

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
AT&T Services, Inc.)
File No.: EB-TCD-15-00019021
Acct. No.: 201632170006
FRN: 0018716266

ORDER

Adopted: August 8, 2016

Released: August 8, 2016

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether AT&T Services, Inc. (AT&T) placed unauthorized third-party charges on its customers' wireline telephone bills, a practice commonly known as cramming. Cramming is an unjust and unreasonable practice that results in consumers paying for services they never requested and expending significant time and resources to reverse unauthorized charges.

2. AT&T provides telecommunications services to consumers throughout the United States. AT&T bills its customers not only for its own products and services, but also for the products and services of numerous third parties. In this case, AT&T contracted with two Cleveland-area companies, Discount Directory, Inc. (DDI) and Enhanced Telecommunications Services (ETS) (collectively, the Companies) to bill customers approximately \$9 per month for the Companies' purported "directory assistance service." In return, AT&T received a fee for each charge it placed on its customers' bills for the Companies.

3. In May 2015, while investigating the Companies' principals for drug-related crimes and money laundering, the United States Drug Enforcement Administration uncovered that DDI and ETS were sham operations that never provided any directory assistance service to the customers billed by AT&T. The Companies' principals told law enforcement that they submitted fake service charges for thousands of AT&T customers (mostly small businesses) over a multiyear period. Although it bore ultimate responsibility for the charges placed on its customers' bills, AT&T never required proof from the Companies that they obtained customer authorizations to be billed for their service and the record shows that the Companies never obtained any such customer authorizations. In addition, AT&T ignored a number of red flags that the charges were unauthorized, including thousands of charges submitted by the Companies for nonexistent, disconnected, or otherwise "unbillable" accounts.

4. To settle this matter, AT&T will issue refunds to all consumers charged for the sham directory assistance subscription service since January 2012, implement a compliance plan to protect consumers from unauthorized charges, and pay a \$950,000 civil penalty. The Consent Decree also requires AT&T to cease billing for third-party products and services on its wireline bills, with certain exceptions. AT&T must implement a compliance plan to ensure that its customers have authorized the

1 See United States v. \$16,765.00 in U.S. Currency, et al, Complaint in Forfeiture, U.S. District Court, Northern District of Ohio, Eastern Division, filed May 22, 2015 (file no. 1:15-cv-01036-CAB) paras. 29-77.

2 In March 2012, AT&T informed the Senate Committee on Commerce, Science & Transportation that it would restrict third-party billing to "(i) telecommunications services; (ii) services or goods sold by any third-party vendor that has a direct contractual arrangement for the joint or cooperative sale of such services or goods with AT&T; or

services for which they are billed and file regular reports with the Bureau to track its compliance with the Consent Decree and its consumer protection obligations.

5. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation into AT&T's compliance with Section 201(b) of the Communications Act of 1934, as amended (Act).³

6. In the absence of material new evidence relating to this matter, we do not set for hearing the question of AT&T's basic qualifications to hold or obtain any Commission license or authorization.⁴

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act⁵ and the authority delegated by Sections 0.111 and 0.311 of the Commission's rules,⁶ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

8. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

9. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Jeanine Poltronieri, Assistant Vice President, Federal Regulatory, AT&T Services, Inc., 1120 20th Street, NW, Suite 1000, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

(iii) contributions to any charitable organization subject to Section 501(c)(3)" and goods and services provided by AT&T affiliates and those "billed by or through AT&T Mobility." See Letter to The Honorable John D. Rockefeller, Chairman, Committee on Commerce, Science & Transportation, from AT&T, March 28, 2012. Nothing in this Consent Decree is intended to modify AT&T's prior commitment to the Senate nor should it be construed as FCC approval to modify such commitment. In October 2014, the Bureau entered into a Consent Decree with AT&T Mobility LLC to resolve an investigation into allegations that the company billed wireless customers for unauthorized third-party subscriptions and premium text messaging services. *AT&T Mobility LLC*, Order and Consent Decree, 29 FCC Rcd 11803 (EB 2014). Nothing in this Consent Decree abridges, enlarges, or modifies any obligation contained in the 2014 settlement reached with AT&T Mobility.

³ 47 U.S.C. § 201(b).

⁴ See 47 CFR § 1.93(b).

⁵ 47 U.S.C. § 154(i).

⁶ 47 CFR §§ 0.111, 0.311.

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CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and AT&T Services, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether AT&T Services, Inc. violated Section 201(b) of the Communications Act of 1934, as amended, by placing unauthorized third-party charges on its customers’ wireline telephone bills (a practice commonly referred to as cramming).

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.
(b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “AT&T” means AT&T Services, Inc., its subsidiary or affiliate incumbent local exchange carriers (ILECs), their successors or assigns, and any subsidiary or affiliate insofar as it engages in the placement of Third-Party Charges on a Bill for the provision of a telephone exchange service.
(d) “Bill” means a Consumer’s invoice for wireline telephone exchange services, whether in electronic, paper, or any other form. “Billing,” “Billed,” or other use of the defined term incorporates the definition of Bill.
(e) “Block” means a restriction placed on a Consumer’s account that prevents one or more lines on the account, as designated by the Consumer, from being Billed for recurring monthly charges for Third-Party Products. “Blocking” or other uses of the defined term incorporate the definition of “Block.”
(f) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(g) “Clear and Conspicuous” means a statement is disclosed in such size, color, contrast, location, duration, and/or audibility that it is readily noticeable, readable,

1 47 U.S.C. § 151 et seq.

2 The AT&T ILEC subsidiaries include: Illinois Bell Telephone Company d/b/a AT&T Illinois; Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana; Michigan Bell Telephone Company d/b/a AT&T Michigan; The Ohio Bell Telephone Company d/b/a AT&T Ohio; Wisconsin Bell, Inc. d/b/a AT&T Wisconsin; Pacific Bell Telephone Company d/b/a AT&T California; Nevada Bell Telephone Company d/b/a AT&T Nevada; Southwestern Bell Telephone Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma, and AT&T Texas; and BellSouth Telecommunications, LLC d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina, and AT&T Tennessee. The Companies submitted charges for billing only through Illinois Bell Telephone Company, The Ohio Bell Telephone Company, and AT&T Texas.

understandable, and, with respect to audio, capable of being heard. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, then the statement must be presented in proximity to the information it modifies, explains, or clarifies in a manner that is readily noticeable, readable, and understandable, and not obscured in any manner. In addition:

- i. An audio disclosure must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it;
 - ii. A text message, television, or Internet disclosure must be of a type size, location, and shade and remain on the screen for a duration sufficient for a consumer to read and comprehend it based on the medium being used; and
 - iii. Disclosures in a print advertisement or promotional material, including, but without limitation, a point of sale display or brochure materials directed to consumers, must appear in a type size, contrast, and location sufficient for a consumer to read and comprehend them.
- (h) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (i) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which AT&T is subject by virtue of its business activities, including but not limited to Section 201(b) of the Act.
- (j) “Company” or “Companies” means Discount Directory, Inc. (DDI) and/or Enhanced Telecommunications Services (ETS).
- (k) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 16.
- (l) “Consumer” means a current or former customer, subscriber, or purchaser of Products for which Third-Party Charges are placed on the Consumer’s AT&T Bill, whether that Person is responsible for paying the Bill or has a line or device that is Billed to a shared account.
- (m) “Designated Third-Parties” means the five companies (individually and/or collectively) that satisfy at least one of the following:
- i. as of January 1, 2016, provided (on its own or through a subsidiary) long-distance telephone service as a Third-Party Product to Consumers and was a publicly traded company headquartered in the United States; or
 - ii. provided (on its own or through a subsidiary) Third-Party Products to Consumers for which, together with its Third Party affiliates, billings exceeded \$3,500,000 during calendar year 2015 and, as of the Effective Date was a top-level parent company with a rating of “A” from the Better Business Bureau.
- (n) “Designated Third-Party Services” means operator assisted calling and inmate calling Billed on a per-use basis (as opposed to a recurring or subscription basis), toll calls Billed on a per-use basis (*e.g.*, 10-10 + carrier identification code), and the two business yellow pages services AT&T Billed for during calendar year 2015 (one yellow pages service AT&T Billed for a company pursuant to a California state tariff and the other yellow pages service AT&T Billed for a company in which AT&T holds an ownership interest).

- (o) “Effective Date” means the date by which both the Bureau and AT&T have signed the Consent Decree.
- (p) “Express Informed Consent” means an affirmative act or statement giving unambiguous assent to be charged for the purchase of a Third-Party Product that is made by a Consumer after receiving a Clear and Conspicuous disclosure of the material terms of the offer.
- (q) “Investigation” means the investigation commenced by the Bureau in File No. EB-TCD-15-00019021 regarding whether AT&T violated Section 201(b) of the Act.
- (r) “Newly Acquired Entities” means any entities AT&T acquires in the future.
- (s) “Parties” means AT&T and the Bureau, each of which is a “Party.”
- (t) “Person” shall have the same meaning as 47 U.S.C. § 153(39).
- (u) “Product” means content, services, and/or equipment for which charges are placed on the Consumer’s Bill by AT&T. The term “Product” excludes: contributions to charities, candidates for public office, political action committees, campaign committees, campaigns involving a ballot measure, or other similar contributions. “Product” also excludes: co-branded, co-marketed, or white label products branded by AT&T (including branding commonly associated with the AT&T family of companies, for instance the AT&T globe), and products obtained by AT&T business or government customers with at least 100 DS0-equivalent lines pursuant to a telecommunications management contract with AT&T that authorizes AT&T to Bill such business or government customer for products obtained from a Third Party. “Product” also excludes equipment protection services, such as extended warranty offerings or virus protection offerings, for equipment or services made available to the customer by AT&T.
- (v) “Redress Amount” means, for any individual Consumer, the sum of all Third-Party Charges placed on the Consumer’s Bill for Products purportedly provided by the Companies during the Redress Period, less any credit or refund for such charges already provided to the Consumer by either AT&T or the Companies.
- (w) “Redress Period” means January 1, 2012 through the Effective Date.
- (x) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (y) “Third Party” or “Third Parties” means an entity or entities, other than AT&T or any affiliate of AT&T, that purportedly and/or actually provides a Product to Consumers for which Billing is made through AT&T’s Bills. “Third Party” and “Third Parties” include billing aggregators and other Persons that contract with AT&T for the placement of Third-Party Charges on Bills on behalf of other Third Parties.
- (z) “Third-Party Charge” means a charge for a Third-Party Product placed on a Consumer’s Bill.
- (aa) “Third-Party Product” means a Product provided by a Third Party.
- (bb) “Truth-In-Billing Rules” mean the Rules set forth at 47 CFR § 64.2400 *et seq.*

II. BACKGROUND

3. Section 201(b) of the Act states, in pertinent part, that “[a]ll charges, practices, classifications, and regulations for and in connection with [interstate or foreign] communication service [by wire or radio], shall be just and reasonable, and any such charge, practice, classification, or regulation

that is unjust or unreasonable is declared to be unlawful”³ The Commission has held that the inclusion of unauthorized charges and fees on consumers’ telephone bills is an “unjust and unreasonable” practice under Section 201(b) known as “cramming.”⁴

4. AT&T provides telecommunications services to consumers throughout the United States. AT&T bills its customers not only for its own services, but also for the services of some Third Parties. From as early as 2002, AT&T billed its customers for a monthly “directory assistance service” purportedly provided by the Third Parties DDI and ETS. AT&T contracted directly with DDI and ETS and, pursuant to these contracts, placed charges for these Companies’ purported services on its customers’ local AT&T telephone bills and AT&T received a billing fee for each such Third-Party Charge. The Bureau avers, however, that AT&T’s customers did not authorize such services, and the Companies never actually provided such services to AT&T’s customers.

5. Under the terms of their contracts with AT&T, the Companies were required to obtain and verify the authorization to be billed for their service from the customers they asked AT&T to bill. The contracts further stipulated that for each cramming complaint received, AT&T would charge the Company named in the complaint a fee of \$150. AT&T also implemented complaint thresholds that DDI and ETS were required to stay under in order to continue with the billing arrangement and AT&T required the Companies to self-report any cramming complaints against them to AT&T.

6. In March of 2015, the Drug Enforcement Administration (DEA) contacted the Bureau regarding the DEA’s investigation of a drug and money laundering operation involving the principals of DDI and ETS. DEA reported to the Bureau that, in the course of seizing drugs, cars, jewelry, gold, and computers (totaling close to \$3.4 million) from DDI and ETS’ principals and associates, DEA investigators discovered financial documents related to a cramming scheme. DEA further stated that its agents conducted numerous interviews with the key participants in the scheme, who described setting up a scheme to bill thousands of consumers (largely small businesses) for a monthly “directory assistance service” on their local AT&T telephone bills. DDI had informed AT&T in late January of 2015 of the DEA investigation. AT&T thereafter contacted the DEA to obtain further information, and, after a follow-up call in which the DEA informed AT&T about the criminal investigation into DDI and ETS, AT&T made the decision, on February 17, 2015, to terminate its relationship with the Companies. Although AT&T informed the Companies that their contracts would be terminated as of April 1, 2015, the Companies submitted additional charges to AT&T following that date, which led to the inclusion of some Third-Party Charges on Consumer Bills through May 2015.

7. Based on information provided by the DEA and its own investigation, the Bureau has concluded that the cramming scheme worked as follows: pursuant to their contracts with AT&T, the Companies submitted telephone numbers of AT&T customers to AT&T with instructions to bill those customers monthly for a subscription to an unlimited directory assistance service. In some months, AT&T rejected thousands of “unbillable” numbers that one of the Companies asked it to charge because there were no accounts found for the customers, the customers had a Block on their accounts, the number charged was for a coin-operated pay phone, the charge was submitted prior to the effective date of service, the charge was submitted after service was disconnected, or the account charged was either resold or ported to a service provider other than AT&T. According to AT&T, during the applicable period that it was billing for the Companies, AT&T did not consider unbillable numbers to be an indicator for

³ 47 U.S.C. § 201(b).

⁴ See, e.g., *Preferred Long Distance, Inc.*, Forfeiture Order, 30 FCC Rcd 13711, 13718, para. 16 (2015); *Bus. Disc. Plan, Inc.*, Order of Forfeiture, 15 FCC Rcd 14461, 14469, para. 17 (2000); *Long Distance Direct, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 3297, 3300, para. 9 (2000). Any assessment of an unauthorized charge on a telephone bill or for a telecommunications service is an “unjust and unreasonable” practice under Section 201(b) of the Act. See, e.g., *Cent. Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5517, 5523, para. 14 (2014); *U.S. Telecom Long Distance, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 823, 829, para. 14 (2014); *Consumer Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17196, 17202, para. 15 (2013).

identifying cramming. Although the Companies' agreements with AT&T obligated them to obtain the customers' authorization to be billed for the service, the Bureau concludes that the Companies never obtained any customer authorizations.

8. The Bureau further concludes that many customers never noticed the unauthorized charges on their Bills. For consumers that noticed the unauthorized charges and complained to the Companies, the Companies responded by issuing refunds for the unauthorized charges, but did not report such complaints to AT&T. AT&T indicates that, by not reporting those complaints to AT&T, as the Companies were obligated to do, the Companies were able to keep the number of cramming complaints below the contractual thresholds that AT&T says would have triggered further investigation of the possibility that the Companies were engaged in a cramming scheme and/or termination of the billing arrangements.

9. The Bureau initiated the Investigation based on the referral from the DEA and its concerns that AT&T, through the course of conduct above, violated Section 201(b) of the Act by engaging in an unjust and unreasonable practice when it placed unauthorized Third-Party Charges on its customers' telephone Bills.

III. TERMS OF AGREEMENT

10. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

11. **Jurisdiction.** For purposes of this Consent Decree only, AT&T agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

12. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

13. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, AT&T agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against AT&T concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of AT&T's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.⁵

14. **Admission.** The Parties agree for the purpose of this Consent Decree, and in express reliance on the provisions of paragraph 13 herein, that paragraphs three through nine contain a true and accurate description of the facts underlying the Investigation. The Parties further agree that this Consent Decree does not constitute a legal finding regarding AT&T's compliance or noncompliance with any law. It is the intent of the Parties that this Consent Decree shall not be used as evidence or precedent against AT&T in any action or proceeding, except an action to enforce this Consent Decree.

15. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, AT&T shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance

⁵ See 47 CFR § 1.93(b).

Plan and ensuring that AT&T complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of Section 201(b), Commission notices and orders related to cramming, and the Truth-in-Billing Rules prior to assuming his/her duties.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, AT&T agrees that it shall develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. AT&T will implement, at a minimum, the following procedures:

- (a) **Cease and Desist Third-Party Billing.** Except as provided in paragraph 16(a)(i) and (ii), AT&T shall cease and desist all Billing for Third-Party Products according to the following schedule: As of the Effective Date, AT&T will not program any new Third Parties into its Billing systems (i.e., not program new carrier identification codes or other identifiers associated with a Third Party into its Billing systems). Within fifteen (15) calendar days after the Effective Date, AT&T shall cease accepting the submission of Third-Party Charges from entities for whom AT&T did not Bill as of the Effective Date and initiate the process of terminating its Billing relationships with Third Parties. AT&T thereafter shall continue to make reasonably diligent efforts to terminate those relationships and prevent the appearance of a Third-Party Charge on any Bill. To that end, AT&T shall make good faith efforts to cease all Billing for Third-Party Products within one hundred twenty (120) calendar days of the Effective Date, and it will monitor its Billing systems for any miscellaneous missed Third-Party Charges such that on or before one hundred eighty (180) calendar days after the Effective Date, AT&T shall cease and desist all Billing for Third-Party Products.
 - i. AT&T may continue Billing its customers for: (1) the retail intra-LATA Toll and inter-LATA Toll services of the Designated Third-Parties and their Third-Party subsidiaries; and/or (2) the Designated Third-Party Services.
 - ii. AT&T may Bill for Third-Party Products purchased through an AT&T ordering platform or an ordering platform of an entity majority-owned by AT&T Inc. directly or indirectly, if, prior to Billing for any such Third-Party Product, it first obtains the Express Informed Consent from the Person on whose Bill the Third-Party Charge will be included or otherwise invoiced (Billed Party). AT&T must also send the Billed Party a Clear and Conspicuous purchase confirmation separate from the Billed Party's Bill. AT&T shall send the purchase confirmation prior to delivering the Bill to the Billed Party. Express Informed Consent must be on a per Product basis (i.e., no blanket Express Informed Consent to be Billed generally for products or services not reasonably identified at the time of the Express Informed Consent or in the purchase confirmation).
- (b) **Billing for AT&T Affiliates.** AT&T shall be liable for any unauthorized charges that it bills on behalf of any AT&T affiliate. For purposes of this sub-paragraph 16(b), "bill" means an AT&T invoice for wireline telephone exchange services, whether in electronic, paper, or any other form.
- (c) **Consumer Redress for Unauthorized Charges.** AT&T shall provide every Consumer it charged during the Redress Period for Third-Party Products purportedly provided by the Companies with a refund or credit equal to the Redress Amount, as provided below:
 - i. **Current Customers.** AT&T shall, within ninety (90) calendar days after the Effective Date, issue a refund check or bill credit equal to the Redress Amount to

Consumers who are, as of the date of the refund or credit, current AT&T customers.

- ii. **Former Customers.** AT&T shall, within ninety (90) calendar days after the Effective Date, mail a refund check for the Redress Amount to the last known address (as determined using AT&T's last billing record and software operated by AT&T's mailing vendor) to Consumers who are not, as of the date of the refund or credit, current AT&T customers (Former Customers).
 - iii. **Uncashed or Returned Checks.** Refund checks mailed to Former Customers will be valid if cashed within one hundred eighty (180) calendar days from the date mailed. In any case where a check is uncashed or returned, sub-paragraph 16(c)(iv) shall govern.
 - iv. **Good Faith Efforts and Missed Customers.** AT&T will endeavor in good faith to identify every Consumer entitled to a refund check or bill credit pursuant to paragraph 16(c) and to make such refund or credit. The Parties agree that the following process constitutes such good faith in attempting to locate and send refund checks to Former Customers: (1) AT&T will provide to its mailing vendor a refund check and a last known address for each Former Customer; (2) AT&T's mailing vendor will use software to verify the provided address against data provided by the United States Postal Service; (3) AT&T's mailing vendor will transmit the check to either (a) the address provided by AT&T or (b) a forwarding address detected using the software program; and (4) unless a check is returned as undeliverable, if a check is not cashed within one hundred eighty (180) days, AT&T will send a follow-up letter to the address to which the check was sent providing the recipient the opportunity to receive a replacement check. If the check continues to remain uncashed, AT&T will then follow applicable state unclaimed property law procedures with respect to the check.
- (d) **Blocking and Consumer Information.** To the extent there are Third-Party Charges on a Bill, within one hundred twenty (120) calendar days of the Effective Date, AT&T shall:
- i. Offer Blocking at no charge to the Consumer, and make available toll blocking service (for businesses) and call restriction service (for residential Consumers) that will prevent Consumers from making long-distance calls subject to a toll charge;
 - ii. Provide a Clear and Conspicuous disclosure about Third-Party Charges and Block options in informational material provided to Consumers at or near the time of subscribing to or activating AT&T service. Such disclosure shall be provided in a context separate from the actual subscriber agreement document. Such disclosure shall include or provide access to a description of Third-Party Charges, how Third-Party Charges appear on Bills, and the option available to Consumers to Block Third-Party Charges; and
 - iii. Include in the Third-Party Charge billing section required under the Truth-In-Billing Rules a Clear and Conspicuous disclosure of a Consumer's ability to Block Third-Party Charges, including contact and/or access information that Consumers may use to initiate such Blocking. If AT&T includes a Third-Party Charge billing section for each line on the account, AT&T shall have the option to include the disclosure of a Consumer's ability to Block Third-Party Charges in only the first Third-Party Charge billing section that appears on the Bill, rather than in all Third-Party Charge billing sections.

- (e) **Consumer Contacts.** When a Consumer contacts AT&T with regard to a Third-Party Charge or a Block, AT&T shall satisfy each of the following:
- i. Beginning no later than one hundred twenty (120) days after the Effective Date, AT&T shall be able to provide account information related to Third Party Charges for at least the prior twelve (12) months. For Newly Acquired Entities, if such information is not available, AT&T shall have twelve (12) months to come into compliance with respect to such entities, and while coming into compliance respond to the Consumer's inquiry within ten (10) days using any available information.
 - ii. For any Consumer who claims he or she did not authorize a Third-Party Charge incurred after the Effective Date, AT&T (1) will provide the Consumer a full refund or credit of any and all disputed Third-Party Charges not previously credited or refunded to the Consumer, or (2) may deny a refund provided, that, AT&T has information demonstrating that the Consumer provided his or her consent to the Third-Party Charge, offers to provide such information to the Consumer, and, upon request, provides such information to the Consumer, and provides the Consumer thirty (30) days to refute such information from the time it is received by the Consumer. Where the Consumer timely challenges the information, AT&T shall promptly consider such information and either provide the Consumer with a refund or credit or respond to the Consumer giving reasons why it rejects the Consumer's response. AT&T shall endeavor to provide such credit or other response within fourteen (14) days and shall, in all events, provide the same within twenty-one (21) days. In addition, with respect to claims disputing Third-Party Charges incurred more than twelve (12) months prior to the date of the claim where AT&T does not have information demonstrating that the Consumer provided his or her consent to the Third-Party Charge, AT&T shall provide a refund if Billing or other records evidencing the disputed Third-Party Charges are (1) provided by the Consumer or (2) maintained by AT&T in active systems or databases accessible to AT&T customer service representatives in the ordinary course of business. The payment or non-payment by AT&T of any money to a Consumer pursuant to the terms of this sub-paragraph is without prejudice to any claim such Consumer may otherwise have under applicable law or any claim AT&T may have under applicable law to offset any amounts it pays to a Consumer pursuant to this sub-paragraph.
 - iii. If the Consumer claims that he or she did not authorize a Third-Party Charge, and the Consumer is a current customer of AT&T, AT&T will offer the Consumer the opportunity to Block future Third-Party Charges.
 - iv. Beginning no later than one hundred twenty (120) days after the Effective Date, AT&T will not require the Consumer to first contact the Third Party in order to receive a refund/credit of any claimed unauthorized Third-Party Charge, although this paragraph does not prohibit asking the Consumer if he or she has contacted the Third Party and/or if the Consumer has already received a credit or refund from the Third Party for some or all of the claimed unauthorized Third-Party Charge.
 - v. Beginning no later than one hundred twenty (120) days after the Effective Date, in the event a Consumer disputes a Third-Party Charge was authorized, until such time as AT&T has complied with the provisions of paragraph 16(e)(ii) of this Consent Decree, AT&T shall not (1) require the Consumer to pay the disputed Third-Party Charge, including any related late charge or

penalty; (2) send the disputed Third-Party Charge to collection; (3) make any adverse credit report based on non-payment of the disputed Third-Party Charge; or (4) suspend, cancel, or take any action that may adversely affect the Consumer's telephone service or functionality for any reason related to non-payment of any disputed Third-Party Charge. In any case where a Consumer claims that a Third-Party Charge was not authorized and (a) AT&T has initiated a process covered by (1)-(4) of this sub-paragraph, and (b) intends to exercise or exercises its rights under paragraph 16(e)(ii)(2) to deny or investigate the refund claim, AT&T shall inform the Consumer that AT&T is reviewing the claim, that the Consumer does not have to pay the disputed Third-Party Charge while it is being processed, and that AT&T will notify the Consumer of the outcome of its review of the claim, and of the Consumer's ability to contest the outcome pursuant to the provisions of paragraph 16(e)(ii). AT&T shall promptly reverse any actions covered by (1)-(4) of this sub-paragraph once AT&T has completed such processing and complied with the provisions of 16(e)(ii), if it determines that a refund is owed to the Consumer.

- (f) **Training.** Within one hundred twenty (120) days after the Effective Date and at least annually in each of the subsequent three years, AT&T shall conduct a training program with its customer service representatives to administer the requirements of this Consent Decree. Any Person who is assigned duties or otherwise becomes a customer service representative with any responsibility for administering the requirements of this Consent Decree but who has not received such training will be subject to training prior to assuming those responsibilities or duties. It is acknowledged that the process of training customer service representatives may include monitored interactions with Consumers. To the extent that AT&T no longer Bills for or permits Third-Party Charges on the Bills of Designated Third Parties and the Designated Third-Party Services, AT&T will conduct one training program within three (3) months of such cessation and will have no further obligation to conduct training programs under this paragraph so long as AT&T does not Bill for Designated Third Parties and the Designated Third-Party Services or permit Third-Party Charges on Consumers' Bills.
- (g) **Cooperation with Bureau.** AT&T shall, for at least four (4) years after the Effective Date, designate a contact to whom the Bureau may provide information regarding any concerns about unauthorized Third-Party Charges, and from whom the Bureau may request information and assistance in investigations. Such information and assistance shall include information regarding the identity of Third Parties placing Third-Party Charges on AT&T's Bills, revenue from such Third-Party Charges, refunds provided relating to the Third-Party Charges, any audits conducted of the Third Party (to the extent not protected by attorney-client or attorney work product privileges), and any applications or other information provided by the Third Party, to the extent that AT&T has access to such information. AT&T shall provide such information within a reasonable period, to the extent such information is in AT&T's possession or control, and shall cooperate in good faith with such requests, including investigating any reports of unauthorized Third-Party Charges AT&T receives from the Bureau. Information will be considered in AT&T's "control" if AT&T has a contractual or other legal right to obtain the information from a Third Party, unless good faith efforts by AT&T to obtain such information are unsuccessful.

17. **Reporting Noncompliance.** For at least four (4) years from the Effective Date, AT&T shall report any noncompliance with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation

of: (i) each instance of noncompliance; (ii) the steps that AT&T has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that AT&T has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Richard A. Hindman, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, Washington DC 20554, with a copy submitted electronically to Johnny.Drake@fcc.gov.

18. **Compliance Reports.** AT&T shall file compliance reports with the Commission one hundred fifty (150) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, thirty-six (36) months after the Effective Date, and forty-eight (48) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of AT&T's efforts during the relevant period to comply with the terms and conditions of this Consent Decree. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of AT&T, stating that the Compliance Officer has personal knowledge that AT&T: (i) has established and implemented the Compliance Plan; and (ii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 17 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.⁶
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of AT&T, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that AT&T has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that AT&T has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to Richard A. Hindman, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, Washington DC 20554, with a copy submitted electronically to Johnny.Drake@fcc.gov.

19. **Termination Date.** The requirements set forth in sub-paragraph 16(a)(ii) shall expire seven (7) years after the Effective Date. Unless stated otherwise elsewhere in the Consent Decree, the requirements set forth in paragraphs 15 through 18 (excluding 16(a)(ii)) of this Consent Decree shall expire six (6) years after the Effective Date.

20. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act⁷ against AT&T or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the

⁶ 47 CFR § 1.16.

⁷ 47 U.S.C. § 208.

Commission from investigating new evidence of noncompliance by AT&T with the Communications Laws.

21. **Civil Penalty.** AT&T will pay a civil penalty to the United States Treasury in the amount of nine hundred fifty thousand dollars (\$950,000) within thirty (30) calendar days after the Effective Date. AT&T shall send electronic notification of payment to Johnny.Drake@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁸ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

22. **Waivers.** As of the Effective Date, AT&T waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. AT&T shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither AT&T nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and AT&T shall waive any statutory right to a trial *de novo*. AT&T hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act⁹ relating to the matters addressed in this Consent Decree.

23. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

⁸ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁹ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

24. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

25. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which AT&T does not expressly consent) that provision will be superseded by such Rule or Order.

26. **Successors and Assigns.** AT&T agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

27. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

28. **No Applicability to AT&T Mobility LLC.** Nothing in this Consent Decree shall apply or shall be construed to apply to AT&T Mobility LLC, nor shall anything in this Consent Decree abridge, enlarge, or modify any obligation contained in the *AT&T Mobility LLC* consent decree reported at 29 FCC Rcd 11803 (EB 2014).

29. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

30. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

31. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

32. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Travis LeBlanc
Chief
Enforcement Bureau

Date

Adrienne Scott
Vice President – Wholesale Strategy & Solutions
AT&T

Date