Tele Truth

DATA QUALITY ACT APPEAL
June 15th, 2007

Original DQA Complaint
http://www.teletruth.org/docs/Dataqualityactharvesting.doc
FCC Denial
http://www.teletruth.org/docs/FCCphoneDQA.pdf

On February 22, 2007, Teletruth filed a Data Quality Act (DQA) Complaint: "The FCC's Data Pertaining to America's Phone Rates, Statistics and Other Related Data Are Seriously Flawed and in Need of Major Revision"

NOTE: Our DQA was denied on May 4th, 2007 --- 71 days after we filed, even though under the FCC's DQA Guidelines specifically require a response in 45 days. This appeal is being filed 28 business days after the date on the letter, counting holidays.

*(Also, we specifically requested that the FCC contact us via electronic means, as we filed using email, and not using a letter sent through the postal service.)

Bottom Line: Unless the FCC can refute our analysis, it should immediately start an investigation into the Agency's phone rate data collection and analysis.

We are appealing the FCC's decision to reject our Data Quality act complaint and we are embarrassed that the FCC has decided to defend its incredibly inaccurate, incomplete, biased data that has led to bad public policy and harmful outcomes, especially to low volume users and seniors – instead of fixing the problems we outlined.

The FCC has decided to pick and choose what it would like to address in our original complaint, instead of actually investigating our claims, and has not focused on the main issue --- the FCC's data is so flawed that it can not predict or analyze trends for approximately 1/3 of US households. Our data found AT&T and MCI/Verizon have been continuously raising rates, especially harming seniors and low volume customers.

And yet, Chairman Martin's testimony in front of the Senate, February 2007 stated he was interested in protecting customers:

> "Third, we must continue to protect consumers. We must always be on alert for companies intentionally or unintentionally harming consumers."

We do not believe the FCC cares about consumers or that the Agency has properly examined the materials we presented. It should have started an investigation. Let's go back to specifics:

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1) Our DQA supplied an entire report which pointed out that approximately 1/3 of US households are low volume users, and that AT&T and MCI, who have 25-35 million households as customers have had massive price increases since 2000. AT&T's basic rate is now $.42 a minute. We also pointed out that the FCC data hid this important fact because its data is not accurate enough to assess 35 million homes being harmed.

Report "AT&T and MCI (Verizon) Are Harvesting Customers"
http://www.teletruth.org/docs/ATTMCIharvest.doc
Here is an AT&T long distance phone bill:
http://www.newnetworks.com/at&tbasiclongdistancecharg.htm

In the report we also highlighted how major increases in every additional fee and surcharge, from the monthly minimum, monthly fees, or bogus fees, such as the 'Cost Recovery Fee or Single Bill Fee, made the cost-per-minute for low volume customers $.50-$1.00 a minute.

The FCC's response:

> "Your assertions concerning AT&T's basic rates do not demonstrate any inadequacy in the Commission's average revenue per minute data, which, as is stated in the Commission's Telecommunications Industry Revenues Reports, represent an average revenue per conversation minute of interstate residential and business customer rates in a given time period. Similarly, your use of Commission data on average revenue per conversation minute and average_ minutes of use fails to take into account salient differences in what these distinct sets of data represent."

The FCC missed our point: The FCC's data is skewed toward high volume customers and so the Agency's data did not spot a major trend over the last 7 years – that low volume customers – 1/3 of US households, are being harmed.

We, in fact, argued that the 'average' minute and revenue might be accurate as an overall number, but was NOT an accurate assessment of the marketplace, which is what the FCC is supposed to be evaluating.

If 25-35 million AT&T and MCI customers are getting price increases, obviously, the FCC's data can not be used to accurately assess the marketplace it is supposed to be reporting on.

2) The FCC Is Biased Toward High Volume Users.

The FCC references 'high-volume customers' and the benefits – but leaves out low volume users. ("REFERENCE BOOK of Rates, Price Indices, and Household

Expenditures for Telephone Service Industry Analysis & Technology Division Wireline Competition Bureau, 2006")

> "Toll Service Rates "The increased availability and marketing of discount and promotional long distance plans, as well as the popularity of wireless "bucket-of-minutes" plans, has made basic schedule rates obsolete for many long distance customers, particularly business customers and **high volume residential consumers.** Today wireline, wireless, and cable companies are offering consumers bundled packages of local and long distance service, and buckets of minutes that can be used to call anyone, anywhere, and anytime."

The FCC's own statements makes it clear that "high volume" users benefited from the deregulatory policies.

But, we specifically asked:

- What is the percentage of high-volume customers? Did 12% or 30% of the population benefit at the expense of the rest? (We believe high volume to be a little over 1/3 of US households.)
- What percentage are low volume users and what happened to low volume customers? What about mid-volume users?

NOTE: We estimate that the number of low, medium and high volume residential customer base is roughly 1/3 each per segment. Our analysis of market size by user type is based on New Networks Institute and Teletruth's phone bill surveys, including two nationwide phone surveys, as well as state surveys of California, New York and New Jersey.

We also note that the FCC actually created a docket for 'low volume' users in 1999, CC Docket 99-249, when it proposed to increase the FCC Line Charge under CALLs as the phone companies claimed they would be lowering long distance rates. However, in 2007, , the FCC fails to supply that data in any report, even though the FCC is required to examine ALL customers, including low volume users.

We also pointed out that 'packages' do not benefit low volume users because the actual cost of local and long distance service, when all of the various charges are added together, are usually more than low volume users would spend ala carte.

3) Trends Are Supposed to Reflect ALL Customers, Not Pick and Choose?

> "The Trends in Telephone Service report is intended to represent trends in the service data. The series in question have been calculated consistently

over time to display long-run trends in the data. The fact that the manner in which the series are calculated has not been altered to reflect recent trends in billing practices is clearly noted in the report. This fact cannot be ignored and must be taken into consideration in any attempts to interpret the data."

This again is embarrassing as the FCC publishes data that is supposed to represent "Rates, Price Indices, and Household Expenditures for Telephone Service Industry 2006"

If that is the case, then the FCC trend data over the last 7 years should have shown major price increases to low volume users, as presented from the data we submitted. If the FCC's data can't detect major price increases for 1/3 of US households, then how useful is it to creating new policies? It's not.

Also, as we wrote in our DQA:

> "Plan fee, Single Bill fee, monthly minimums, Cost Recovery, etc., are all charges a customer must pay to get service from AT&T and MCI and are direct revenue to the phone companies. Why is there no data about these charges in the "Trends of Telephone Service" report?"

Charging these new fees are 'trends' that impact ALL phone customers and yet the FCC has no data on this topic that is 'longitudinal' i.e., that outlines the changes over the last seven years or more.

4) Faulty Analysis Is Simple to Prove.

In our DQA we pointed out that the FCC's long distance and local service data was skewed because it couldn't figure out how to properly allocate local and long distance costs in 'some' packages.

> "For some households taking bundled local and long distance service, it was impossible to separate the bill into its component parts. In those cases, the entire bill was allocated to the local exchange service provider."

We asked – how much is "some"? And why couldn't the FCC simply contact the carrier and ask them what the allocation was. Or better yet, the FCC could simply examine the application of taxes and surcharges, which gives the allocation because different taxes are supposed to be applied to interstate vs instate services?

According to Verizon et al, the major incumbents now have over 50% of their customers on packages. Are these part of the 'some'? More importantly, is the decrease in long distance prices simply a statistical error, where the FCC's method is clearly deflating the cost of long distance service, while inflating the local service cost?

As we pointed out, if the FCC can't determine the allocation of local and long distance how are average customers supposed to undertake this task? And isn't that an additional truth-in-billing violation as the bill is supposed to not be misleading or is impossible to read and assess the accuracy of the charges?

5) The Cost Per Minute, Revenues, Etc.

The FCC wrote that we didn't understand the caveats about the data the agency presented. We pointed out that the FCC data is like comparing apples to kumquats as none of it can be cross referenced and come up with a rational answer ---

FCC response:

> "Footnote 7: As an example, the Commission's average revenue per conversation minute data takes into account all interstate and international minutes and revenues, while the average monthly InterLATA minutes you cite are comprised of only inter- and intrastate residential wireline use. See, e.9., Trends in Telephone Service (February 2007), tables 3.2, 13.4, and 14.2,"

We are right. The information can't be cross-referenced because the FCC doesn't have a clue about presenting useful data to make a comparison analysis.

And just to play the game – if you add the "international minutes', which only adds 2 minutes a month, it doesn't dramatically change any of the calculations – the numbers still don't add up in any way shape of form.

Using the updated date, we rewrite this section:

> "According to the FCC, the average cost per month is $8.00 and the average household only makes 34 minutes of interstate/intrastate calls (long distance and toll calls), as well as international calls, then the total should be $2.04 (previously $1.92). But the average is $8.00 – a difference of $5.96 (previously $6.08)."
>
> "Next, if you examine the cost per minute as the division of the monthly cost and the number of minutes, you have a new fact – that the actual cost per minute is $.24 (previously $.28), not $.06."

It is still way off. If the FCC actually has data that can be cross referenced, then, the Agency should show us the information that can be cross-referenced for residential customers.

6) Why Is This Data Important Now?

This data is very important as the FCC and Congress are considering major new increases.

- The FCC plans to raise the FCC Line Charge as part of the FCC's Missoula Intercarrier Compensation plan.
- The FCC and Congress are discussing increasing Universal Service.
- The states keep raising local phone rates. We documented major increases for local service in New York and New Jersey.
- Competition: The FCC keeps claiming that there is a competitive market and yet, as we outlined in our original complaint, AT&T and MCI, the two largest carriers, were essentially doing major rate increases in-step. And both carriers have not only been harvesting customers, but are also stopped competing with each other. --- read collusion. Where is the competitive market and as we move forward, how can the FCC claim there is competition when prices continue to rise, especially for low volume customers.

And the FCC is going to base its analysis for all of these dockets and changes on the raw data that the FCC is publishing in its phone charges and trend reports.

7) Chairman Martin's Testimony, Based on FCC Data, Is Wrong.

We demonstrated that Chairman Martin's comments are simply wrong because the data he is using is wrong and therefore he is giving misleading testimony to Congress.

In 2005, during the AT&T and MCI Merger process, AT&T claimed it was "harvesting" its customers. (Ironically, this next quote is found in a footnote in the AT&T-SBC merger order --- intentional harms to customers.)

> "Harvesting refers to AT&T's increasing price increases to encourage customers to discontinue service."

Meanwhile, Chairman Martin claims that long distance prices decreased since 2000 because of deregulatory policies. In his testimony he states:

> "Markets and companies are investing again, job creation in the industry is high, and in almost all cases, vigorous competition – resulting from free-market deregulatory policies – has provided the consumer with more, better and cheaper services to choose from. Consumers are certainly paying less for more. In 2005, the price of long distance was 2/3 of what it was in 2000…."

If 1/3 of US households are paying 200% increases since 2000, then this quote is biased toward high-volume users. As we demonstrate in our DQA, the FCC's blending analysis is not accurate for ALL consumer groups and can NOT be used to create accurate policies.

If AT&T and MCI, the two largest long distance companies, have had massive increases because there is no competition to lower prices, then telling the public that 'deregulation' work is clearly biased toward political influences, certainly not what customers are paying.

8) Targeted Harms Went Unnoticed.

As we quote, AARP conducted a survey in 2000.[i]

- 75% of seniors were paying basic rates and on average, made only 3 calls a week.
- 74% used either AT&T or MCI.
- Only 33% of seniors said they "search among long distance telephone providers for the least expensive rate."

Thus by not examining low volume customers, the FCC has singled out Seniors to be harmed.

9) Go File Under Various Other Dockets.

Throughout the denial letter, the FCC makes claims that we should file in other dockets, that the Commissioner's statements are not covered under the DQA, etc.

> "Because of the numerous opportunities all parties have to comment on rulemaking Proceedings such as the ongoing intercarrier compensation proceeding you refer to in your Complaint, the FCC Information Quality Guideline specifically state: If affected persons are concerned about information disseminate in the context of a Rulemaking proceeding such concerns should be raised as comments in the rulemaking process.- Thus, your comments related to intercarrier compensation should be filed and placed into evidence in this proceeding to allow this information to be considered with the other evidence."

How arrogant the FCC is to expect a small concern such as Teletruth to actually have the resources to play at the FCC's other dockets. Only phone companies and astroturf groups can afford that luxury.

Moreover, the data we presented specifically relates to the FCC released reports on phone charges, which the FCC itself is using in these various decisions and dockets, as well as disseminating through speeches, such as the speech by Chairman Martin. There is no docket opened to address the data flaws at the FCC on this topic.

If the FCC actually wanted to defend the public interest, it would take our analysis and either prove it wrong --- that 1/3 of the population is being harmed by AT&T and MCI-Verizon's massive rate increases, and that the FCC should redo its data for accuracy, not explaining in denying our claims that we are procedurally incorrect.

When Chairman Martin makes a speech about 'deregulation' working, about the cost of service, and how 'competition' is robust, the FCC has an obligation to examine ALL classes of customers, not simply high volume users.

If the FCC was serious about making sure that consumers weren't intentionally harmed, it should be able to show Teletruth its low volume analysis for long distance, including packages, local service, et al. And it should have been able to tell us in our DQA how many customers were impacted.

We note that the FCC is already being taken to court over its failure to let other analysts examine the data, such as the case against the FCC by Center for Public Integrity over getting access to the raw zip-code data used to determine if an area has broadband. The FCC has even created a Notice of Inquiry about this data issue.

The FCC next needs to clean up its act over phone charges, packages, and all telecom expenses, revenues and costs. Creating harmful laws using bad data is no longer acceptable to the public.

Teletruth is quite willing and ready to work with the FCC on this important topic. As a former member of the FCC Consumer Advisory Committee, we understand the value of inputs from outside sources and all stakeholders.

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i Consumer Understanding of Pricing Practices and Savings Opportunities in the Long Distance Telephone Industry. AARP, 2000