

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Empowering Customers 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 and Billing Format	)	CG Docket No. 98-170
	)	
To: The Secretary		

**REPLY COMMENTS**

1 800 COLLECT, Inc. ("1 800 COLLECT"), by its attorneys, hereby submits these Reply Comments in the above-referenced proceeding.<sup>1</sup> In its initial Comments, 1 800 COLLECT expressed its support for the Commission's proposed anti-cramming rules. Those proposed rules, as set forth in Appendix A to the NPRM, are well-balanced regulations that effectively target anti-cramming abuses without burdening legitimate telecommunications businesses. At the same time, however, 1 800 COLLECT opposed the more extreme anti-cramming measures discussed in the NPRM, including the proposal to ban third party charges from carrier phone bills and the proposal to require carriers to offer customers the option of blocking third-party charges. As argued in 1 800 COLLECT's Comments, such proposals are overbroad and counterproductive. 1

---

<sup>1</sup> 1 800 COLLECT filed initial Comments in this proceeding on October 24, 2011. *See Comments of 1 800 COLLECT, Inc.*, Docket No. CG 11-116 (Oct. 24, 2011). *See also Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges ("Cramming")*, Notice of Proposed Rulemaking, 26 FCC Rcd 10021 (2011) ("NPRM" or "Cramming NPRM"); 76 Fed. Reg. 52625 (Aug. 23, 2011).

800 COLLECT believes that such draconian measures, if adopted, should apply only to non-telecommunications services typically associated with cramming abuses and not to legitimate telecommunications services, such as 1 800 COLLECT. Such a conclusion is, 1 800 COLLECT submits, supported by the record in this proceeding.

1 800 COLLECT now submits these Reply Comments to highlight the near universal agreement among commenters that the Commission's anti-cramming rules must distinguish between legitimate telecommunications services on the one hand and, unauthorized, non-telecommunications services on the other. As demonstrated herein, the consensus among regulators and industry stakeholders alike is that aggressive anti-cramming measures, such as an outright ban on, or a consumer opt-in system for, third-party charges on carrier phone bills, should apply only to the latter and not to the former. In support thereof, 1 800 COLLECT states as follows.

1 800 COLLECT has reviewed the comments of numerous parties in this proceeding, including the comments of major telecommunications carriers such as Verizon<sup>2</sup> and AT&T,<sup>3</sup> billing aggregators such as Billing Concepts, Inc.<sup>4</sup> and ILD Teleservices,<sup>5</sup> and state regulators and officials such as the Virginia State Corporation Commission<sup>6</sup> and the Attorneys General of 17 States.<sup>7</sup> Based on this review, 1 800 COLLECT has found that no industry stakeholders or

---

<sup>2</sup> *Comments of Verizon and Verizon Wireless*, CG Docket No. 11-116 (Oct. 24, 2011).

<sup>3</sup> *Comments of AT&T Inc.*, CG Docket No. 11-116 (Oct. 24, 2011) ("AT&T Comments").

<sup>4</sup> *Comments of Billing Concepts, Inc.*, CG Docket No. 11-116 (Oct. 24, 2011) ("Billing Concepts Comments").

<sup>5</sup> *Comments of ILD Teleservices*, CG Docket No. 11-116 (Oct. 24, 2011).

<sup>6</sup> *Comments of Virginia State Corporation Commission Staff*, CG Docket No. 11-116 (Oct. 24, 2011) ("Virginia SCC Comments").

<sup>7</sup> *Comments of the Attorneys General of Alabama, Alaska, Arizona, Delaware, Georgia, Indiana, Iowa, Kentucky, Maryland, Mississippi, Nevada, New Hampshire, New Mexico, New*

regulators have endorsed or indicated any support for the nuclear option contemplated in the NPRM – indiscriminately lumping together bona fide telecommunications services with unauthorized, non-telecommunications or "enhanced" services, and instituting an absolute ban on all third-party charges on carrier phone bills. Instead, many commenters have expressly stated that legitimate telecommunications services, such as collect calling, should not be a target of the Commission's anti-cramming rules and should be exempt from any prohibition of third-party charges on carrier phone bills.

For example, while the Attorneys General of 17 States, who play a significant role in state consumer protection efforts, support a ban on third-party charges from "non-telecommunications service providers." In taking this position, they would exempt from that ban "third-party charges for telecommunications services such as collect calls, operator services, and prisoner calls home, which have not been the source of cramming complaints..."<sup>8</sup> Even the Virginia SCC – the state regulatory body that proposed the ban on third-party charges under consideration in the NPRM<sup>9</sup> – concluded in its Comments that it would exempt from the ban any "telephone calls that are customer initiated by dialing 1+, 0+, 0-, or 1010XXX, or that a customer accepts as collect..."<sup>10</sup> These comments in this proceeding clearly demonstrates that even state regulators, who are veterans of the cramming fight and who generally support a ban on third-party charges, believe that traditional telecommunications services, such as collect calling,

---

*York, Oregon, Tennessee and Washington*, GC Docket No. 11-116 (Oct. 24, 2011) ("States Attorneys General Comments").

<sup>8</sup> State Attorneys General Comments at 2, n. 2. *See also* States Attorneys General Comments at 23 (supporting "limited exceptions for certain telephone services, such as long distance calls, operator-assisted calls, prisoner calls and dial-around services").

<sup>9</sup> *See NPRM* at ¶ 62.

<sup>10</sup> Virginia SCC Comments at 6, n. 12.

should be exempt from such a ban. Based on such reasoning, 1 800 COLLECT encourages the Commission to drop from further consideration any ban on third-party charges that fails to distinguish between legitimate telecommunications services on the one hand, and unauthorized, non-telecommunications services on the other, and to categorically exempt the former.

The willingness of state regulators to support an exemption for telecommunications services stems from their recognition of the valuable service many third-party telecommunications providers offer consumers, as well as the fact that such telecommunications service providers are rarely, if ever, implicated in cramming schemes. These same considerations inform the opposition of other industry participants, such as wireline carriers and billing aggregators, to any indiscriminate, across-the-board ban on third-party charges.

According to AT&T:

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... [C]laims 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.<sup>11</sup>

Similarly, in its Comments, third-party billing aggregator Billing Concepts, Inc. highlighted the valuable services facilitated by third-party billing, including “collect-call services.”<sup>12</sup> While

---

<sup>11</sup> AT&T Comments at 2.

<sup>12</sup> Billing Concepts Comments at Executive Summary. As noted in 1 800 COLLECT's initial Comments, 1 800 COLLECT's billing arrangement with large carriers, via an aggregator, allows 1 800 COLLECT to keep costs down. Use of the aggregator grants 1 800 COLLECT the opportunity to work with large carriers that might otherwise refuse to do business with small companies, and the carriers' billing service, in turn, allows 1 800 COLLECT to outsource

Billing Concepts supports "Commission actions designed to curtail cramming, provided that such actions do not impose undue burdens on carriers or other parties," it opposes "the drastic, unnecessary, and improper action of banning legitimate services from third-party billing, or only permitting such billing on an opt-in basis."<sup>13</sup>

As the comments above demonstrate, parties as diverse as state regulators, wireline carriers and billing aggregators all agree: in order to protect legitimate telecommunications services providers, such as 1 800 COLLECT, from unnecessarily burdensome regulation that will certainly prove devastating to them, the Commission's final anti-cramming rules must clearly distinguish and exempt bona fide telecommunications services from those unauthorized non-telecommunications services that may rightfully be the subject of anti-cramming regulations. Without such a substantive distinction between legitimate telecommunications services and unauthorized, non-telecommunications services, any ban on third-party charges will be arbitrary and capricious and contrary to law. Accordingly, 1 800 COLLECT again urges the Commission to distinguish between unauthorized charges for non-communications services, on the one hand, and legitimate billing mechanisms for communications services, on the other, and to weed out the former while safeguarding the latter.

To that end, and as previously stated, 1 800 COLLECT supports the Commission's proposed rules, as set forth in Appendix A of the NPRM, containing the following practical,

---

efficiently a portion of its operations that might otherwise prove to be a drain on its revenue.

Like the proposed ban on third-party charges, the proposed regulation requiring carriers to block third-party charges upon request fails to account for the importance of such billing mechanisms to legitimate businesses, and conflates unauthorized charges with charges for legitimate services. Other, less intrusive regulations – such as the inclusion of third-party contact information on carrier bills – effectively address concerns with unauthorized charges while recognizing the legitimacy and operational-importance of third-party billing procedures.

<sup>13</sup> Billing Concepts Comments at Executive Summary.

balanced provisions: (i) where charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider, and where charges for non-carrier service providers appear on a telephone bill, the charges must be placed in a distinct section separate from all carrier charges; (ii) carrier websites and telephone bills must clearly and conspicuously provide FCC contact information for the submission of complaints; and (iii) carriers that offer the option to block third-party charges from appearing on phone bills must clearly and conspicuously notify subscribers of such option at the point of sale, on each phone bill and on carrier websites.<sup>14</sup> Similarly, 1 800 COLLECT supports the proposal to include appropriate third-party contact information on bills containing third-party charges as well as the proposed requirement that carriers notify subscribers if they do not offer blocking of third-party charges.<sup>15</sup> These provisions offer targeted means of both preventing and remedying cramming abuses without interrupting or overturning the carrier-aggregator-third party billing system that helps bring valuable third-party telecommunications services, such as collect calls, to consumers.

In sum, the Commission should reject extreme measures such as the absolute ban on third-party charges and the requirement for carriers to grant subscribers the option of blocking third-party charges, and adopt the reasonable measures proposed in Appendix A to the Cramming NPRM. Further, in adopting any form of regulation to deal with cramming, the Commission must establish a bright line between legitimate communications services and unauthorized non-communications services, and exempt the former while targeting the latter.

WHEREFORE, 1 800 COLLECT, Inc. respectfully requests that the Commission reject those proposals, identified above, that would impose significant and unnecessary burdens on

---

<sup>14</sup> See *NPRM* at Appendix A.

<sup>15</sup> See *NPRM* at ¶¶ 55, 59.

legitimate businesses and instead adopt the reasonable, well-balanced set of rules proposed in Appendix A to the Cramming NPRM that do not negatively impact the ability of communications services to bill consumers through third-party billing arrangements on telephone carrier bills.

Respectfully submitted,

**1 800 COLLECT, INC.**



By: \_\_\_\_\_

Barry A. Friedman  
Thompson Hine LLP  
Suite 800  
1920 N Street, N.W.  
Washington, D.C. 20036  
(202) 331-8800

Dated: December 5, 2011