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August 22, 2011

Geoffrey G. Why, Commissioner  
Massachusetts Department of Telecommunications and Cable  
1000 Washington Street  
8<sup>th</sup> Floor  
Boston, MA 02118-6500

Re: Modernization of its Billing and Termination Consumer Protection Regulations

Dear Commissioner Why:

AARP is a nonprofit, non-partisan membership organization for people 50 and over. We have 37 million members nationwide and 800,000 in the Commonwealth of Massachusetts. We are writing in response to the Department of Telecommunications and Cable's (DTC) notice of public informational forums released on July 7, 2011. According to the notice, the DTC is considering the modernization of its billing and termination consumer protection regulations, currently applicable to telephone and cable television service providers offering retail residential services in Massachusetts. Thank you for the opportunity to offer comments on behalf of our members.

### **Introduction**

For more than 50 years, AARP has been serving its members and creating positive social change through information, advocacy, and service. AARP's interest in affordable telecommunications derives from our more than 25 years of research and advocacy on behalf of consumers at the state and federal levels.

AARP's policy on telecommunications services supports efficient, transparent, and fair markets for consumers, with established rights and protections that promote and safeguard the health, safety, and economic interests of consumers. Our policy recognizes that competition in the market for telecommunications services can give consumers real choices and promote their economic well-being. But competition that benefits consumers depends on the likelihood that they can and will switch service between providers in order to achieve price and/or service benefits. Consumers need true and effective competition that includes several, viable competitive local service alternatives in their market. The majority of residential consumers, however, predominantly view wireline and wireless access as meeting different needs and have a strong preference to purchase both wireline and wireless access. Indeed, the Federal Communications Commission (FCC) has repeatedly concluded that mobile wireless services should not be included in the same relevant product market as wireline access service.

While wireless phone service is not a substitute for traditional local telephone service for many users, AARP acknowledges that the use of wireless telephone and cable services has grown



significantly in the last several years. Accordingly, AARP takes this opportunity to address a few key issues that should be included in a set of meaningful and enforceable consumer protection policies and practices applicable to wireline, wireless, and cable services. Also, there are some consumer protections that should apply solely to an individual service based on its distinct market structure and service characteristics.

### **Billing**

With respect to the common set of consumer protections, AARP strongly supports requiring billing and other designated materials to be printed in 10-point font. Such a requirement would enhance the readability of these documents, whereas the customary 5- or 6-point type in certain materials can be extremely hard for some customers to read. If all consumers are expected to participate effectively in and keep up with the frequent developments and changes in the telecommunications marketplace, then all written billing, termination, advertising, marketing collateral, and notices must be printed in a font size large enough for the majority of consumers to read. Along with complete, clear, and truthful descriptions of all charges, all bills should also be required to clearly identify the service provider (name, address, and telephone number) responsible for each charge so that consumers know and have the adequate means of contacting the providers of each service to which they subscribe.

### **Carrier of Last Resort**

Basic wireline telephone service is essential for all people, particularly older people who need it to maintain contact with their families and communities. For this reason, the DTC should establish a regulation that ensures that all consumers, whether or not they receive service from a carrier of last resort, have a right to access to basic local exchange service as long as basic local exchange service charges are paid, regardless of whether any charges for non-basic local exchange services are paid.

### **Consumer Disclosures**

Proper disclosures will empower consumers at three distinct points in time – (1) when marketers solicit customers with marketing information; (2) when confirming the terms of the agreement with the provider; and (3) when reviewing customer bills. For these reasons, AARP supports the adoption of strong consumer disclosure rules and recognizes the importance of consumer information and mandatory disclosures in the telecommunications market. The DTC should require providers to supply accurate and timely information for consumers and prohibit unfair and deceptive marketing and trade practices. Such an approach is not only typical, but crucial to further the development of a healthy marketplace. Consumers must have access to information about alternative providers, prices, and key terms of service in order to act rationally to make decisions among multiple service options.

### **Marketing Practices and Consumer Protections**

All telecommunications companies should be subject to statutes governing unfair and deceptive acts and practices and to consumer protection laws that forbid fraudulent or misleading marketing practices. These laws should also provide meaningful remedies for fraudulent and deceptive marketing. Integral to fair marketing are legal standards that require key information about rates. Terms and conditions of service should be provided to consumers in a clear and conspicuous



manner. Telecommunications companies should be restricted from marketing of optional services when a consumer calls to inquire about stand-alone basic service.

### **Dispute Resolution**

When consumers are wronged in a marketplace transaction, appropriate and adequate redress must be available. Clear disclosures identifying how and where aggrieved consumers can complain and seek redress must be provided. The full range of enforcement actions (e.g., administrative enforcement, individual and class action lawsuits, and criminal prosecutions) should be available and used where appropriate by government officials and individuals. Mandatory binding arbitration infringes on a consumer's ability to seek redress and should be prohibited.

### **Cramming**

With respect to cramming, the DTC should take the following actions:

- Require all telecommunications providers to obtain clear, verifiable, and written authorization before they switch any consumer's service provider;
- Ensure that telephone bills contain complete, clear, and truthful descriptions of all listed charges and clearly identify the service provider (by name, address, and telephone number) responsible for each charge;
- Impose substantial penalties on all telecommunications service providers that engage in slamming, cramming, and other deceptive practices; and
- Ensure that consumers who have been slammed or crammed do not have to pay for any of the resulting charges and receive full refunds if they have paid for unwanted services.

### **Security Deposits**

If permitted, the amount of security deposits should be capped to a reasonable level and refunded after 12 months of timely payment. If wireline, wireless, and cable service providers are permitted to require an applicant to pay a security deposit because of a credit score, the following minimum consumer protections should be required:

- Credit scores should not be the only method of determining whether to require a security deposit.
- Applicants who are required to pay a security deposit as a result of a credit score should have an opportunity to demonstrate creditworthiness through other means.
- Service providers must disclose credit scores to all applicants required to pay a security deposit based on their score. The provider must also provide such applicants with the name and contact information of the agency, bureau, or other entity providing the score as well as with the rights and disclosures required by the Fair Credit Reporting Act, the Equal Credit Opportunity Act, and any state utility, credit, and collection regulations.
- Providers should disclose their use of credit scoring to all consumers.
- Credit-scoring procedures should be applied uniformly to all customers and service areas.
- Customers who pay a security deposit should have the right to receive a full refund of their deposit plus interest if they fulfill their payment obligations to the provider over a reasonable amount of time.



- The DTC should review and approve the development and use of credit scores and the specific score below which a security deposit will be required.
- To help determine the impact of credit scoring on consumer access to essential services, providers should be required to submit all relevant data to the DTC on an annual basis.

### **Privacy**

With respect to customer privacy, the DTC should:

- Require wireline, wireless, and cable service providers to protect a customer's proprietary network information and usage, billing, payment, and other personal data from disclosure unless it has been authorized by the customer or is necessary to provide services the customer has requested;
- Ensure that consumers have avenues for redress if their personal information is inappropriately disclosed or used and have the right to correct the listing of their personal information if it is false or inaccurate; and
- Establish rules to specify the procedures by which customers can provide authorization for disclosures and be informed of their privacy rights.

### **Additional Wireless Consumer Protections**

The growth of the wireless industry has been accompanied by widespread unfair, misleading, and deceptive business practices and, as a result, chronic consumer frustration with wireless service. For these reasons, the DTC should adopt rules based on the following key elements to promote informed choice and consumer protection in the market for wireless telecommunications services:

- Prohibit wireless carriers from imposing any separate monthly line-item charges, surcharges or other fees on customers' bills unless such charges have been expressly mandated by federal, state, or local law;
- Require wireless carriers to notify customers in advance of any changes in rates, charges, terms, and conditions and allow customers 30 days from the date of the notification to terminate their service, without penalty, if the change results in higher rates or more restrictive terms or conditions;
- Prohibit wireless carriers from charging customers for any portion of a month in which they do not receive service;
- Require wireless carriers to ensure that chargeable time for call transmissions will not begin until a connection between the called and calling party has been established;
- Prohibit wireless carriers from holding a subscriber responsible for any unauthorized charges associated with the use of wireless telecommunications equipment and services due to loss or theft if the loss or theft is reported promptly to the wireless carrier; and,
- Require publication of DTC and FCC contact information on each billing statement to inform customers of the appropriate channels for lodging complaints.

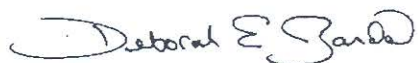
### **Consumer Education**

Finally, AARP would like to stress its strong support for consumer education and outreach, as well as public participation. All consumer education programs must be adequately funded to help consumers select services wisely and protect themselves against fraud. However, education and outreach by themselves are woefully insufficient to adequately protect consumers. Consumers are

also harmed when their right to participate in general public policy proceedings is unfairly restricted. Massachusetts residents should have the right to participate in all public policy proceedings that impact their interests as consumers.

AARP appreciates the opportunity to respond to the DTC's request for comments on efforts to modernize its billing and termination consumer protection regulations. Please do not hesitate to contact Jessica Costantino, Director of Advocacy, at 617.305.0538 or [jcostantino@aarp.org](mailto:jcostantino@aarp.org) if we may be of assistance on this matter.

Very truly yours,

A handwritten signature in black ink that reads "Deborah E. Banda". The signature is written in a cursive style with a large, looping initial "D".

Deborah E. Banda  
State Director