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A Closer Look At Hidden Fees, Surcharges With Telecommunications Carriers

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One of my major pet peeves when negotiating with any telecommunications carrier, whether it be a traditional long distance company or a wireless one, is the issue of hidden fees and surcharges. These fees and surcharges, along with taxes, usually amount to between 16 and 20 percent of the average corporate consumer's phone bill. What's more, while some of the fees and surcharges are legitimate fees passed on by carriers and providers to their customers, others are merely additional lines of revenue masquerading as government-imposed fees and surcharges.

From my perspective, if a carrier's fee per minute is \$0.08, then the carrier should be up front about the charge. Instead, the sales people claim that the cost is \$0.02 per minute and then add these made up surcharges and fees to bring it back up to a level where the carrier can at least break even. It's a misleading practice at best (and experience has shown me that this tactic is so deceptive that many sales people, who are working hard and honestly to provide the best deals they can to their customers, don't even understand the pricing structure of these fees), and at its worst, it's downright deceptive.

In late March of this year, the National Association of State Utility Consumer Advocates (NASUCA) filed a 68 page petition with the FCC in an effort to prohibit telecommunications carriers — both wireline and wireless — from the tactics that enable them to use these deceptively-named charges as a means of generating revenue. NASUCA does represent end user consumers and has a powerful voice.

The big question is whether or not NASUCA's not-for-profit voice is as strong as those of the for-profit carrier opponents who have bigger lobbying budgets. Nonetheless, from my perspective, as an attorney who represents end users as they negotiate with carriers, NASUCA couldn't be more "right on the mark."

Since the original Communications Act of 1934, appropriate state and federal government entities have sought to protect consumer rights. As recently as 1999, following the landmark Telecommunications Act of 1996, the FCC issued its important, but largely toothless Truth in Billing Order (TIB Order). In addition to addressing the problems of slamming (unauthorized change of long distance carrier) and cramming (the assessment of unauthorized, misleading, or deceptive charges on the consumer's phone bill), the TIB Order also spoke to the more wide-ranging issue of consumer confusion about charges on monthly telephone bills (here, consumers include not only residential end users, but corporate and governmental end user consumers).

However, while the TIB Order provided a listing of consumer-favorable rules, it also contained loopholes large enough to drive an eighteen wheeler through, and thus it was easily circumvented by the carriers who, in the late 1990s and early 2000s were in desperate need

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of additional revenue sources.

We are all aware of the problems that WorldCom's management decisions have inflicted on WorldCom's former employees and shareholders. What may be news is whether or not a consumer was, in fact, a WorldCom or MCI customer. These deceptive fees and surcharges are largely the result of WorldCom's power in the marketplace at the time. Specifically, WorldCom's usage pricing

dropped significantly, forcing its competitors to do the same, even though they knew that the rates promised by WorldCom were so low as to not make financial sense.

Yet in order to maintain a share of the market, WorldCom's competitors lowered their price structures as well in an effort to compete. However, in an effort to recapture the revenue that had been given away in the low usage costs, carriers creatively came up with schemes to use these line items that look like actual government surcharges and fees as additional lines of revenue. Compounding the sliminess of this tactic, in my opinion, is the fact that many of these charges were — and remain — subject to sales tax.

My personal favorite of these taxes is the "property tax allocation" which Sprint determined to be conveniently 1 percent of a customer's interstate and international long distance usage. There has never been any proof offered by Sprint that this figure bore any relationship to its actual property taxes, but even if it had, this tactic would be no different than if when leaving your favorite grocery store, you were hit with an additional tax to cover the cost of its property taxes.

From basic economics, we know that property taxes are overhead — they are simply a cost of doing business. In all other businesses they are included in the rates that are charged — whether for groceries or long distance service. In fairness, Sprint shouldn't be singled out, because as soon as the other carriers learned of Sprint's creativity, they all jumped on the bandwagon. And like other misleading charges, the property tax allocation, by whatever name it's called, is subject to sales tax which adds insult to injury.

But I digress. The bottom line is that the FCC is accepting comments on the NASUCA petition. According to an FCC spokesperson, the request for comments will be published in the Federal Register within the next week or so, after which comments may be filed for a limited 45 day period from the date of publication.

For a complete copy of the NASUCA petition, go to <http://www.nasuca.org/TIB%20Petition%203-25%20Clean.doc>.

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