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June 6, 1999



Ms. Carole I. Danielson  
 FEDERAL TRADE COMMISSION  
 Division of Marketing Practices  
 600 Pennsylvania Avenue NW  
 Washington, DC 20580

RE: PAY PER CALL RULEMAKING

Dear Ms. Danielson:

Tele-Publishing, Inc. submits this letter for the record in the above proceeding. We appreciate the opportunity to clarify and expand upon our participation in the Workshop sponsored by the FTC two weeks ago.

We want to make a specific, conscientious effort to address, as best we can, the industry database issues that the Commission has raised in its "Handout C" from the perspective of our company. Please recognize that while our comments accurately reflect Tele-Publishing's outlook, they do not necessarily reflect that of the industry as a whole.

The purpose of an industry database would be to provide vendors with a tool to limit risk of consumer abuse. That abuse is well documented in the record, by TPI and others. There is a segment of the population who repeatedly call premium-billed services without intending or being able to pay and the current rules allow them not to. Ultimately this is a significant burden on industry as well as on other consumers who pay for that abuse in the form of higher prices and diminished service availability.

Moving specifically to the issues raised in the FTC handout:

*How would consumer be identified in the proposed database?*

In our view it would be appropriate for consumers to be identified primarily by telephone number. ANI would be most helpful to the extent that we can rely on it as a unique identifier. For the purpose of risk control as a call is being placed—those functions that would allow a vendor to determine whether a subscriber has exceeded a threshold, simple ANI would be enough. But we would recommend a parallel database of names and address that could be tied back to the ANI data to aid the collection process and to

prevent consumers from being associated with the history of those who have had the phone number prior to them. (Given the documented shortage of telephone numbers, local carriers are reassigning numbers less than six months after a subscriber has cancelled service).

In our view it would be inappropriate to include information which would tie a consumer's identity to specific content just as to would be in appropriate to use the database for the purpose of marketing services.

*Under what circumstances would a consumer be listed in the proposed database?*

In our view a record looking very much like a standard call detail record would be entered into the database whenever a premium-billed call is placed. The record would include: ANI; date; time; duration; rate; and number called. The database could also include a series of codes related to payment history, including reasons for non-payment associated with a that ANI, that vendors could use to decide whether to provide service to that ANI.

This database would allow the industry and law enforcement, we would hope, to readily identify specific vendors who offer fraudulent services and consumers who fraudulently avoid paying legitimate charges.

*What would be the consequences of being listed in the proposed database?*

As we envision it, there would be no automatic consequence to being listed in the database, other than to be recognized by ANI as a user of premium billed services. The vast majority of premium-billed calls are charged and paid for without incident. The vast majority of records in the proposed database would reflect that. This would therefore be a positive, not a negative, database.

Vendors may choose to block access to certain paid services, just as they do now, but by having more information at their disposal consumers could be given "the benefit of the doubt."

We cannot think of a circumstance where the existence of the proposed database would provide any incentive to block a user from access to any toll-free numbers—in fact, to the contrary, we imagine that vendors will choose to direct questionable callers to toll-free numbers, perhaps to offer payment options, or to get more complete information from them.

We believe that for the database to be workable from the industry perspective, it would need to be administered by a neutral third party. Various companies could have access to information in the database for specific purposes—for example, "scoring" a user prior to

accepting a premium-billed call, but would not have wholesale access to the entire database. Otherwise, the temptation to abuse the database by using it for marketing purposes, or by corrupting it to preserve one's own customers might prove too great to resist.

Furthermore, we see that there would be three "categories" of information that would be treated differently, as appropriate. First, there would be information related specific transactions between a registered vendor and customer. This would be provided freely to the vendor. It would be the vendor's decision whether to take aggressive collection action, including the reporting to a credit agency, just as it is now. Next, there would be aggregate information about types of programs, rates of inquiry, etc.—and the companies contributing to the database would have to determine how best to use that information. Finally, there is aggregate information about consumers. Are people in Florida more likely to call lottery lines? Do people in Utah use personals? It would be the responsibility of the third-party administrator to protect the legitimate privacy interests of consumer and the legitimate competitive interests of the contributing vendors.

*What consumer protections would be needed if such a database were in place?*

Given the current patchwork of industry practices, in our view the establishment of an industry database and uniform procedures necessary to implement such a database would, by their very existence enhance consumers' ability to resolve issues and be protected from the sharp practices of some "bad actors."

Furthermore, that database could be a helpful tool for addressing each of the critical consumer concerns raised in the fourth section of the FTC Handout C. Because the majority of the information in the database would not be pejorative—it would simply record a transaction, there would be no need to send a special notice to consumers.

We anticipate there would be cases where we would deny service based on information in the database. For example, if a subscriber accrued a large volume of charges in a given billing period with no prior history of payment, we might limit deny access to service, at least until a payment history is established. In that case, we would deliver a custom intercept message directing the user to call our toll-free number, or refer users back to the advertisement to seek alternative payment options.

The accuracy of the information derives from its sources. Call detail information would come from the carrier, and is generally thought to be accurate. We would advocate the establishment of a clearinghouse where consumer inquiries would be handled by the administrators of the database to be sure that all inquiries are logged, and the dispute resolution procedures are adhered to. This would have the additional advantage of providing consumers with a single point of contact for premium-billed inquiries,



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replacing the patchwork that currently exists. The re-assignment of telephone numbers would also be tracked by the clearinghouse. The clearinghouse would need to establish a way for consumers to dispute erroneous information.

In conclusion, the proposal we have outlined above is not full-formed. The industry has asked the Commission a fairly simple question: Does the mere compilation of an industry database constitute retaliatory action as that phrase was intended in the original law? Obviously the Commission knew what it meant when it issued its original rules. As an industry, we sought clarification.

All of the information we propose is available to from a number or sources today. ANI is available whenever a user calls a 900 or 800 number. BNA is currently sold between carriers. Reasons for non-payment of premium-billed charges are tracked by local and long distance carriers. All of the processes we suggest are currently practiced by various vendors. Some vendors limit access to services based on ANI and payment history. Some vendors, including TPI, engage in secondary collection efforts.

We strongly believe that if the premium-billed marketplace is to survive the emergence of competing local exchange carriers the integrity of billing and collection must be preserved. We stand ready to contribute to that effort, and we rely on the Commission's efforts to foster a fair business environment.

Respectfully,

A handwritten signature in black ink, appearing to read 'Peter J. Brennan', with a long horizontal line extending to the right.

Peter J. Brennan  
Director of Development