



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**In the Matter of
Truth-in-Billing and Billing Format**

CC Docket No. 98-170

**Comment of the
FEDERAL TRADE COMMISSION**

November 13, 1998

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I. Introduction and Summary

The Federal Trade Commission (FTC or Commission) welcomes this opportunity to present its views on the important consumer issues raised in the above-captioned proceeding. The FTC endorses the FCC's effort to provide consumers the information they need to make informed choices and protect themselves against unscrupulous practices, and it broadly supports the principles behind the proposals in each section of the NPRM.

The FTC is an independent administrative agency charged with promoting the efficient functioning of the marketplace by taking law enforcement action against unfair or deceptive acts or practices and increasing consumer choice by promoting vigorous competition. The Commission fulfills this mandate by enforcing the Federal Trade Commission Act (FTC Act).⁽¹⁾ In addition, the FTC often analyzes regulatory or legislative proposals that could affect competition, the efficiency of the economy, and consumer welfare, and has submitted comments to regulatory and legislative bodies at both the federal and state levels.

The keystone of the FTC's consumer protection law enforcement effort is Section 5 of the FTC Act, which prohibits "unfair or deceptive acts or practices in or affecting commerce." The scope of Section 5 encompasses a wide range of business practices, including advertising, marketing, and billing and collection. The Commission pursues deceptive activity under

Section 5 either through administrative law enforcement actions or through federal district court actions seeking temporary and permanent injunctive relief and, ultimately, restitution to injured consumers. The case law developed under Section 5 holds that deception occurs "if, first, there is a representation, omission, or practice that, second, is likely to mislead consumers acting reasonably under the circumstances, and third, the representation, omission, or practice is material."⁽²⁾ It is deceptive to omit "material information, the disclosure of which is necessary to prevent [a] claim, practice, or sale from being misleading."⁽³⁾ Express claims, or deliberately-made implied claims used to induce the purchase of or payment for a particular product or service are presumed to be material.⁽⁴⁾ It is from the standpoint of this Section 5 deception analysis that the Commission approaches the "truth-in-billing" issues presented in the FCC's Notice of Proposed Rulemaking (NPRM) in this proceeding.

The FTC welcomes the FCC's initiative to promote formats for telephone bills that consumers can more easily understand. We agree with the observation, reflected at paragraph 2 of the NPRM, that "even the most sophisticated consumer would often be unable, based on the information provided in the bills, to identify the services for which the consumer is being charged, or the providers of those services." We also agree that "unclear telephone bills have contributed to the proliferation of cramming." NPRM at ¶ 3. Telephone bills that better describe the services and charges appearing on them would enable consumers to take better advantage of the new products and services available in the deregulated telecommunications marketplace. They would also help consumers avoid falling prey to unscrupulous service providers who hide or mislabel unauthorized charges on consumers' telephone bills.

A. *Today's Marketplace*

From its origins in an era in which it served only AT&T, the telephone billing system has evolved to the point where it serves a multitude of vendors providing a variety of products and services in the new competitive marketplace. The telephone billing and collection system now functions as an alternative to more conventional billing and collection systems, such as credit cards and checks. As telephone-related products proliferate and technologies converge,

consumers may find it increasingly convenient to be billed on their telephone bills for services other than telephone carriage -- voicemail, caller-ID, Internet, cable, and other as-yet-unknown services.

Yet, the telephone billing system lacks many of the fraud prevention and risk assessment features that characterize the more established billing and collection systems.⁽⁵⁾ Recent experience demonstrates that the telephone billing system is open to abuse by unscrupulous vendors who "cram" unauthorized charges on consumers' telephone bills, and these abuses are causing consumer harm.

The FTC notes that the Truth in Lending Act (TILA) was one of several sources to which the FCC looked in initiating this rulemaking. We agree with the FCC that the TILA is a useful starting point in addressing telephone truth-in-billing issues. Congress enacted TILA to ensure that consumers are given meaningful information about credit transactions and to create important protections for consumers using the then-novel credit card billing and collection system.⁽⁶⁾ TILA codified in the bankcard arena many of the protections that the telephone billing and collection system currently lacks.

In its NPRM, the FCC describes the proliferation of cramming. The FTC's experience with respect to cramming is similar to that of the FCC. The FTC's Consumer Response Center has received nearly 9000 complaints concerning cramming in the past twelve months. One reason the telephone billing system has been susceptible to cramming is the current state of telephone bills, which have confusing presentation of often ill-explained charges. It is a fairly easy matter for unscrupulous companies to hide the relatively small unauthorized charges characteristic of cramming on a lengthy bill containing cryptic descriptions of charges, such as "miscellaneous fees." At present, many telephone bills are not clear, accurate, and complete enough to enable consumers to recognize when they have been crammed, nor do the bills provide essential guidance on disputing unauthorized charges and getting them removed from consumers' bills.

B. The FTC's Enforcement Actions Against Cramming

In July of this year, the FTC filed two law enforcement actions targeting billing practices associated with cramming.⁽⁷⁾ In *FTC v. International Telemedia Associates, Inc.*, the Commission sued a billing aggregator and a vendor regarding charges for audio entertainment services delivered through collect callbacks.⁽⁸⁾ The Complaint alleged that the defendants failed to disclose the costs of the services to the consumers that they induced to call toll-free numbers to obtain the callback. In *FTC v. Hold Billing Services, Ltd.*,⁽⁹⁾ the FTC targeted a billing aggregator and a vendor for practices allegedly resulting in unauthorized telephone bill charges for a package of services. The defendants allegedly induced consumers to enter a purported sweepstakes without adequately disclosing that they construed each completed entry form as an authorization to bill charges to the telephone number filled in on the form.

C. The Voluntary LEC "Best Practices" Guidelines

The anti-cramming "best practices" voluntary guidelines issued collectively by the local exchange carriers (LECs) for third-party billing (LEC Guidelines) are steps in the right direction. The NPRM notes that the proposed rulemaking neither interferes with nor duplicates the "best practices" principles embodied in the LEC Guidelines. These Guidelines, however, do not obviate the need for the additional consumer safeguards contemplated in the NPRM. The LEC Guidelines focus on the relationship between LECs and service providers; they do not significantly address issues relating to how communications between LECs and consumers can be clarified and improved. The FTC believes that the FCC has correctly identified telephone bills as an important source of consumer confusion and has properly focused its attention on the current state of industry practices and the impact of those practices on consumers.

D. Coordinated FTC-FCC Efforts in the Pay-Per-Call Arena

The FTC and FCC have overlapping jurisdiction over a number of the practices implicated by the proposed rulemaking. This overlap includes shared obligations under the Telephone Disclosure and Dispute Resolution Act of

1992 (TDDRA), which required both agencies to adopt rules to promote legitimate pay-per-call services and shield telephone subscribers from fraudulent and abusive practices.⁽¹⁰⁾ The FTC recently published a Federal Register notice seeking comment on proposed revisions to the 900-Number Rule it adopted in 1992 pursuant to TDDRA.⁽¹¹⁾ The proposal would expand consumer protections against cramming, in part by requiring express authorization by the line subscriber for any non-toll charges that cannot be blocked through 900-number blocking.⁽¹²⁾ Another proposed revision would expand billing disclosure requirements to embrace all "telephone-billed purchases," a term that includes most purchases charged to a customer's telephone bill other than local or long distance service.⁽¹³⁾ The proposed Rule would require that billing statements display charges for telephone-billed purchases "in a portion of the customer's bill that is identified as not being related to local and long-distance telephone charges," and "identify the type of service or product and the amount of the charge."⁽¹⁴⁾

These provisions dovetail with the proposals outlined in the FCC's NPRM aimed at ensuring that consumers have information sufficient to determine the validity of charges appearing on their bills and to contact the appropriate entity to resolve disputes. In fact, the goal of the FCC's NPRM complements the FTC's objectives in revising its 900-Number Rule. Clearer bills that provide non-deceptive information will enhance the ability of consumers to take advantage of the improved billing dispute rights for telephone-billed purchases contemplated in the FTC's proposed Rule revisions.

II. Organization of the Bill

A. Different Sections for Separate Services Would Aid Consumers' Understanding of Their Telephone Bills.

The NPRM proposes that telephone bills have separate categories of services, such as charges for local, long distance, and miscellaneous services. It is noteworthy that, pursuant to Congressional mandate, current FCC and FTC rules already require that one particular category of charges -- those for pay-per-call services -- be displayed in a portion of the bill separate from those portions of the bill displaying tariffed local and long distance charges.⁽¹⁵⁾ The proposed amendments to the FTC's Rule would extend that requirement to all purchases charged to a customer's telephone bill (other than toll calls).⁽¹⁶⁾ The proposal contained in the FCC's NPRM would be consistent with this approach.

Visual separation of information enhances the likelihood that it will be noticed and understood by consumers. Separation of charges for different types of services would assist a consumer in understanding the type of service for which he or she is being billed. Importantly, the use of separate categories also would facilitate consumers' understanding of information about their particular legal rights or obligations with regard to the services in that category. This is the organizing principle that should guide the FCC's determination as to how various types of charges should be grouped and arranged. The NPRM suggests that the bill be divided into three sections: (1) local service; (2) long distance service; and (3) miscellaneous services. This appears to be a reasonable division.⁽¹⁷⁾

B. A "Current Status" Page Would Increase Consumers' Awareness of Their Telecommunications Services.

The NPRM proposes that telephone bills include a "current status" page containing a summary of a consumer's telephone services and identifying the provider of each of the various services. Requiring the inclusion of an additional page to already lengthy bills creates additional burdens for billers and risks overloading consumers with too much paper. Nevertheless, we believe the inclusion of "current status" information placed at the front of the bill could be of significant benefit. Each of the services itemized in the NPRM -- (1) the subscriber's presubscribed interstate toll carrier; (2) the subscriber's presubscribed intrastate toll carrier; (3) the subscriber's presubscribed LEC; (4) other service providers for whom charges are billed; and (5) blocking services -- seem appropriate for inclusion in "current status" information. In particular, the inclusion of blocking information would be very helpful to consumers by making clear to the consumer whether he or she has taken advantage of important safeguards like 900-number and preferred carrier (PC) blocking.⁽¹⁸⁾ Printing the "current status" information in a box⁽¹⁹⁾ or on paper of a different color might also make it more prominent to consumers, and therefore more likely to be read and understood, without necessarily requiring the addition of a separate page in the bill.

C. "*Status Changes*" Can Be Signified With Alternative Fonts or Colors.

The NPRM proposes the inclusion of a "status changes" page, which could include changes in presubscribed carriers, new service providers, and changes in blocking services.

Again, we are concerned about adding to the bulk of an already hefty phone bill. There are probably less burdensome methods for achieving the goals of this proposal than requiring bills to contain a "status changes" page. Most of the information to be contained in a "status changes" page would already be reflected in the "current status" information. Repeating the information in summary fashion may likely be as confusing as it is helpful.(20)

An alternative, more flexible way to alert consumers about status changes (e.g. charges assessed by a company with whom the consumers have not previously dealt) would be to do so within the body of the bill through the use of a different font (e.g. italics) or colored type to highlight these charges. New changes printed in bold or a contrasting color, for example, would be at least as likely to be noticed by consumers as would an additional summary page but would avoid additional paper. Additionally, printing new changes in a larger, more prominent typeface might have the advantage of disclosing more effectively "status changes" to elderly subscribers with failing eyesight and others with impaired vision. A similar approach could be used within the proposed "current status" information to highlight changes there. For example, where the preferred long distance carrier has changed, consumers examining their current services page would not only note the new carrier's name, but would be alerted by the different font or color that a switch in providers had occurred.

The NPRM proposes the incorporation of the concept of "clear and conspicuous" disclosure with respect to important information on consumers' telephone bills, including status changes and new charges. "Clear and conspicuous" disclosure is a fundamental concept developed under Section 5 of the FTC Act, which prohibits "unfair or deceptive practices." We strongly endorse incorporation of the concept of clear and conspicuous disclosure to assist consumers in determining if they have been crammed or slammed. A disclosure is clear and conspicuous when it is "displayed in a manner that is readily noticeable, readable and/or audible (depending on the medium), and is understandable to the audience to whom it is disseminated."(21) This evaluation is made in context -- it is the "overall" or "net" impression that counts. For print media, the considerations include a disclosure's type size, placement, and color contrast to background, as well as the existence of any images that detract from the effectiveness of the message. The use of different fonts or colors could be an effective means of clearly and conspicuously indicating new charges.

III. Telephone Bills Should Contain Full and Non-misleading Descriptions of All Charges and Clear Identification of the Service Provider Responsible for Each Charge.

A. A *Brief, Plain Language Description of the Charge for Each Service Rendered is Essential to Consumer Understanding*

Charges on telephone bills sometimes contain an inadequate or even misleading description of the various services being billed.(22) The FTC believes that consumers' telephone bills should provide a meaningful description of each service for which charges are being assessed.(23) This information is essential to a consumer's ability to determine whether charges have been properly assessed and whether to pay them or contest them. As the variety of services appearing on telephone bills increases, the importance of an adequate description of each service will likewise increase. Telephone bills sometimes use symbols or abbreviations to describe a service being billed, but not always with an adequate explanation of the symbol or abbreviation. It is vitally important to provide a clear, prominent, and easy-to-understand key or table to explain the meaning of the symbols or abbreviations used to describe a service.

Another critical piece of information needed to identify a service is the telephone number a consumer actually dialed to access the service and which resulted in charges appearing on the bill. The FCC presently requires that charges for information services accessed through toll-free numbers include the toll-free number dialed.(24) The proposed

amendments to the FTC's Rule would impose a parallel requirement for charges for pay-per-call services, requiring that billing statements include the actual telephone number dialed to access the service.⁽²⁵⁾ The FCC may want to consider extending this principle to require that any service accessed through the telephone and billed on the telephone bill include the number through which the service was accessed. Like the description of the service, the telephone number used to access the service is information that is key to a consumer's ability to identify services for which he or she is billed and to determine the basis for those service charges.

B. The *Name of the Service Provider Should Be Clearly and Conspicuously Identified in Association with its Charges.*

The absence of the name of the service provider that submits a charge makes it difficult for consumers to determine whether a charge is valid and to dispute effectively an invalid charge.⁽²⁶⁾ Complete information in this context means the name of the service provider purportedly providing the service and, where applicable, the name and telephone number of the billing aggregator or clearinghouse with legal authority to resolve a consumer complaint. Where vendors do business through aggregators, the name of the aggregator often appears on the bill without the name of the service provider. To assess the legitimacy of a charge, however, a consumer needs to be informed of the identity of the other party to the transaction -- the service provider. Inclusion of service provider information is an area for improving telephone bills, and is supported by the LEC Guidelines.⁽²⁷⁾

C. *Telephone Bills Should Separate Those Charges For Which Non-Payment Does Not Result in Loss of Basic Telephone Service.*

Differentiating between those charges that, if not paid, can result in loss of basic service and those which cannot, would aid consumers in understanding their legal rights in the deregulated telecommunications environment. Consumers should be notified when they need not fear that disputing a charge could result in the termination of local or long distance service. Part of the solution to cramming and slamming is increased consumer vigilance in policing phone bills and disputing wrongful charges. Making it clear to consumers that their service will not be terminated if they dispute certain charges may give consumers greater confidence when taking issue with unauthorized, "crammed," or other problem charges. This proposal also is supported by the LEC Guidelines.⁽²⁸⁾

Consumers may not always be aware that, with the expansion of the telephone billing system to cover a wider assortment of products and services, the traditional rules of subscriber liability may not apply. Crammers often have taken advantage of the common misperception that line subscribers are liable for all charges appearing on their phone bill, whether authorized or not.⁽²⁹⁾ A consumer is no more obligated to pay for an unauthorized purchase of voicemail, or any other enhanced service, than she would be obligated to pay for an unauthorized purchase of a sweater made using her telephone. In either case, the fact that the product or service happened to be ordered from the subscriber's phone does not itself obligate the subscriber for the charge nor would nonpayment cause the consumer's telephone service to be disconnected.⁽³⁰⁾

D. *Descriptions for Charges Attributed to Universal Service or Access Costs Should Be Accurate and Informative.*

The NPRM expresses concern about a recent billing practice that involves the submission by long distance carriers of line item charges that are attributed to costs for access or universal service obligations.⁽³¹⁾ The rules for describing charges attributed to access fees or universal service should be the same as for any other charge: avoid misleading or confusing descriptions by providing clear and accurate information. Different carriers assess these charges in different ways, and consumers have a choice about which carrier to use. Thus, in order for consumers to choose effectively, they require accurate information regarding the manner in which a given carrier will attempt to recover these costs from end users. We support the FCC's initiative to ensure that consumers receive meaningful information regarding these new and unfamiliar charges.

E. *Advertised Prices Should Reflect Charges Billed.*

Where long distance carriers advertise the costs for their services in terms of per-minute rates, the inclusion of charges in addition to those per-minute rates (i.e., access or universal service charges) may raise issues concerning the accuracy of the advertisement. Congress and the FCC have worked hard to open the long distance markets to give consumers a choice of carrier. To make informed choices, consumers need full and non-misleading information about a carrier's rates. Since the amounts charged consumers for recoupment of access or universal service costs vary from carrier to carrier, consumers need to know what those charges are in order to comparison shop. Thus, advertisements should disclose to consumers complete information regarding the costs of the service advertised, including amounts to be charged for access or universal service.⁽³²⁾ The amount a consumer is charged on the telephone bill should match the charges contained in the advertisement.

IV. Telephone Bills Should Contain Clear and Conspicuous Disclosure of Any Information Consumers Need to Make Inquiries About Charges.

Complaints received by the FTC indicate that consumers have had difficulty in determining to whom they should complain about questionable charges. The FTC supports efforts to make this information available to consumers who desire to inquire or complain about a charge. The proposed amendments to the FTC's 900-Number Rule would require that billing statements display a local or toll-free number where consumers can obtain answers to questions and information about billing rights and obligations in connection with telephone-billed purchases.⁽³³⁾ Consumers would benefit from the NPRM proposal that each service provider who submits charges appearing on a telephone bill include on the bill its name, business address, and a toll-free number for inquiries and complaints. Such a disclosure could either be made on the bill page in which the charges appear, or in a "current services" section of the bill.

V. Conclusion

Consumers should receive accurate and understandable bills from their telecommunications carriers. A more consumer-friendly telephone bill will be a great asset in the fight against cramming, slamming, and related practices. The FTC supports the FCC's efforts to improve telephone bills in this manner.

1. 15 U.S.C. § 45(a). The Commission also has responsibilities under 40 additional statutes, e.g., the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., which establishes important privacy protections for consumers' sensitive financial information; the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., which mandates disclosures of credit terms; and the Fair Credit Billing Act, 15 U.S.C. §§ 1666 et seq., which provides for the correction of billing errors on credit accounts. The Commission also enforces over 30 rules governing specific industries and practices, e.g., the Used Car Rule, 16 C.F.R. Part 455, which requires used car dealers to disclose warranty terms via a window sticker; the Franchise Rule, 16 C.F.R. Part 436, which requires the provision of information to prospective franchisees; and the Telemarketing Sales Rule, 16 C.F.R. Part 310, which defines and prohibits deceptive telemarketing practices and other abusive telemarketing practices.

2. *Cliffdale Associates, Inc.*, 103 F.T.C. 110, 165, appeal dismissed sub nom., *Koven v. F.T.C.*, No. 84-5337 (11th Cir. 1984) (hereinafter Deception Statement).

3. *Id.* at 177.

4. *Thompson Medical Co., Inc.*, 104 F.T.C. 648, 816 (1984), *aff'd*, 791 F.2d 189 (D.C. Cir. 1986), cert. denied, 479 U.S. 1086 (1987). Information concerning the cost of a product or service also has been found to be material. Deception Statement at 174.

5. For example, the bankcard billing and collection system uses, as a basis for billing charges, a physical card with a unique account number assigned to each individual cardholder that, unlike a telephone number, is not widely

available to the public. In addition, the bankcard billing and collection system has developed the means for early identification of merchant accounts that exceed certain minimal levels of chargebacks, thereby preventing continued use of the system by merchants that may be employing fraud and deception to make their sales. The system also has rules to prevent fraudulent access to the system through the laundering of credit card charges through a merchant account by persons other than those authorized by the financial institution to use the account.

6. TILA is codified at 15 U.S.C. § 1601-1667f. Under the regulations implementing TILA, consumers' monthly credit card statements must include a number of disclosures, including the amount and date of the transaction and a brief description of the property or service purchased. 12 C.F.R. § 226.7(b). Consumers must also be provided an initial disclosure statement outlining their billing rights and responsibilities. 12 C.F.R. § 226.6(d). These provisions are part of Regulation Z, which was issued by the Federal Reserve Board and is enforced by, among others, the FTC.

7. The Commission also filed *FTC v. Interactive Audiotext Services, Inc.* In that case the defendants allegedly sent look-alike telephone bills to telephone line subscribers for audio entertainment services they had not purchased. See *FTC v. Interactive Audiotext Servs., Inc.*, No. 98-3049 (C.D. Calif., filed Apr. 22, 1998).

8. No. 1-98-CV-1935 (N.D. Ga., filed July 10, 1998).

9. No. SA-98-CA-0629 (W.D. Texas, filed July 15, 1998).

10. Pub. L. No. 102-556, 106 Stat. 4181 (1992) (codified at 15 U.S.C. § 5701 et seq. and 47 U.S.C. § 228). In addition to their shared TDDRA authority, the FTC and FCC share jurisdiction over other activities, including third-party billing and collection activities for telecommunications and related services. Although the FTC does not have jurisdiction over common carrier activities regulated by the FCC under Title II of the Communications Act of 1934, the agencies share concurrent jurisdiction over activities that the FCC can reach under its Title I ancillary jurisdiction. The NPRM would not appear to disturb the FCC's decision to deregulate third-party billing and collection. Rather, it appears to be an assertion of the FCC's ancillary jurisdiction. See *Detariffing of Billing and Collection Services*, Report and Order, 102 F.C.C.2d 1150 (1986).

11. 63 Fed. Reg. 58,524 (1998). The current 900-Number Rule is published at 16 C.F.R. Part 308.

12. *Id.* at 58,559.

13. *Id.* at 58,560.

14. *Id.* at 58,564.

15. See 15 U.S.C. § 5711(a)(2)(H)(i) (applies to FTC); 48 U.S.C. § 228(d)(4)(A) (applies to FCC); 16 C.F.R. § 308.5(j)(1) (applies to providers of pay-per-call services); 47 C.F.R. § 64.1510(a)(2)(ii) (applies to carriers that bill for pay-per-call service providers).

16. 63 Fed. Reg. at 58,564.

17. However, the category dubbed "miscellaneous" could be renamed to "telephone-billed purchases" to track the language used in (and rights provided by) the proposed revisions to FTC's 900-Number Rule.

18. Complaints received by the FTC indicate that consumers are sometimes unsure about the status of requested 900-number blocking. The inclusion of blocking information on the telephone bill would also serve to alert consumers who were not already aware of the availability of blocking protections. The FCC requires that LECs offer 900-number blocking at no charge to new telephone subscribers, 47 C.F.R. § 64.1508(a)(2), but some consumers have indicated that they were unaware of the availability of this protection.

19. See, e.g. Regulation Z, 12 C.F.R. § 226, Appendix H-1 and H-2.

20. It is not entirely clear what is to be considered a "new" charge under the NPRM. To alleviate possible confusion, the FCC might consider defining this term. One possibility would be to include charges for services provided by vendors who have not appeared in a prior bill and charges for services appearing in the "Miscellaneous" section of the bill that contain text in the description field that has not appeared on a bill for some specified time frame.

21. Interpretation of Rules and Guides for Electronic Media: Request for Comment, 63 Fed. Reg. 24,996, at 25,002 (1998). See also, *Thompson Medical Co.*, 104 F.T.C. 648, 797-98 (1984); *The Kroger Co.*, 98 F.T.C. 639, 760 (1981); Statement of Enforcement Policy, "Clear and Conspicuous Disclosures in Television Advertising," Trade Regulation Reporter (CCH) ¶ 7569.09 (Oct. 21, 1970); Statement of Enforcement Policy, "Requirements Concerning Clear and Conspicuous Disclosures in Foreign Language Advertising and Sales Materials," 16 C.F.R. § 14.9.

22. For example, when the description of an enhanced service is made to sound like a basic telecommunications service, e.g., voicemail billed as an "access charge," then this misrepresentation may well be misleading and deceptive.

23. FCC proposals in this area complement proposed amendments to the FTC's rule, which would require that charges for telephone-billed purchases "identify the type of service or product and the amount of the charge." 63 Fed. Reg. at 58,564.

24. 47 C.F.R. § 64.1510(c)(2).

25. 63 Fed. Reg. at 58,564.

26. Similarly, consumers may be confused when a vendor uses a name that resembles a standard enhanced service (e.g., "Voicemail"), that sounds like a billing plan offered by a line subscriber's already-selected carrier or provider (e.g., "Discount Pricing Program"), or that mimics little-understood generic billing categories (e.g., "Access").

27. It also would complement proposed amendments to the FTC's Rule, which would require that consumers be able to obtain the name and mailing address of all vendors by calling a customer service number listed on the bill. 63 Fed. Reg. at 58,564 (1998).

28. Some members of the industry may object that such language invites consumers to refuse to pay legitimate charges. However, at least in the pay-per-call context, Congress has made clear its preference that consumers be provided with full disclosure of their rights and obligations, including their right to contest pay-per-call charges without risking loss of telephone service. 47 U.S.C. § 228(d)(3). Consumers have the same need to understand their legal rights and obligations outside the pay-per-call arena.

29. This misperception stems from the days in which telephone bills contained only charges for local or long distance services. These services were typically provided pursuant to tariffs which imposed on subscribers general payment obligations that did not offer exceptions for unauthorized calls. The FCC has enforced such provisions. See e.g., *American Message Centers v. FCC*, 50 F.3d 35 (D.C. Cir. 1995) (denying petition to review FCC's determination that tariff required customers to pay for all completed calls); *Chartways Technologies, Inc. v. AT&T*, 8 F.C.C.R. 5601 (1993) (tariff's general payment obligation, which did not exclude unauthorized calls, was not unjust or unreasonable). Where services are not required to be offered pursuant to tariff, it is the law of contract rather than the old rule of subscriber liability which governs.

30. See 63 Fed. Reg at 58,594. Complaints filed in recent Commission cases have alleged as a deceptive practice the representation that a consumer owes for an information service purchased over an 800 number simply because it was accessed from that consumer's telephone or line (based on ANI capture). See, e.g. *FTC v. Interactive Audiotext*

Servs., Inc., No. 98-3049 (C.D. Calif., filed Apr. 22, 1998); FTC v. International Telemedia Assocs., Inc., No. 1-98-CV-1935 (N.D. Ga., filed July 10, 1998).

31. The FCC did not impose any specific mechanism on carriers to recover these costs. It noted in the NPRM, however, that some carriers may have imposed charges on consumers that exceed actual incurred costs and misidentified such charges as required by the FCC.

32. This might be accomplished by carriers listing the universal service or access fees separately or by including them in the advertised price per minute.

33. 63 Fed. Reg. at 58,564 (1998).