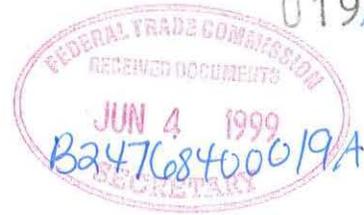


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



Pay-Per-Call Rule Review -
Supplemental Comments

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FTC File No. R611016

SUPPLEMENTAL COMMENTS OF
THE INTERNATIONAL TELEMEDIA ASSOCIATION
ON THE COMMISSION'S PROPOSED AMENDMENTS TO
THE 900-NUMBER RULE

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SUPPLEMENTAL COMMENTS OF
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ON THE COMMISSION'S PROPOSED AMENDMENTS TO
THE 900-NUMBER RULE

The International Telemedia Association ("ITA") submits these comments to supplement the record of the May 20-21, 1999 Federal Trade Commission ("FTC") workshop relating to the Notice of Proposed Rulemaking ("NPRM") regarding the FTC Trade Regulation Rule issued pursuant to the Telephone Disclosures and Dispute Resolution Act of 1992 ("TDDRA"), 16 C.F.R. Part 308 ("900-Number Rule"). These comments address three principal issues raised at the recent workshop: additional exemptions, consumer dispute resolution, and prohibitions concerning toll charges.

I. ADDITIONAL EXEMPTIONS

As a general matter, the rule should not apply to entities such as international audiotext service providers that do not charge a premium for services. In the case of international audiotext, the cost of the call is *exactly* the same as the cost of a "standard" international call to the same destination. Plus, important information regarding the nature and cost of the call is disclosed to consumers in the preamble. Simply put, the historic abuses that have arisen in the 900-number industry, primarily excessive costs without adequate disclosure to consumers, is not a problem today for international audiotext services.

If the rule is to apply to international audiotext providers, it must consider their technological limitations. *Full* compliance is *not* technologically feasible for ITA members. There are, however, a number of things that have been done to bring the industry better into compliance and, most importantly, protect consumers. With additional time and some flexibility that considers members' constraints, ITA believes it can continue the excellent progress made in recent years and accomplish the underlying objectives of TDDRA. Toward this end, ITA, as a member of the ITU, will be working on the development of the new international platform, which ITA expects will incorporate provisions designed to minimize any potential for deception.

The following describes the industry's capabilities with regard to key aspects of the proposed rule and presents suggested language that will enable the Commission to realize its goals without forcing international audiotext providers out of business.

A. Preambles

ITA members cannot provide free preambles, as is required by proposed Section 308.9(b). The point in time when a consumer begins to be charged for an international call is determined by the IXCs and LECs pursuant to bilateral agreements to which ITA members are not a party. ITA members, however, are discussing this issue with certain carriers to determine whether it would be feasible on their end.

Assuming that it is feasible for the carriers, ITA estimates that it will require a minimum of two years to conclude these discussions and persuade the carriers to implement a program whereby consumers are not charged during the preamble. Accordingly, if the Commission requires free preambles, ITA respectfully requests that proposed Section 308.9(b) be amended so that the rule does not apply to international audiotext until January 1, 2002, at the earliest. To require otherwise would effectively shut down the international audiotext business for a period of years.

In considering this proposed two-year exemption, it is important to note that ITA does not object to the required *content* of the proposed Section 308.9 preamble. In fact, ITA's Code of Practice now requires its members to comply with the preamble set forth by the Commission in the *International Audiotext Services* consent order. The preamble informs the consumer that international toll rates apply to the transaction, identifies the country called, and directs the consumer to contact their long distance carrier for cost-per-minute information. This preamble provides clear disclosure to consumers at the beginning of a call to ensure they are not misled.

B. Per Minute Cost Disclosures

ITA members cannot determine the precise cost-per-minute of an international audiotext call because this cost can vary greatly depending upon the consumer's interexchange carrier, the time of the call, and if the call is dialed directly. Because of the wide variability of these costs, it would also be extremely difficult, if not, impossible, to provide meaningful ranges. For these reasons, international audiotext providers should be exempt from the cost disclosure requirements of proposed Section 308.9(a)(2).

Instead, the final rule should require language intended to provide information to consumers so that they are fully aware that they are making an international call and to determine its cost. For example, ITA requires its members to state in their preambles that "international rates apply" and that "the precise cost can be determined by contacting their long distance carrier." This information provides more than adequate disclosure to consumers and does not require international audiotext service providers to do the impossible.

C. Blocking

Section 308.2(b)(10) of the proposed rule would treat as a billing error any charges on a customer's billing statement that were not "blockable." As the record in this proceeding makes clear, ITA members do not have the capability to block calls from the United States - only U.S. carriers can do this. These carriers, however, are at this time unable to block international audiotext numbers without blocking *all* international calls.

ITA believes it may be possible for the carriers to block certain international audiotext calls in the near future. In order to achieve this end, ITA members will first have to engage in extensive discussions with each carrier. These discussions will require time. Accordingly, if Section 308.2(b)(10) continues to mandate blocking of international audiotext calls, ITA respectfully

requests that it be amended so that the final rule does not apply to international audiotext until January 1, 2002. To require otherwise would have the same effect of a required free preamble -- the international audiotext business would be shut down for a period of years, thereby eliminating an important procompetitive alternative for consumers seeking audiotext services.

II. DISPUTE RESOLUTION

Because ITA is not a billing entity, it is not in a position to resolve billing disputes. There is, however, a mechanism in place that allows consumers to dispute calls through their long distance carrier. In addition, ITA's website (www.telemedia-ita.org) enables anyone to register complaints associated with the provision of international telemedia services directly to ITA. ITA will investigate any complaints and attempt to resolve them in the most expeditious manner possible. Furthermore, in direct response to a question posed by Commission staff at the recent workshop, ITA will also agree to forward all complaints that it receives directly to the Federal Trade Commission.

III. PROHIBITION REGARDING TOLL CHARGES

Proposed Section 308.12 states in pertinent part: "The vendor shall not offer a pay-per-call service that would result in any customer being assessed a charge for any local exchange telephone service or interexchange telephone service . . ." The stated purpose of this provision is to extend "the definition of 'pay-per-call' services to include all audiotext services, regardless of the dialing pattern used to access the service." 63 Fed. Reg. at 58,546.

As worded, however, the prohibition would extend to *all* local exchange telephone service or interexchange telephone service, a result that is inconsistent with the underlying rationale of the proposed rule. This result is also inconsistent with proposed Section 308.2(q)(2), which excludes local exchange telephone service or interexchange telephone service from the definition of "telephone billed purchase" for purposes of TDDRA dispute resolution. Proposed Section 308.12 therefore should be revised so that it is clear that customers may be charged for local exchange telephone service or interexchange telephone services.