instituting Rulemaking on the Commission's own Motion to Establish Consumer Rights and Consumer Protection Rules Applicable to All Telecommunications Utilities*, Rulemaking 00-02-004, Decision 10-10-034, Cal. Pub. Util. (Oct. 28, 2010).

[30] See Attachment C, which includes a sample wireline bill. On the first page in the "Billing Summary" section, AT&T includes a summary of the third-party charges (Enhances Service charges) as well as the contact number for the third-party service provider. Additionally, the last page of the bill includes all third-party charges.

"Other Charges and Credits" section. AT&T would not oppose a requirement that carriers clearly separate and distinguish their charges from unaffiliated third-party charges on the bill, provided that AT&T would not have to reformat its bills as described. In AT&T's experience, there are many bill formatting options available for effectively communicating with customers. Carriers should have the flexibility to use those options best suited to their business needs, while achieving the Commission's goal of clearly distinguishing carrier and third-party charges for consumers.

(3) Disclosing Commission contact information on the bill

The Commission proposes to require carriers to (1) notify customers on the bill and on carrier websites that they may submit inquiries and complaints to the Commission, and (2) provide Commission contact information (phone number and website). The Commission reasons that such a rule would make consumers more aware of available dispute resolution mechanisms.

Today, consumers generally contact carriers to make inquiries about and/or to resolve disputes regarding charges on their bill. AT&T prefers the opportunity to try to resolve all customer concerns in the first instance. If the proposal is adopted, many consumers will have the misimpression that they can contact the Commission directly to resolve their issue. That is not the case. In such instances, the Commission would, as it does today, forward the customer's complaint to the carrier for redress. This extra step could significantly delay resolution of the customer's issue, not to mention substantially increase the number of calls and complaints received by the Commission, which likely would be ill-equipped to handle the increased volume. The proposal would disserve both consumers and the Commission and, thus, should not be adopted.

C. The Commission has not identified any valid legal authority to extend its proposed billing requirements to charges for non-common carrier services or to non-carriers.

In the NPRM, the Commission seeks comment on its assertion that it has legal authority under Section 201(b) of the Communications Act to apply its proposed billing rules to carrier-billed non-common carrier charges. Further, it asks whether it can exercise its Title I authority to extend any measures it adopts to non-carriers.

(1) The Commission lacks authority under Title II to regulate third-party billing services provided by carriers.

The Commission reasons that it has legal authority under Section 201(b) to regulate carrier billing of third-party charges because the telephone bill is an integral part of the carrier and customer relationship, and third-party charges appear on the telephone bill; consequently, a carrier's billing of these charges is a practice in connection with common carrier services, and therefore subject to regulation.[31]

Section 201(b) cannot be read in this manner. Section 201(b) only applies to common carrier "practices….for or in connection with *common carrier services*."[32] Third-party billing services provided by carriers, however, are not common carrier services. Indeed, more than 25 years ago, the Commission found that carrier-provided third-party billing services are a type of "financial and administrative service" that is "not subject to regulation under Title II of the Act."[33] As the Commission explained,

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[31] NPRM ¶83.

[32] 47 U.S.C. § 201(b).

[33] *Detariffing of Billing and Collections Services Order*, Report and Order, 102 F.C.C.2d 1150, ¶¶ 32, 34 (1986).

> Two distinct questions must be asked in order to determine whether a particular activity is subject to such Title II regulation. Is the activity an interstate or foreign communication service? Is the person or entity offering the service as a common carrier? Although carrier billing and collection for a communication service that it offers individually or as a joint offering with other carriers is an incidental part of a communication service, we believe that carrier billing or collection for the offering of another unaffiliated carrier is not a communication service for purposes of Title II of the Communications Act.[34]

The NPRM fails to even address this well-established holding, let alone reconcile it with the proposal to rely on section 201(b) to regulate carrier third-party billing.[35]

(2) The Commission lacks Title I authority to regulate third-party billing services provided by carriers.

Similarly, the Commission cannot invoke its Title I authority to regulate the billing practices of carriers or non-carriers.[36] To exercise its Title I ancillary authority, the Commission has to satisfy two conditions: (1) the matter to be regulated must fall within the agency's Title I subject matter jurisdiction over "interstate communications by wire or radio" and (2) the regulation at issue must be reasonably ancillary to the Commission's effective performance of its statutorily mandated responsibilities.[37]

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[34] *Id.*

[35] Even if the Commission could invoke section 201(b) to regulate billing services provided by common carriers, that section obviously does not apply to non-common carriers that provide a variety of communications services today, including VoIP and broadband Internet access service.

[36] To exercise its Title I authority, the Commission would have to demonstrate that its proposed regulations would "be directed at protecting or promoting a statutory purpose." *Second Computer Inquiry*, 77 F.C.C. 2d 384, 433 (1979).

[37] *Comcast v. FCC*, 600 F.3d 642, 646 (2010).

As to the first, Title I grants the Commission general jurisdiction over "interstate and foreign communications by wire or radio."[38] The DC Circuit has expressly addressed the scope of that jurisdictional grant. In *American Liberty Ass'n v. FCC*, [39] the court examined whether the Commission could regulate devices that can receive broadcast transmissions when those devices are not engaged in the process of receiving such transmissions. The Court concluded that "the insurmountable hurdle facing the FCC … is that the agency's general jurisdictional grant does not encompass the regulation of consumer electronics products when those devices are not engaged in the process of radio or wire transmission."[40] Further, the Court explained, referencing prior cases:

> While the Supreme Court has described the jurisdictional powers of the FCC as …. expansive, there are limits to those powers. No case has ever permitted, and the Commission has never, to our knowledge, asserted jurisdiction over an entity not engaged in "communication by wire or radio."[41]

This is precisely what the NPRM proposes to do here, i.e. regulate the billing services of carriers and non-carriers. But as discussed above, the Commission has held that carrier-provided third-party billing services are not transmission services, but rather "a financial and administrative service."[42] Thus, Commission regulation of these billing services would fail the first prong of the Title I ancillary jurisdiction test described above.[43]

[38] *Id*; 47 U.S.C. § 152(a).

[39] *American Library Ass'n v. FCC*, 406 F.3d 689 (D.C. Cir. 2005).

[40] *Id.* at 700.

[41] *Id.* at 702.

[42] *Detariffing of Billing and Collections Services Order*, 102 F.C.C.2d ¶ 32.

[43] Although the Commission has previously asserted that it "could" invoke its Title I ancillary jurisdiction to regulate such services, *Id* ¶. 35, the Commission never explained how such "financial and

But even if the Commission somehow could satisfy the first criterion, under the second, the Commission would have to show that its proposed regulation is reasonably ancillary to the effective performance of its statutorily mandated responsibilities. The DC Circuit has made clear that the Commission's authority to regulate under Title I must be ancillary to an express delegation of authority in Title II, III or VI.[44] The Commission has identified no statutorily-mandated responsibility to regulate third-party billing services under any of these provisions, and thus its exercise of Title I authority here would not be "ancillary" to anything.

Moreover, to the extent the Commission attempted to regulate the third-party billing services of broadband Internet access providers under Title I, it would run afoul of Congress's affirmative decision to keep these services free from regulation. Indeed, such regulation would be completely antithetical to Section 230(b) of the Act which expressly finds that Internet services should remain "unfettered by Federal or State regulation."[45]

administrative" services could be deemed "interstate communications by wire or radio" in order to satisfy the first prong of the ancillary jurisdiction test. In any event, the Commission expressly declined to exercise its ancillary authority for this purpose. *Id*. ¶¶36-38.

[44] *Comcast v. FCC*, 600 F.3d at 654.

[45] 47 U.S.C. § 230(b).

III. CONCLUSION

For the foregoing reasons, the Commission should not ban wireless or wireline carrier billing of third-party charges. If the Commission determines that regulatory intervention is necessary to prevent cramming, the Commission should take the actions as outlined above.

Respectfully Submitted,

/s/ Davida Grant

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Paul K. Mancini

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October 24, 2011

ATTACHMENT A

AT&T Billing Solutions Anti-Cramming Policy Overview

May 11, 2011

Anti-Cramming Measures—Operational

- <u>Bill format</u>. Third-party charges clearly identified in separate section of bill, with service provider, clearinghouse (if applicable), "800" contact number and website URL listed.

- <u>"Adjust first" policy</u>. Credits issued immediately to all customers with cramming complaints regarding third-party billing. Charges "recoursed" to third-party billers.

- <u>Bill blocking</u>. Third-party bill blocking offered to any customer that requests it or reports a cramming complaint.

Anti-Cramming Measures—Operational (Continued)

- Service provider (subCIC) application process. Clearinghouses required to complete application and approval process prior to billing for any new service provider.

- Cramming complaint data. Cramming complaint data collected and tabulated monthly for all clearinghouses and service providers.

- Limits on certain services. No billing for new accounts for e-mail, voice mail, web hosting or Internet directory advertising. Open to reconsideration if other anti-cramming measures prove successful.

Anti-Cramming Measures—Contractual

Note: During 2010, AT&T amended its billing and collection contracts to strengthen their anti-cramming provisions. Amended agreements were executed with all major billing and collection clearinghouses by the end of 2010.

Primary anti-cramming measures include:

- Customers notified of service, price and telephone billing before completing purchase.
- Customers must consent to purchase and telephone billing.
- Potentially misleading types of marketing not permitted, even if generally lawful.
- Minimum authorization and verification requirements.

Anti-Cramming Measures—Contractual (Continued)

Primary anti-cramming measures (Continued):

- Double opt-in process for Internet transactions.
- Self-help websites for consumer inquiries.
- Clearinghouse obligation to “actively oversee” service providers.
- Annual audits of clearinghouse performance.
- Cramming complaint fees and maximum cramming complaint thresholds.

Selected Anti-Cramming Measures in More Detail

Verification Requirements

- <u>All Transactions</u>: Minimum "baseline" verification requirements for all transactions.
  - Similar to existing letter of authorization (LOA) and third party verification (TPV) requirements for regulated telecommunications services.
- <u>Internet Transactions</u>: Heightened verification requirements for Internet-based transactions.
  - Clearinghouse or service provider must obtain:
    - First and last name;
    - Billing Telephone Number ("BTN");
    - Address, including street, city, state and zip code;
    - Confirmation of legal age;
    - Confirmation of authority to bill to telephone account; and
    - Some form of "non-public" information, such as date of birth or last four digits of Social Security Number.
  - Clearinghouse or independent provider must verify customer's information, using "established and reputable database provider" (<u>e.g.</u>, LEXIS, Experian).

Double Opt-In Process for Internet-Based Transactions

- Notice, authorization and verification requirements during initial sales process.
- Second “opt-in” process required after customer has authorized transaction.
- Customer sent confirmation of product, price and any term commitment.
- Customer asked to confirm purchase.
- Customer must affirmatively confirm purchase before billing is allowed.

Self-Help Website for Customer Inquiries

- Clearinghouse must provide customer self-help website (in addition to toll-free telephone numbers and e-mail).
- Website must permit customers to report and resolve complaints, including cramming complaints.
- Website must allow customers to block billing by clearinghouse or service providers.
- Resolution required within four business days, with confirmation to customer.
- Website URLs will provided by text phrase on customer bills.

Clearinghouse Obligation to "Actively Oversee" Service Providers

- Clearinghouse must "actively oversee" sales, marketing, verification, fulfillment and inquiry processes of service providers.
- Oversight requires review of every service provider's sales campaigns, channels and processes.

Cramming Complaints Fees and Maximum Cramming Complaint Thresholds

- Cramming complaint fee ($150) applies to each cramming complaint.

- Maximum cramming complaint thresholds apply to each clearinghouse and service provider.

  - Complaints cannot exceed 0.75% of bills rendered per month in any AT&T telco region.

  - AT&T may limit, suspend or terminate billing if clearinghouse or service provider exceeds threshold.

  - AT&T typically gives third-party biller a few months to reduce complaints to threshold.

Annual Clearinghouse Audits

- Performance of every clearinghouse audited annually.
- Audits conducted by a major audit firm with relevant experience and expertise, chosen by AT&T.
- Audit scope determined by AT&T. Scope includes:
    - Performance of "active oversight" obligation;
    - Compliance with anti-cramming measures;
    - Compliance with truth-in-billing.

FTC WORKSHOP

EXAMINING PHONE BILL CRAMMING:

A DISCUSSION

SESSION 2:

STEPS TO DETECT, MONITOR AND PREVENT CRAMMING

COMMENTS BY AT&T

May 11, 2011

TABLE OF CONTENTS

AT&T is pleased to submit the following comments to the Federal Trade Commission (FTC) in connection with AT&T's participation in the FTC workshop examining phone bill cramming to be held on May 11, 2011.

INTRODUCTION

When the Federal Communications Commission (FCC) detariffed billing and collection services provided by Local Exchange Carriers (LECs) 25 years ago it expected consumers to benefit from the ability to use their LEC telephone bill as a means to pay for products or services unrelated to their phone service. For some consumers this billing option substitutes for a credit card; for most, it is simply a convenient method to pay for a variety of services and products.

History has shown the FCC to be correct and AT&T agrees that third-party billing is a benefit for many of its customers. However, AT&T also takes allegations of unauthorized third-party charges very seriously. “Bill quality” is a major driver of overall customer satisfaction and it is not in AT&T’s best interests for its long-term and valued ILEC customers to have unauthorized third-party charges placed on their AT&T bills. As a result, AT&T has devoted significant time and effort to be sure its bills are accurate and recognizes the importance of minimizing opportunities for cramming. Over the years, AT&T has taken a number of steps to address cramming issues. As the problems have evolved, so have the solutions.

As a result of these ongoing efforts and it’s established commitment to address new issues as they arise, AT&T has developed a very effective anti-cramming program it would like to now share with this FTC workshop.

HISTORY OF CHANGES IN THIRD PARTY BILLING

"If you want to understand today, you have to search yesterday." -- Pearl S. Buck

It is important to understand the history of LEC third-party billing to understand the "how and why" of AT&T's current third-party billing process. Third party billing services was not a "business" created by AT&T to develop another source of revenue; rather in connection with the AT&T divestiture of the Bell Operating Companies in 1984 the FCC required that any Bell Operating Company (BOC) that continued to provide billing and collection service to AT&T (as all of the BOCs did, since the Bell System's billing capabilities remained with the BOCs) must also provide those services to other interexchange carriers (as well as enhanced service providers). In re Detariffing of Billing and Collection Services, 102 FCC 2d 1150, 1152-53, ¶¶ 2-5 (1986).

In 1986, the FCC detariffed billing and collection services. In doing so, its stated purpose was to encourage competition in the billing services market. Id*.* at 1170. The Commission also expected consumers would be the beneficiaries of the greater flexibility accorded to billing service providers. 1998 FCC Workshop Opening Letter, April 22, 1998, FCC Chairman, William E. Kennard. In 2007, the federal obligation to bill and collect for third-party interexchange carriers and information service providers was effectively eliminated for AT&T, along with most other divestiture-related equal access obligations, when the FCC granted AT&T relief from the relevant provisions of Section 272 of the Communications Act. Report and Order and Memorandum Opinion and Order, 22 FCC Rcd 16440 ¶ 113 (2007) (Section 272 Sunset Order).

Notwithstanding these changes, AT&T continues to provide billing and collection services for unaffiliated third parties as a benefit to all AT&T customers.

AT&T's ILECs provide third-party billing services to certain Service Providers (including interexchange carriers, which provide products or services directly to the ILEC's customers) and to companies referred to as "Billing Aggregators" or "Clearinghouses" (which do not provide services directly to ILEC customers, but instead perform billing functions for third-party service providers which lack direct relationships with the ILECs). Each of AT&T's Incumbent Local Exchange Carriers (ILECs) provides third-party billing services pursuant to a mostly standardized billing and collection services agreement. When an ILEC provides billing services on behalf of Billing Aggregators, its relationship is exclusively with the Billing Aggregator; it does not have any direct contractual relationship with third-party service providers for whom the Billing Aggregator is acting on behalf. Third-party service providers who bill through Billing Aggregators are often referred to as "subCICs."

ILEC third-party billing as it exists today could not be offered to the consumer without the involvement of Billing Aggregators. AT&T's billing system is not designed to manage the thousands of different accounts that would otherwise be required if it had direct relationships with each individual service provider. Billing Aggregators provide the accounting, record formatting and other services required for billing through AT&T. Billing Aggregators are able to uniformly submit charges on behalf of these multiple billers to AT&T electronically, using industry standard Exchange Message Interface (EMI) billing records. Active involvement of Billing Aggregators is critical to the success of any cramming prevention program.

AT&T'S ANTI-CRAMMING PROGRAM

There is no one simple solution to the cramming phenomenon and nothing short of terminating third-party billing will eliminate cramming completely. Cramming is a complex problem, the causes of which change constantly as methods of sales and marketing evolve and as consumers respond to new opportunities, such as the growing use of the Internet to purchase goods and services. As new problems have developed, AT&T has responded with new solutions.

Considering the evolution of third-party billing services, it is not surprising that an anti-cramming program must employ multiple strategies to be effective. Over time AT&T has developed such a program. Last year alone, as a result of AT&T's responsive actions, cramming complaints by AT&T customers were reduced by 70% over the prior year.

Set forth below are the key elements of this successful anti-cramming program:

I. Approval of Third Party Service Providers (subCICs)

- Only approved and authorized subCICs are allowed to have billings placed on AT&T ILEC bills. The Billing Aggregator is responsible for complying with AT&T's subCIC application process, which requires submission of a multi-page application form, affidavits from both the proposed subCIC and Billing Aggregator, information on the officers and/or principals of the proposed subCIC, description of the services/product to be provided, associated marketing materials, and any required regulatory filings, among other information.

- The application review process includes an investigation to determine prior billing violations by the proposed subCIC or its officers or principals and an analysis of the proposed subCIC's product or service to confirm compliance with all AT&T rules and policies.
- The Billing Aggregator is responsible for ensuring the accuracy of all submissions by the subCIC and to conduct its own review of the proposed subCIC's qualifications. An annual audit of Billing Aggregators (described below) includes a review of the Billing Aggregators' compliance with all processes for initiating billing services for new subCICs.

II. Restrictions Against Deceptive Marketing

- Marketing by any unlawful, unfair, fraudulent, misleading or deceptive means is strictly prohibited.
- The subCIC must comply with all FCC truth-in-billing and similar state provisions.
- Certain types of sales or marketing products that can lead to cramming complaints are strictly prohibited, such as sweepstakes, give-aways or programs relying on coupons, certificates or rebates for the purchase of any product or service other than the one billed for, etc. This prohibition applies even for programs that would otherwise be entirely lawful.

III. Mandatory Authorization Requirements At Time of Purchase

- The AT&T customer must be informed of the nature of the service to be provided, the pricing of the service, and that the service will be billed through the customer's telephone bill.

- The customer must provide explicit consent to the purchase and to have the service billed to the customer's telephone bill.
- The customer's authorization must be documented by either (a) a written document signed and dated by the customer (or an electronic confirmation that is valid under the law of the state in which the customer resides); or (b) a recorded verbal authorization by the customer, which must be obtained by an independent third-party.
- For Internet-based transactions, in addition to the above, the following information must be obtained from the customer:

  a. First and last name;

  b. Billing Telephone Number ("BTN");

  c. Address, including street, city, state and zip code;

  d. Confirmation of legal age and authority to bill to telephone account; and

  e. Some form of "non-public" information, such as date of birth or last four digits of Social Security Number.

  f. The clearinghouse or an independent provider must then verify the accuracy of the customer's information using "an established and reputable database provider" (e.g., LEXIS, Experian).
- A "double opt-in" process is also required for Internet-based transactions. This process requires the customer to confirm each purchase for a second time, after completing the initial purchase process. In the double opt-in process:

a. The customer is sent confirmation of product, price and any term commitment;

b. The customer is asked to confirm purchase; and

c. The customer must affirmatively confirm purchase before billing is allowed.

IV. Required Oversight and Independent Audit of Compliance

- Billing Aggregators are required to actively oversee all sales, marketing, verification, fulfillment and inquiry processes of their subCICs.
- Billing Aggregators are subject to annual independent audits by a major audit firm with relevant experience and expertise, chosen by AT&T, with the focus of the audit primarily on compliance with anti-cramming measures, truth-in-billing, and Billing Aggregator's oversight of subCICs' sales practices, as outlined above.

V. Additional Information Provided to Consumer

- Third party charges are highlighted in a separate page of the customer's telephone bill, and are clearly labeled with the name of the Billing Aggregator and subCIC, as well as a description of the service being billed. In addition, this bill page contains contact information for any billing inquires related to the third-party charges, including both an 800 number and a Web address.
- Customers may contact AT&T directly with any billing questions or concerns or to contact the Billing Aggregator or subCIC with their concerns.

- Self-service Web sites must be provided by Billing Aggregators, through which customers can submit and resolve inquiries or disputes. Minimum requirements of the websites are:

    a. The websites must allow the customer to block billing, either by Clearinghouse or subCIC level.

    b. Resolution of any dispute is required within four (4) business days with confirmation to customer.

    c. The website URLs must be provided by text phrase on the customer bills.

VI. Bill Blocking

- AT&T offers third-party bill blocking to its customers. Bill blocking is offered proactively to any AT&T customer that calls AT&T with a cramming complaint, and it is also provided upon request by any AT&T customer. Upon receiving such a request, AT&T's billing and collection customers can no longer submit charges to be billed to those AT&T customers.

VII. AT&T's Response to Individual Consumer's Allegations of Cramming

- When an AT&T customer contacts AT&T to dispute the customer's authorization of a third-party charge, AT&T's policy is to adjust the disputed charge, including associated late fees, while the customer is still on the telephone with the AT&T service representative, regardless of the merits of the customer's complaint. AT&T also offers a third-party bill block, as described above, at no charge to the customer.

VIII. Monitoring of Alleged Cramming and Remedial Actions

- The billing and collection agreements with the Billing Aggregator impose a $150 fee for every cramming complaint AT&T receives, regardless of the validity of the complaint.
- AT&T monitors monthly cramming complaint data for all Billing Aggregators and subCICs. The data includes cramming complaints reported by AT&T customers to AT&T's own customer service centers as well as complaints received by Billing Aggregators or subCICs. AT&T reviews this monthly cramming complaint data, by region, for all Billing Aggregators and all subCICs, both by total complaints and by percentage of complaints from bills rendered.
- The contracts also impose cramming complaint thresholds applicable to both Billing Aggregators and sub-CICs. If a Billing Aggregator or sub-CIC exceeds those thresholds, AT&T can impose remedial action or, if necessary, terminate the billing relationship.
- Billing Aggregators are required to self-report cramming complaints they or their sub-CICs receive, so that AT&T can also consider those complaints in evaluating the third-party billers' performance.
- All cramming complaints must be reported – even those that the Billing Aggregator or subCIC believes to be invalid.
- AT&T reports its monthly cramming complaint data to the Billing Aggregators. In addition, if any Billing Aggregator or subCIC exceeds AT&T's cramming complaint thresholds, AT&T also sends a letter to the

appropriate Billing Aggregator, notifying the Billing Aggregator that it must take immediate corrective action to reduce the level of cramming complaints, including any necessary investigation or remedial measures. The Billing Aggregator is then responsible for taking such actions and for reporting any relevant information to AT&T, such as remedial measures or explanations for the reasons for the cramming complaints.

- In subsequent monthly reviews, if the cramming complaint data do not show adequate improvement, AT&T will take additional action which, at AT&T's discretion, may include suspension of new subCIC applications (for Billing Aggregators), suspension of new sales, termination of sales for specific product types, or termination of billing services.

IX. Additional Anti-Cramming Activities by AT&T

- When AT&T investigates individual cramming complaints, such as executive appeals or referrals from state commissions, it frequently reviews the verification materials obtained by the subCIC or other relevant materials (such as subCIC web sites). If those materials reveal potential issues with sales, marketing or verification processes, AT&T addresses those issues with the relevant Billing Aggregator(s).
- In 2010, AT&T suspended billing for new AT&T customer accounts for several types of third-party services (voice mail, e-mail, Web hosting and Internet-based directory assistance) for which cramming complaint rates were notably high relative to total transaction volume.

- AT&T also notified the Billing Aggregators that they may not submit charges for services marketed through so-called "open affiliate networks" -- in which a subCIC permits its services to be marketed by entities with which the subCIC does not have a close relationship and cannot effectively supervise.

CONCLUSION

With the multifaceted program outlined above, last month's reports show that AT&T has now limited cramming complaints by its ILEC customers to less then 0.2% of all bills that include a third-party charge. AT&T's commitment to fight against cramming is real and the effectiveness of its anti-cramming program is proven by the results.

ATTACHMENT B

at&t

Customer Service Summary

JOHN SMITH

My Service

Wireless Number:	123-456-7890
Rate Plan:	Nation Unlimited
Rate Plan Charge:*	$69.99
Term of Service:	24 months
Anytime/Daytime Minutes:	Unlimited
Night/Weekend Minutes:	NONE
Mobile to Mobile Minutes:	NONE
Activation Fee:	$36.00

*Additional charges apply. See page 2 for details.

My Plan Details

DATAPRO 2GB FOR SMARTPHONE $25.00

- Eligible voice & data plan for Smartphone required.
- 2GB of data (US Only). $10/1GB of add'l data.
- Unlimited AT&T Wi-Fi Basic Hotspot usage.

MSG UNLMTD WITH MOBILE TO ANY MOBILE CALLING $20.00

- Requires Messaging Unlimited.
- Direct calls to & received from US mobile #s only.

NATION UNLIMITED Included

- AT&T Nation Unlimited calling plans include unlimited domestic calling to anyone in the U.S. at anytime.
- No domestic roaming or long distance charges
- No discounts available on Unlimited Voice calling plans

OTHER FEATURES Included

- To review additional features on your plan please visit att.com/wireless for details

Using My Phone

Phone Model: Samsung SGH-i917

To learn more about using your phone, go to: att.com/DeviceSupport.

Using My Voicemail

Set Up Mailbox/Check Messages

PRESS and HOLD **1** to dial your voicemail and follow the prompts.

Check Messages From Another Phone

1. Dial your 10-digit wireless phone number.
2. When the greeting begins, PRESS *
3. Enter your password and follow the prompts.

Forgot Your Password?

Dial 611 and follow the prompts to reset.

To learn more about voicemail features and security, go to: att.com/WirelessVoicemail.

Services

Check usage or balance via a FREE text message.

DIAL: * M I N # *Send* (*646#)

DIAL: * B A L # *Send* (*225#)

Check data usage via a FREE text message.

DIAL: * D A T A # *Send* (*3282#)

Check phone upgrade discount availability.

DIAL: * N E W # *Send* (*639#)

FREE instant access to our automated bill pay system.

DIAL: * P A Y *Send* (*729)

See att.com/StarServices for limits regarding *MIN#/*DATA#.

TXT-2-PAY: A monthly text message reminder of your bill — and you can pay just by replying.

Contact Us

Web:	att.com/wireless
Wireless Phone:	611
Landline:	1-800-331-0500

Access our automated phone systems to pay your bill, check your minutes and more!

Generated on: 02/21/2011

nc

Understanding My First Bill

Your first bill may be higher than expected! The bill may include:

- Activation fee.
- One month's service billed in advance.
- Prorated charges and fees for the month when you signed up.

The sample bill is not part of your contract.

Start Of Billing Cycle: 24th of the month

Wireless Summary For: JOHN SMITH		123-456-7890
Monthly Service Charges	First Month's Bill	Ongoing Monthly Bill
Rate Plan		
Nation Unlimited (Prorated)	7.00	
Nation Unlimited	69.99	69.99
Other Services		
DATAPRO 2GB FOR SMARTPHONE	27.50	25.00
MSG UNLMTD WITH MOBILE TO ANY MOBILE CALLING	22.00	20.00
Total Monthly Service Charge	$126.49	$114.99
Usage, Additional Minutes, Roaming, Directory Assistance (411) and Long Distance Charges	BASED ON ACTUAL USAGE	
Credits, Adjustments & Other Charges*		
Activation Fee	36.00	
Regulatory Cost Recovery Charge	1.14	1.14
Federal Universal Service Fund	7.33	5.19
State Universal Service Fund		
Other AT&T Surcharges	3.50	3.50
Total Credits, Adjustments & Other Charges	$47.97	$9.83
Government Fees & Taxes		
State and Local Tax	22.75	16.10
911 Fee	1.00	1.00
Total Government Fees & Taxes**	$23.75	$17.10
Total Charges: (ESTIMATED)	$198.21	$141.92

*In addition to the monthly cost of the rate plan and any selected features, AT&T imposes the following charges: (1) a Regulatory Cost Recovery Charge of up to $1.25 to help defray its cost incurred in complying with obligations and charges imposed by state and federal telecom regulations, (2) a gross receipts surcharge, (3) state and federal universal service charges, and (4) other government assessments on AT&T. These fees are not taxes or government-required charges. ** The estimates above are based on the highest tax/fee/surcharge rates assessed in your state; actual charges may vary. For actual state percentages, visit att.com/AdditionalCharges. To prevent unauthorized charges, notify AT&T immediately if your phone is lost or stolen. Your rate plan brochure/contract controls if inconsistent with this document.

Standard Charges

Additional Minutes:	
411:	$1.99/call + Airtime
Text/IM:	20¢/message*
Picture/Video:	30¢/message*
Data:	$2/MB

*Charged for messages sent and received.

International Roaming

International voice and data rates apply for messages sent and calls made to international numbers, as well as usage outside the U.S. For rates/details, see: att.com/global.

Our Policies

30-Day Equipment Return Policy

- AT&T Stores: returns/exchanges must be like new, with all original packaging, accessories, manuals and proof of purchase. All devices are subject to a $35 restocking fee except where prohibited. See att.com/ReturnPolicy for details.
- Authorized Retailer and Other Locations: See the specific location's return policy.

30-Day Service Cancellation Policy

- Payment required for services used.
- Activation fee will be refunded if termination occurs within 3 days of activation.
- See our complete policy at: att.com/ReturnPolicy.

Manufacturer's Warranty

Manufacturers offer a One-year warranty on NEW equipment and a 90-day warranty on refurbished equipment. For repairs or replacement of your wireless phone with original proof of purchase, call 1-800-801-1101 or visit att.com/dsc to find the Device Support Center nearest you.

Wireless Service Agreement

Wireless Number:	123-456-7890
Account Number:	111111111111

Your agreement with AT&T consists of:

1. The Wireless Customer Agreement #FMSTCT01110180E **and its arbitration clause**, and
2. The rates and other details about the rate plan in the Customer Service Summary or at att.com/wireless.

Early Termination Fee (ETF)

If I terminate this Agreement before expiration of my Service Commitment, I will pay AT&T an Early Termination Fee of $325 minus $10 for each full month of my Service Commitment that I complete for each wireless telephone number associated with the service.

Guaranty

If I am signing on behalf of an entity, I represent that I am authorized to sign on its behalf, and I agree to be jointly responsible with the entity for payment of any sums that become due under, and to be bound by, this Agreement. I agree you can collect directly from me without first proceeding against the entity.

Service/Coverage Limitations

Service is not available at all times in all places. There are gaps in coverage within the service areas shown on maps.

iPhone and Certain Other Devices

Eligible voice and data plans are required for iPhone and certain other devices. The data plans do not cover international data charges. I agree that AT&T may add required plans to my account and bill me the appropriate monthly fee if I use an iPhone or other device that has plan requirements.

Optional Roadside Assistance is Available from AT&T

Enroll for $2.99/month and get the first 30 days free. After the free period the charge is $2.99/month per line. You may cancel at any time by contacting AT&T.

30-Day Cancellation Policy

I may terminate this Agreement within 30 days after activating service without paying an Early Termination Fee. I will pay all fees and charges incurred through the termination date, but AT&T will refund any activation fee if I terminate within three days of activation. Also, I may have to return any handsets and accessories purchased with this Agreement and pay any applicable restocking fees. If I terminate <u>after</u> the 30th day but before the Agreement's Service Commitment has expired, I will pay AT&T an Early Termination Fee for each wireless telephone number associated with the service.

Mobile Content

I understand that wireless devices can be used to purchase goods, content, and services (including subscription plans) like ring tones, graphics, games, and news alerts from AT&T or other companies. I understand that I am responsible for all authorized charges associated with such purchases from any device assigned to my account, that these charges will appear on my bill (including charges on behalf of other companies), and that such purchases can be restricted by using parental controls available from an AT&T salesperson, at att.com/wireless, or by calling AT&T.

Optional Wireless Phone Insurance Is Available

If not already enrolled, ask about optional Wireless Phone Insurance. If eligible, you have 30 days from the date of activation or upgrade to add it. Provided by Asurion Protection Services, underwritten by CNA. See brochure for complete terms and conditions. Key terms include:

- Premium: $4.99/month
- Non-refundable Deductible: from $50-$125/per claim.
- Limits: Two claims per 12 months; maximum replacement value of $1500/per claim.
- Replacements may be refurbished or different model.
- Cancel at any time for a prorated refund of the monthly charge.
- iPhone is not eligible for insurance through AT&T but is available through Asurion at mymobileprotect.com.

I have reviewed and agree to the rates, terms, and conditions for the wireless products and services described in the Wireless Customer Agreement (including limitation of liability and arbitration provisions) and the Customer Service Summary. If buying an iPhone, I agree that use of the iPhone acts as an acceptance of the Apple and third party terms and conditions included with the iPhone.

My Service Details

Agreement Start Date:	02/21/11
Deposit Amount:	$0
Dealer/Sales Code:	XXXXXX
IMEI:	111111111111111
SIM:	89014101111111111111

Signing My Agreement

You will sign this agreement electronically.

1. If you do not sign using a signature capture device, dial *862 from your phone or 1-866-895-1092.
2. Listen and follow the prompts.
3. Upon completion, your phone will be activated.

If electronic signature is not available, please sign below:

Signature____________________

ATTACHMENT C

[redacted]

Account Number 972[redacted]
Billing Date Aug 11, 2011
Web Site att.com

Bill-At-A-Glance

Previous Bill	113.35
Payment	.00
Adjustments	6.57
Past Due - Please Pay Immediately	119.92
Current Charges	104.20
Total Amount Due	**$224.12**
Current Charges Due in Full by	Sep 6, 2011

Billing Summary

Billing Questions? Visit **att.com/billing**

Plans and Services 1 800 288-2020	48.01
AT&T Internet Services 1 877 722-3755	41.24
Other AT&T Long Distance 1 800 288-2020	.00
Enhanced Services 1 888 301-3724	14.95
Total Current Charges	104.20

News You Can Use Summary

- PREVENT DISCONNECT
- PAYMENT OPTIONS
- 900 # INFORMATION
- RELAY TEXAS
- LONG DIST. PROVIDERS
- ELECTRONIC PAYMENTS
- 900 # INFORMATION

See "News You Can Use" for additional information

AT&T Benefits

- Thank you for choosing AT&T. Your ALL DISTANCE® service includes a $12 package discount for combining your voice service with an additional qualifying product.
  Your monthly savings: $69.29

Detail of Payments and Adjustments

Item No.	Date	Description	Adjustments	Payments
1.	8-11	Late payment charge on unpaid balance	6.57	

Plans and Services

Promotions and Discounts

Item No.	Description	
2.	Discount for All Distance Metro Discount for Bill Period 08/11/2011	**7.95CR**

Monthly Service - Aug 11 thru Sep 10

3.	**Combined Communications Svcs** **ALL DISTANCE®** Basic Local Service-Residence Call Blocker℠ Call Forwarding Call Return℠ Call Waiting Call Waiting ID Caller ID Name Delivery Caller ID Number Delivery Priority Call℠ Selective Call Forwarding℠ Speed Calling 8 Three-Way Calling Touchtone Unltd Nationwd Clg Advantage3 by AT&T Long Distance	50.95
4.	Package Credit	8.00CR
Total Monthly Service		**42.95**

Local Services provided by AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma, or AT&T Texas based upon the service address location.

GO GREEN - Enroll in paperless billing.

Return bottom portion with your check in the enclosed envelope.

DUE BY: Sep 6, 2011 **$224.12** Amount After **Sep 8, 2011** **$230.66**

Past Due Charges - $119.92 - Please Pay Immediately
Billing Date Aug 11, 2011
Date Mailed Aug 18, 2011

Account Number **972**[redacted]
Please include your account number on your check

Make check payable to:
AT&T
PO BOX 5001
CAROL STREAM IL 60197-5001

9746 9721[redacted] 3000654000000 14900000000119920000022412

[redacted]

at&t

Plans and Services

Additions and Changes to Service

This section of your bill reflects charges and credits resulting from account activity.

Item No.	Description	Quantity	Monthly Rate	Amount Billed
	Activity on Jul 28, 2011			
	Order No. [redacted]			
1.	Credit for TX TIF Reimbursement for prior plan discounts.	1		.14CR
	Order No. [redacted]			
2.	Credit for Texas Universal Service for prior plan discounts.	1		.40CR
	Total Additions and Changes to Service			**.54CR**

Surcharges and Other Fees

3.	Federal Subscriber Line Charge	5.30
4.	911 Fee	.50
5.	911 Equalization Fee	.03
6.	State Cost-Recovery Fee	.27
7.	TX Utility Gross Receipts Assessment (Long Dist)	.01
8.	Federal Universal Service Fee	1.60
9.	Carrier Cost Recovery Fee (Long Dist)	1.99
10.	Texas Universal Service	1.05
	Total Surcharges and Other Fees	**10.75**

Taxes

11.	Federal Excise Tax	.00
12.	Federal (Non-regulated & Toll Charges)	.00
13.	State and Local (Local Charges)	2.05
14.	State and Local (Non-regulated & Toll Charges)	.75
	Total Taxes	**2.80**

Total Plans and Services 48.01

Amount Subject to Sales Tax: 41.16

AT&T Internet Services

Important Information

For Billing Inquiries:
High Speed Internet (DSL): 1.800.288.2020
Web Hosting: 1.888.932.4678
ConnecTech: 1.888.354.1260
AT&T Yahoo! Web Hosting: 1.866.722.9932
AT&T Wi-Fi contact information located at attwifi.com.

Itemized Charges and Credits

Item No.	Date	Description	
		Charges for 972[redacted]	
		Account Code [redacted]	
15.	7-28	AT&T HSI ELITE SERVICE DATE: 07/27/11 - 08/26/11 [redacted] HSI No. 972 [redacted] [redacted] att.net	**40.00**

Taxes

16.	Federal	.00
17.	State and Local	1.24
	Total Taxes	**1.24**

Total AT&T Internet Services **41.24**

AT&T Long Distance

Important Information

Message Regarding Terms & Conditions:
To view your Terms & Conditions for AT&T Long Distance, access www.att.com/servicepublications or call 1-888-225-8530 to have a copy mailed.

Invoice Summary
(as of August 01, 2011)

Current Charges	
Service Charges	.00
Credits and Adjustments	.00
Call Charges	.00
Surcharges and Other Fees	.00
Taxes	.00
Total Invoice Summary	**.00**

Service Charges
Monthly Service Charges

	Type of Service	Period	Qty	
18.	Unlimited Call Ad 3	07/27-08/26	1	.00
	Total Monthly Service Charges			**.00**

Total Service Charges **.00**

Paying by check authorizes AT&T to use the information from your check to make a one-time electronic fund transfer from your account. Funds may be withdrawn from your account as soon as the same day your payment is received. If we cannot process the transaction electronically, you authorize AT&T to present an image copy of your check for payment. Your original check will be destroyed once processed. If your check is returned unpaid you agree to pay such fees as identified in the terms and conditions of your AT&T Service Agreement. Returned checks may be presented electronically. If you want to save time and stamps, sign up for auto payment at www.att.com/stoppaper using your checking account. It's easy, secure, and convenient!

[redacted]

Account Number 972[redacted]
Billing Date Aug 11, 2011

AT&T Long Distance

Service Charges - Continued

Call Charges - Jun 27th thru Jul 26th

Domestic Usage Summary

Calls for 972-[redacted]

Domestic Minutes Used	33	
Number of Calls	6	
Total Domestic Direct Dial Charges		.00

Calls for 972[redacted]

Domestic

Item No.	Date	Time	Place Called	Number	Code	Min	
1.	6-29	1002P	FORT WORTH TX	817[redacted]	D	15:00	.00
2.	6-30	1021A	WACO TX	254[redacted]	D	1:00	.00
3.	7-03	920P	FORT WORTH TX	817[redacted]	D	1:00	.00
4.	7-04	801P	FORT WORTH TX	817[redacted]	D	4:00	.00
5.	7-07	745P	FORT WORTH TX	817[redacted]	D	11:00	.00
6.	7-17	412P	FORT WORTH TX	817[redacted]	D	1:00	.00

Subtotal Domestic Calls for 972[redacted] .00

Total Domestic Calls for 972[redacted] .00

Total Calls for 972-[redacted] .00
Total Call Charges .00

Taxes

	Description	
7.	Federal Tax	.00
8.	State and Local Taxes	.00
Total Taxes		.00

Key to Calling Codes
D Day

Total AT&T Long Distance **.00**

News You Can Use

PREVENT DISCONNECT
Thank you for being a valued customer. Please be aware that all charges must be paid each month to keep your account current and prevent collection activities. We are required to inform you that certain charges such as your telephone line, fees and surcharges, and any feature package, if applicable, MUST be paid in order to prevent interruption of basic local service. These charges are already included in the Total Amount Due and are $85.20. Also, neglecting to pay for other charges such as long distance, voice mail, InLine®, wireless, and Internet may result in these services being interrupted.

LONG DIST. PROVIDERS
Our records indicate that you have selected AT&T Long Distance or a company that resells their services as your primary local toll carrier and AT&T Long Distance or a company that resells their services as your primary long distance carrier. Please contact us if this does not agree with your records.

PAYMENT OPTIONS
Visit att.com to pay your AT&T bills online FREE of charge. Additional payment options can also be viewed online. Self-service is available anytime day or night by calling 1.800.288.2020- just say "Pay My Bill". Payments made with an AT&T representative may be subject to a $5.00 payment convenience fee.

ELECTRONIC PAYMENTS
When making a secure electronic bill payment from your bank account over the phone, you will need to provide sufficient information to authenticate yourself as the account owner. By providing this information, you are authorizing AT&T and your financial institution to process a one-time debit from your bank account for payment of your bill. Other bill payment options are available at www .att.com.

900 # INFORMATION
900 Number information services are provided over telephone numbers beginning with the prefix 900. You may withhold payment if you dispute these charges within 60 days. Action to collect disputed amounts will be suspended pending investigation of the dispute. Your local and long-distance telephone service cannot be suspended or disconnected for nonpayment of 900 charges. However, the company that provides the 900 service may take other actions to collect charges you have not paid and have not disputed. To protect customers from these unexpected charges, AT&T offers 900 Call Blocking. 900 charges incurred from purchasing products and services from the internet cannot be blocked. If you fail to pay legitimate charges for calls to 900 numbers, your access to 900 numbers may be involuntarily blocked. You are not to be billed for pay-per-call services that do not comply with federal laws and regulations. For further details on eligibility for no cost 900 Call Blocking, call your AT&T Service Representative.

900 # INFORMATION
900 Number information services are provided over telephone numbers beginning with the prefix 900. If you fail to pay legitimate charges for calls to 900 numbers, your access to 900 numbers may be involuntarily blocked. To protect customers from unexpected 900 charges, AT&T offers 900 Call Blocking at no cost. For further details on 900 Call Blocking, call your AT&T Service Representative. Note that 900 charges incurred from purchasing products and services from the Internet cannot be blocked. You may withhold payment for 900 charges if you dispute the charges within 60 days. Action to collect disputed amounts will be suspended pending investigation of the dispute. Your local and long-distance telephone service cannot be suspended or disconnected for nonpayment of 900 charges. However, the company that provides the 900 service may take other actions to collect charges you have not paid and have not disputed. You are not to be billed for pay-per-call services that do not comply with federal laws and regulations.

RELAY TEXAS
Dial 711 is a Telecommunications Relay Service for customers with hearing and speech disabilities. AT&T offers products and services for customers with visual, hearing, speech or physical disabilities. For more information, please go to att.com or refer to the customer guide section in your AT&T telephone directory.

MOVING SOON?
Stay connected with AT&T. Please visit us online at att.com/move or call 1.800.MOVE.ATT(1.800.668.3288).

DO NOT CALL REGISTRY
To reduce telephone solicitation calls to your home: Register for the National Do Not Call Registry by phone at 1.888.382.1222(TTY: 1.866.290.4236)or online at donotcall.gov. There's no charge to register.

at&t

News You Can Use

SPECIAL OLYMPICS
Support Special Olympics today! Text the word "UNITY" to 80888 to donate $5. A one-time donation of $5 will be billed to your mobile phone bill. Messages sent to or from 80888 are free for AT&T customers. Donations are collected for Special Olympics by MobileCause.com. Reply STOP to 80888 to stop your donation. Reply HELP to 80888 for help. For terms, go to www.igfn.org/t.

CALL BEFORE YOU DIG!
Always call 811 before you begin an excavation project so all utilities can be identified and marked. Dig with care. Damages are avoided when safe digging procedures are followed. CALL 811 BEFORE YOU DIG!

SUPPORT MADE EASY!
Have questions about your AT&T products or services? For self help tools and FAQs to assist you, please visit www.support.att.com. We've simplified the online repair experience! Check it out at www.repair.att.com.

LIVE FREE FOR A YEAR
Get a chance to have your AT&T bills paid for a year when you enroll in free Paperless Billing and AutoPay. No purchase necessary. Must be an AT&T customer as of 7/16/2011. Contest ends 10/31/2011. Visit att.com/billfree for official contest rules.

Terms and Conditions

CARRIER QUESTIONS
You may contact the Public Utility Commission of Texas, Office of Customer Protection, P.O. Box 13326, Austin, TX 78711-3326, 1-512-936-7120 or toll-free in Texas at 1-888-782-8477 if you believe the local exchange provider or the interexchange carrier on your bill are not correct or if there are unauthorized charges on your bill. Hearing and speech impaired customers with text telephones (TTY) may call 1-512-936-7136. When corresponding by mail, include your complaint and copies of the phone bills. Please contact AT&T Texas to switch your service back to the carrier of your choice.

For a complete listing of Terms and Conditions, please refer to:
- The inside of the AT&T White Pages directory, or
- Visit us on the web at att.com/terms

LATE PAYMENT INFORMATION
If the unpaid balance on your bill is $10.00 or more, a late payment charge of $5.50 plus 1% of the unpaid balance, calculated monthly, will be assessed if your payment is not received by the date shown in the "Late After" section.

SERVICE INFORMATION
Your local services are provided by AT&T Texas (Southwestern Bell Telephone Company). Your AT&T long distance services, if any, are provided by one or more of the following AT&T Inc. subsidiaries: AT&T Long Distance (SBC Long Distance, LLC), AT&T Communications of Texas, Inc., and/or AT&T Corp. You can find the name of your long distance service provider in the long distance section of your bill. To view your provider's service publications, including Guidebooks, Service Guides and/or Tariffs, go to att.com/servicepublications.

HOW TO CONTACT US
For all slamming or cramming related billing disputes and/or inquiries contact us at att.com, call the number listed on your bill, or mail to: AT&T-Consumer billing, PO BOX 1536, Topeka, KS 66601. To ensure proper credit is applied to your AT&T account, bill payments (along with the tear-off portion of the front page of your bill) should be mailed to: AT&T Payment Center, PO Box 5001, Carol Stream, IL 60197-5001.

ENHANCED SERVICES BILLING INC

[redacted]

Account Number 972[redacted]
Billing Date Aug 11, 2011

Questions? 1 888 301-3724

Important Information

This portion of your bill is provided as a service to the company identified above. Please review all charges appearing in this section. If you have any questions or concerns, call the telephone number shown above.

Current Charges

Billed on Behalf of TRIVOICE INTERNATIONAL, LTD.
Questions? Call: 1 866 473-1999
Itemized Charges and Credits

Item No.	Date	Description	
Charges for 972[redacted]			
1.	7-13	TRIVOICE INT'L, LTD- EFAX SVC MTH FEE Billing question? Call 1-866-473-1999 www.billview.com Provider not affiliated with AT & T	**14.95**

Taxes

2.	Federal	.00
3.	State and Local	.00
Total Taxes		**.00**

Total Enhanced Services **14.95**