Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
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 and Billing Format	)	CC Docket No. 98-170

REPLY COMMENTS OF BUSINESS VALUES ONLINE, INC.

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REPLY COMMENTS OF BUSINESS VALUES ONLINE, INC.

Business Values Online, Inc. ("BVO"), by and through its attorneys, submits these reply comments in response to the Federal Communications Commission's ("Commission's") Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceedings.[1] BVO assists small businesses with web hosting, search engine optimization, and email management services. It relies upon local exchange carrier ("LEC") billing services as a low-cost way to provide services to small business customers and verifies each and every order submitted.

The record shows that there are established consumer benefits to third-party billing and that the vast majority of third-party billing is legitimate. Further, it is clear from the record that additional Commission regulations would increase the cost of LEC billing and would interfere with BVO's ability to provide low-cost services to its customers. Finally, LECs impose strict application, monitoring and remedial regimes to curb instances of cramming. These measures are effective and much less restrictive on legitimate third-party billing than many of the NPRM's

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1 *See* Empowering *Consumers to Prevent and Detect Billing for Unauthorized Charges ("Cramming")*, CG Docket No. 11-116, Notice of Proposed Rulemaking, FCC 11-106 (rel. July. 12, 2011) ("NPRM").

more burdensome proposals. In light of these considerations, the appropriate focus should be on the voluntary measures that the industry has taken and is taking to reduce instances of cramming.

I. THERE ARE WELL-ESTABLISHED CONSUMER BENEFITS TO LEGITIMATE THIRD-PARTY BILLING AND COLLECTION

LECs are in the best position to know and understand the demands of their customers.[2] Further, LECs have strong incentives to protect their customers against instances of cramming. According to Verizon, "[s]ince unauthorized charges on customers' bills could significantly harm customer relationships in a highly competitive environment, Verizon and Verizon Wireless have significant incentives to prevent such charges."[3] LECs know that their customers do not appreciate seeing unauthorized charges on their bills, however, the LECs also understand that their customers realize important benefits from including charges for third-party goods and services on a single LEC monthly bill.[4]

Specifically, LEC customers enjoy the ability to purchase the low-cost third-party goods and services that result from the fact that the third-party service providers do not have to set up onerous billing and collections departments. In addition, LEC customers enjoy the ease and convenience of third-party billing, which allows them to pay for many different goods and services on a single bill. As an example, Verizon stated that it permits third-party charges to be placed on its bills because "customers prefer to review and pay a single bill for these services."[5]

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2 *See* Comments of Frontier Communications Corporation, CG Docket No. 11-116 et al. at 3 (filed Oct. 24, 2011) ("Frontier Comments") (LECs have a "unique understanding of their customer base").

3 *See* Comments of Verizon and Verizon Wireless, CG Docket No. 11-116 et al. at 1 (filed Oct. 24, 2011) ("Verizon Comments").

4 The incentive for LECs to permit third-party billing is not financial, but customer demand. According to one LEC, "[t]hird-party billing is not a significant revenue stream for Frontier. Rather, Frontier offers it to allow consumers the broadest choice possible in purchasing and paying for telecommunications-related products and services." Frontier Comments at 7.

5 Verizon Comments at 1.

Further, "customers prefer one-stop shopping for these services and it is an easy, efficient way to make certain types of purchases."[6]

Because of the cost savings that result from third-party billing and collection, without that service many third-party service providers would go out of business.[7] Therefore, if the Commission were to ban third-party billing, or impose such onerous regulations as to increase costs and effectively ban the practice, LEC customers and customers of third-party service providers would lose out on the low-cost goods and services that they can currently purchase with the ease and convenience of a single monthly bill.

II. <u>THE RECORD SHOWS THAT THERE ARE VERY FEW ALLEGED INSTANCES OF CRAMMING WHEN COMPARED TO OVERALL THIRD-PARTY BILLING AND COLLECTIONS</u>

The NPRM sets forth some evidence regarding the scope of the cramming problem, including the fact that the Commission has received between 2,000 and 3,000 cramming complaints each year between 2008 and 2010.[8] Each instance of alleged cramming is certainly a concern that should be promptly addressed. However, the LECs, which are on the front lines of customer billing inquiries, have offered some important perspective on the alleged cramming problem. According to the LECs, the instances of alleged cramming (much less proven cramming) are a small drop in the bucket when compared to total third-party charges that are placed on LEC customer bills.

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6 *Id.* at 2.

7 *See* Comments of Billing Concepts, Inc., CG Docket No. 11-116 et al. at 10 (filed Oct. 24, 2011) ("BSG Comments").

8 *See* NPRM, ¶ 19.

AT&T's experience is that "the overwhelming majority of third-party charges on its wireline bills are legitimate."[9] This is because, "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."[10] The number of cramming allegations that AT&T sees is consistent with the numbers that the Commission is seeing in complaints (a few thousand annually), however, when compared to the tens of millions of third-party billed charges annually, the scope of the alleged problem shrinks dramatically.

The vast majority of third-party charges on LEC bills are legitimate. While cramming is an important issue for the industry to address, the scope of the problem is not as broad as the NPRM proposes. The Commission should keep this perspective in mind when considering the necessity for, and scope of, additional regulatory requirements. This is especially true when such requirements are weighed against the effective voluntary industry practices discussed below that have been undertaken by the LECs, billing aggregators and service providers to curtail instances of cramming.

III. THE RECORD SHOWS THAT EXCESSIVE REGULATION WOULD RAISE THIRD-PARTY BILLING AND COLLECTION COSTS AND THREATEN THE ELIMINATION OF VALUABLE LOW-COST SERVICES

BVO stated in its comments that it did not oppose the majority of the NPRM's proposals, provided they could be implemented without increasing the cost of LEC billing.[11] It is clear from the record, however, that the NPRM's proposals would increase LEC costs, which would in

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9 Comments of AT&T Inc., CG Docket No. 11-116 et al. at 7 (filed Oct. 24, 2011) ("AT&T Comments").

10 *Id.* at 2.

11 Comments of Business Values Online, Inc., CG Docket No. 11-116 at 1 (filed Oct. 24, 2011) ("BVO Comments").

all likelihood be passed on to third-party service providers such as BVO.[12] Since BVO's service offering is based on a low-cost model, which is an important purpose of third-party billing, it cannot support proposals that would increase its costs and greatly impact its ability to provide its beneficial services.

CenturyLink estimated that the additional cost to fully and fairly describe third-party billing and consumers' opportunity to block charges in point-of-contact disclosures would be $3 million annually.[13] In addition, according to CenturyLink "it must be remembered that each character and line of text adds costs to the third-party offering."[14] That fact should be considered with respect to requiring additional disclosures on bills, including contact information for third-party service providers. Such disclosure costs would likely be passed along to third-party service providers that cannot incorporate them into their low-cost services for small businesses and consumers.

IV. THE INDUSTRY HAS UNDERTAKEN EXTENSIVE AND EFFECTIVE EFFORTS TO REDUCE INSTANCES OF CRAMMING

More than a decade ago, the telecommunications industry developed new anti-cramming guidelines at the urging of the Commission.[15] Pursuant to such voluntary efforts, in order to place a charge on a LEC's bill, BVO completes its own verification process and must comply with the detailed requirements imposed by its billing aggregator and the LEC that issues the bill

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12 BVO agrees with BSG, that the Commission should carefully examine the comments of carriers regarding the costs of the Commission's proposals to ensure that they do not outweigh the benefits. *See* BSG Comments at 8-9.

13 *See* Comments of CenturyLink, CG Docket No. 11-116 at n.16 (filed Oct. 24, 2011) ("CenturyLink Comments").

14 *Id.* at 15.

15 *See FCC and Industry Announce Best Practices Guidelines to Protect Consumers from Cramming*, FCC News Release (rel. July 22, 1998).

to the customer. This generally includes pre-screening,[16] review of marketing materials, monitoring and compliance with complaint thresholds. The charge is then generally placed in a separate section of the LEC bill to avoid customer confusion. If a customer complains that he or she did not authorize the charge, then a refund is provided (generally whether or not the customer is correct) and the LEC offers the customer third-party bill blocking.

As an example, CenturyLink includes cramming prevention measures in its contracts with third-party providers or billing aggregators, including a vendor screening process, customer authorization requirements, active monitoring of customer inquiries and complaints, and remedial measures to address vendors that exceed the applicable threshold for *alleged* instances of cramming.[17] If a customer alleges that a vendor charge was unauthorized, or simply changes his or her mind, CenturyLink removes the charge from the bill and offers that customer third-party bill blocking.[18] These measures are adequate to address the limited cramming problem when viewed in the appropriate context of the millions of third-party charges that are placed on bills each month.

V. CONCLUSION

Third-party billing and collection offers consumers low-cost services with the ease and convenience of a single bill. Alleged instances of cramming, while an important concern, comprise a very small percentage of the number of third-party charges placed on LEC bills each month. Therefore, and in light of the likely increased costs of Commission regulation, the

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16 BVO stated in its comments that "[c]arriers can and do conduct some screening of third party vendors pursuant to the rights and terms contained in the third party billing contracts." BVO Comments at n.24. Such screening is very different from the NPRM's proposal to require LECs to make an independent determination whether a third-party service provider complies with relevant state and federal laws, which raises due process concerns. *See id.* at 8-9.

17 *See* CenturyLink Comments at 12-14.

18 *See id.* at 14.

appropriate course of action is to rely upon market forces to discipline telephone company billing for third-party charges.

Respectfully submitted,

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