

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
AT&T Mobility LLC)
Unauthorized Third-Party Billing Charges)
File No.: EB-TCD-14-00016480
Account No.: 201532170001
FRN: 0004979233

ORDER

Adopted: October 8, 2014

Released: October 8, 2014

Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) and AT&T Mobility LLC (AT&T Mobility) have entered into a Consent Decree as part of a global settlement totaling \$105,000,000 in payments and restitution to consumers. This Consent Decree resolves allegations that AT&T Mobility charged consumers for third-party products and services that the consumers did not authorize, a practice that is more commonly known as cramming. AT&T Mobility provides mobile voice and data services to consumers throughout the United States. AT&T Mobility bills its customers not only for its own voice and data services, but also for the products and services of numerous third parties. Until January 2014, AT&T Mobility included charges for third-party Premium Short Message Services (PSMS) on its customers' telephone bills. PSMS charges included services such as monthly subscriptions for ringtones, wallpapers, and text messages providing horoscopes, flirting tips, celebrity gossip, and other information. The typical charge for these types of subscriptions was \$9.99 per month.

2. AT&T Mobility's bills identified the date the customer was purported to have purchased the PSMS product or service, the costs (as well as applicable renewal dates), any applicable taxes, the third-party provider, and the short code associated with the service. However, the description sometimes contained only the product provided by the third party, such as "Variety Texts," "Mobizzo.com," etc. AT&T Mobility's practices generated a number of complaints from consumers who contended that they never authorized the PSMS charges that showed up on their bills. Some complainants also alleged that when they contacted AT&T Mobility, the company could not explain the charge or how it came to be placed on the bill. Some complaints alleged that AT&T Mobility refused to give them refunds or would limit refunds to just one or two months of charges.

3. The Bureau has investigated these matters and contends that AT&T Mobility violated the law by: (i) engaging in an unjust and unreasonable practice of billing consumers for products or services they had not authorized; and (ii) failing to provide a brief, clear, non-misleading, plain language description of the third-party charges on the telephone bills sent to consumers. To resolve the Bureau's investigation, and as part of the global settlement reached with the Federal Trade Commission and Attorneys General of the fifty states and the District of Columbia, AT&T Mobility will provide a total of \$105,000,000 in payments and funds for consumer redress. Specifically, AT&T Mobility will pay \$80,000,000 to fund a consumer redress program to give refunds to victims of its unlawful cramming activities; \$20,000,000 to the fifty states and District of Columbia participating in the settlement; and \$5,000,000 to the United States Treasury. The Consent Decree will also, among other things, prohibit AT&T Mobility from charging

customers for third-party PSMS products or services; require AT&T Mobility to develop and implement a system to verify third-party charges via consumers' express informed consent before charges are placed on bills; require AT&T Mobility to block third-party charges for free when a customer requests a block; help customers identify unwanted charges by implementing a system to provide separate purchase confirmations for third-party charges, and place clear descriptions of such charges in a dedicated section on customer bills; designate a senior corporate manager as a compliance officer; implement a training program to ensure customer service personnel resolve customer complaints about unauthorized third-party charges; and develop and implement a six-year compliance plan.

4. In this Order, we adopt the attached Consent Decree entered into between the Bureau and AT&T Mobility. The Consent Decree terminates the investigation initiated by the Bureau regarding AT&T Mobility's compliance with Section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 201(b), and Section 64.2401(b) of the Commission's rules, 47 C.F.R. § 64.2401(b).

5. The Bureau and AT&T Mobility have negotiated the terms of the Consent Decree that resolves these matters. A copy of the Consent Decree is attached hereto and incorporated by reference.

6. 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.

7. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether AT&T Mobility possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

8. Accordingly, **IT IS ORDERED**, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and the authority delegated by Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R §§ 0.111, 0.311, that the attached Consent Decree **IS ADOPTED**.

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

10. **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 Jacquelyne Flemming, AVP- External Affairs/Regulatory, AT&T Services, Inc., 1120 20th St. NW, Suite 1000, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief, Enforcement Bureau

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	File No.: EB-TCD-14-00016480
)	
AT&T Mobility LLC)	Acct. No.: 201532170001
)	
Unauthorized Third-Party Billing Charges)	FRN: 0004979233
)	

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and AT&T Mobility LLC, by their authorized representatives, hereby enter into this Consent Decree that resolves and terminates an investigation into AT&T Mobility's compliance with Section 201(b) of the Communications Act of 1934, as amended, and the Truth-In-Billing Rules.¹

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (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 Mobility" means AT&T Mobility LLC, acting on behalf of itself and its FCC licensed wireless operating affiliates, successors, and assigns.
 - (d) "Bill" means a Consumer's mobile telephone bill or prepaid mobile account, as applicable.
 - (e) "Block" means a restriction placed on a Consumer's account that prevents one or more lines from being used to purchase Third-Party Products and from being billed for Third-Party Charges on a Consumer's Bill.
 - (f) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (g) A statement is "Clear and Conspicuous" if it is disclosed in such size, color, contrast, location, duration, and/or audibility that it is readily noticeable, readable, understandable, and 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:

¹ 47 U.S.C. § 201(b); 47 C.F.R. § 64.2400 *et seq.*

- 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) “Commercial PSMS” means the use of PSMS to bill for Products.
- (i) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (j) “Communications Laws” mean the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which AT&T Mobility is subject.
- (k) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at Section 13.
- (l) “Consumer” means a current or former customer, subscriber, or purchaser of Products for which Third-Party Charges are placed on the Consumer’s Bill, whether that person is responsible for paying the Bill or has a device that is billed to a shared account. “Consumer” does not include any business entity or any state, federal, local, or other governmental entity, if (1) the business entity or government, and not the employees or individuals working for or with that business entity or government, is solely liable to AT&T Mobility for payment of all charges billed on that account, and (2) the ability to process Third-Party Charges through that account is not available unless the business entity or government affirmatively requests that certain or all mobile devices be provided the ability to authorize placement of such Third-Party Charges.
- (m) “Effective Date” means the date that the Stipulated Order for Permanent Injunction and Monetary Judgment is entered by the District Court for the Northern District of Georgia as part of the FTC Settlement. Provided, however, this Consent Decree is binding upon execution.
- (n) “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 material facts.
- (o) “FTC” means the Federal Trade Commission.
- (p) “FTC Settlement” means the Stipulated Order For Permanent Injunction And Monetary Judgment filed by AT&T Mobility and the FTC in the U.S. District Court for the Northern District of Georgia to resolve the concurrent investigation by the FTC regarding Unauthorized Third-Party Charges.

- (q) "Investigation" means the inquiry undertaken by the Bureau in File No. EB-TCD-14-00016480, and involving the facts and issues set forth in Sections 2 through 7 of this Consent Decree.
- (r) "Newly Acquired Entities" means any entities AT&T has acquired since September 2013 and any entities AT&T acquires in the future.
- (s) "Participating States" means the following states and commonwealths: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakotas, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, as well as the District of Columbia.
- (t) "Parties" mean AT&T Mobility and the Bureau, each of which is a "Party."
- (u) "Premium Short Messaging Service" or "PSMS" means a service that distributes paid content to a Consumer using the Short Message Service ("SMS") and Multimedia Messaging Service ("MMS") communication protocols via messages that are routed using a Short Code, resulting in a Third-Party Charge.
- (v) "Product" means content and/or services that can be used on a mobile device for which charges are placed on the Consumer's Bill by AT&T Mobility. "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 (where AT&T Mobility markets via national media the content and/or services with both AT&T Mobility's brand and a Third Party's brand), or white label products branded by AT&T Mobility where (i) content and/or services are sold by AT&T Mobility or jointly and cooperatively by AT&T Mobility and another entity; (ii) the content and/or services are placed on the subscriber's Bill as an AT&T Mobility charge; and (iii) AT&T Mobility is responsible for accepting complaints, processing refunds, and other communications with the consumer regarding the charge.
- (w) "Rules" mean the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- (x) "Short Code" means a common code leased from the CTIA Common Short Code Administration that is comprised of a set of numbers, usually four (4) to six (6) digits, which text messages can be sent to and received from using a mobile telephone.
- (y) "States Attorneys General Settlement" means the Assurances of Voluntary Compliance executed by AT&T Mobility and the Participating States, or similar document as required by applicable state law, to resolve the concurrent investigation by the Participating States regarding Unauthorized Third-Party Charges.

- (z) “Third Party” means an entity or entities, other than AT&T Mobility, that provides a Product to Consumers for which billing is made through AT&T Mobility’s Bills.
- (aa) “Third-Party Charge” means a charge for a Third-Party Product placed on a Consumer’s Bill.
- (bb) “Third-Party Product” means a Product provided by a Third Party.
- (cc) “Truth-In-Billing Rules” mean the Rules set forth at 47 C.F.R. § 64.2400 *et seq.*
- (dd) “Unauthorized Third-Party Charge” means a Third-Party Charge placed on a Consumer’s Bill without the Consumer’s Express Informed Consent.

II. BACKGROUND

2. AT&T Mobility provides mobile voice and data services to consumers throughout the United States. AT&T Mobility bills its customers not only for its own voice and data services, but also for the products and services of numerous third parties. Until January 2014, AT&T Mobility included Third-Party PSMS Charges on its customers’ telephone bills for services such as monthly subscriptions for ringtones, wallpaper, and text messages providing horoscopes, flirting tips, celebrity gossip, and other information. The charge for these types of subscriptions typically was \$9.99 per month. While AT&T’s bills identified the date the customer was purported to have purchased the Third-Party Product, the costs (as well as applicable renewal dates), any applicable taxes, the Third Party, and the short code associated with such Product, the description sometimes contained only the Product provided by the Third Party, such as “Variety Texts,” “Mobizzo.com,” etc.

3. Consumers have complained that they were billed by AT&T Mobility for Third-Party Charges that they did not authorize. Some have also alleged that when they contacted AT&T Mobility, the company could not provide documentation of authorization for the disputed Third Party Charges, and others have complained that AT&T Mobility refused to refund the disputed Third Party Charges or would only refund one or two months of Third-Party Charges.

4. 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” 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).

5. Section 64.2401(b) of the Truth-in-Billing rules requires carriers to include not only the billed charges but also “a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are bill correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.”

6. The Bureau has initiated an Investigation based on concerns that AT&T Mobility, through the course of conduct above, violated:

- a. Section 201(b) of the Act by engaging in an unjust and unreasonable practice, for or in connection with an interstate or foreign communication service by radio, by assessing charges on its customers’ telephone bills for products or services they had not authorized; and

b. Section 64.2401(b) of the Truth-in-Billing Rules by failing to provide, on its telephone bills, a brief, clear, non-misleading, plain language description of the service or services for which it charged its customers.

7. At AT&T Mobility's request, the Bureau and AT&T Mobility negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

III. TERMS OF AGREEMENT

8. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.
9. **Jurisdiction.** For purposes of this matter, AT&T Mobility agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.
10. **Effective Date; Newly Acquired Entities; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. For Newly Acquired Entities, AT&T Mobility shall have a reasonable period of time, which in no event shall exceed six (6) months, in which to bring said entities into compliance with this Consent Decree, during which period AT&T Mobility shall take reasonable steps to obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order. If the Bureau determines that AT&T Mobility made any material misrepresentation or omission relevant to the resolution of this Investigation, the Bureau retains the right to seek modification of this Consent Decree.
11. **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 Mobility agrees to the terms, conditions, and procedures contained herein. The Parties, by and through their counsel, have agreed that entry of this Consent Decree fully and finally resolves all issues between them arising from or related to PSMS or claims of Unauthorized Third-Party Charges for all time periods up to the date of entry of this Consent Decree and precludes further litigation between the Commission and AT&T Mobility on the resolved issues except for purposes of enforcing this Consent Decree. In the case of Newly Acquired Entities, this paragraph only covers conduct occurring during the time such entities are or were affiliates or subsidiaries of AT&T Mobility. The Parties understand and agree that this Consent Decree is a compromise settlement of disputed issues and that the consideration for this Consent Decree shall not be deemed or construed as: (a) an admission of the truth or falsity of any claims or allegations heretofore made or any potential claims; (b) an admission by AT&T Mobility that it has violated or breached any law, statute, regulation, term, provision, covenant or obligation of any agreement; or (c) an acknowledgement or admission by any of the Parties of any duty, obligation, fault or liability whatsoever to any other party or to any third party. This Consent Decree does not constitute a finding of law or fact, or any evidence supporting any such finding, by any court or agency that AT&T Mobility has engaged in any act or practice declared unlawful by any laws, rules, or regulations of any state. AT&T Mobility denies any liability or violation of law and enters into this Consent Decree without any admission of liability. It is the intent of the Parties that

this Consent Decree shall not be used as evidence or precedent in any action or proceeding, except an action to enforce this Consent Decree.

12. **Compliance Officer.** Within thirty (30) days after the Effective Date, AT&T Mobility shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as compliance officer for this matter and to discharge the duties set forth below. The compliance officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that AT&T Mobility complies with the terms and conditions of the Compliance Plan and this Consent Decree.
13. **Compliance Plan.** AT&T Mobility shall implement and comply with the following.
 - (a) **Commercial PSMS.** AT&T Mobility will not make available to Consumers the option to purchase Products through Commercial PSMS or bill charges for Commercial PSMS.
 - (b) **Authorization of Third-Party Charges.** AT&T Mobility shall begin developing and implementing a system, which shall be fully implemented by AT&T Mobility no later than February 1, 2015, to obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge. The Consumer's Express Informed Consent may be provided to AT&T Mobility or to another person or entity obligated to AT&T Mobility to obtain such consent. AT&T Mobility or other person or entity shall retain sufficient information to allow such consent to be verified. If Express Informed Consent is not directly collected by AT&T Mobility, AT&T Mobility shall implement reasonable policies and practices² to confirm Express Informed Consent will be appropriately collected and documented by the person or entity obligated to do so, and shall monitor and enforce those policies and practices to confirm Express Informed Consent is appropriately collected, require remedial action (which may include, for example, suspension, proactive credits, or retraining), or cease billing for such charges. While the system described by this Section is being developed and implemented, AT&T Mobility shall take reasonable steps to obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge.
 - (c) **Purchase Confirmation for Third-Party Charges.** AT&T Mobility shall implement a system whereby the Consumer (and, for multiline accounts, the primary or principal account holder or owner (collectively "primary account holder"), if designated) will be sent a purchase confirmation separate from the Bill of every Third-Party Charge that will appear on his or her Bill. Any such purchase confirmation shall be sent within a reasonable period of time following the time a Third-Party Product is purchased or renewed and identify the Block options that AT&T Mobility makes available to Consumers and/or provide access to such information. For multiline accounts, AT&T Mobility may provide the primary account holder the option to elect not to receive such purchase confirmations.
 - (d) **Blocking.** No later than September 30, 2014, to the extent AT&T Mobility permits Third-Party Charges on Consumers' Bills, AT&T Mobility shall:

² For purposes of this Section, for charges incurred through operating system storefronts, such reasonable policies and practices may, for example, consist of AT&T Mobility or its agents making a statistically valid random sample of purchases to demonstrate whether the storefront is collecting Express Informed Consent consistent with this Consent Decree.

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- i. At no charge to the Consumer, offer Blocking of Third-Party Charges; and
 - ii. Provide a Clear and Conspicuous disclosure about Third-Party Charges and Block options in informational material provided at or near the time of subscribing to or activating service, and which is 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 options available to Consumers to Block Third-Party Charges. Consumers shall not incur any data or text charges for receiving or accessing the information discussed in this Section.
- (e) **Billing Information and Format.** No later than February 1, 2015:
- i. Except for pre-paid mobile accounts, all Third-Party Charges shall be presented in a dedicated section of the Consumer's Bill (or in a dedicated section for each mobile line on the account, if the Bill sets forth charges by each line) and shall be set forth in such a manner as to distinguish the Third-Party Charges contained therein from AT&T Mobility's service, usage, and other charges. This section of the Consumer's Bill shall contain a heading that Clearly and Conspicuously identifies that the charges are for Third-Party Products; and
 - ii. The Third-Party Charge billing section required by this Section shall include 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 Mobility includes a Third-Party Charge billing section for each mobile line on the account, AT&T Mobility 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.
- (f) **Consumer Contacts.** When a Consumer contacts AT&T Mobility with regard to a Third-Party Charge or a Block, AT&T Mobility shall:
- i. Provide the Consumer with access to a customer service representative who has access to the Consumer's 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 Mobility 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. Beginning no later than thirty (30) days after the Effective Date, for any Consumer who claims he or she did not authorize a Third-Party Charge incurred after the Effective Date, either (1) 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) deny a refund if:
 - 1. AT&T Mobility has information demonstrating that the Consumer provided Express Informed Consent to the Third-Party Charge, offers to provide such information to the Consumer, and, upon request, provides such information to the Consumer; or

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2. The disputed Third-Party Charge (either a single charge or a recurring charge) was initially incurred more than six (6) years prior to when the Consumer contacts AT&T Mobility and AT&T Mobility is in compliance with Section 13.c with respect to the charge;
 - 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 Mobility, offer the Consumer the opportunity to Block future Third-Party Charges;
 - iv. Beginning no later than thirty (30) days after the Effective Date, 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 Section 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; and
 - v. Beginning no later than thirty (30) days after the Effective Date, in the event a customer disputes a Third-Party Charge as unauthorized, until such time as the provisions of Section 13.f.ii.2.1 or 2 are satisfied, AT&T Mobility 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; and
 4. suspend, cancel, or take any action that may adversely affect the Consumer's mobile telephone service or functionality for any reason related to non-payment of any disputed Third-Party Charge.
- (g) **Training.** AT&T Mobility shall, for at least six (6) years from the Effective Date, conduct a training program with its customer service representatives, at least annually, to administer the requirements of this Consent Decree. To the extent that AT&T Mobility no longer permits Third-Party Charges on Consumers' Bills, AT&T Mobility will conduct one training program within three months of such cessation and will have no further obligation to conduct training programs under this Section so long as AT&T Mobility does not permit Third-Party Charges on Consumers' Bills.
- (h) **Record Keeping.** No later than February 1, 2015, AT&T Mobility shall:
- i. implement a process to track (1) all Consumer claims that a Third-Party Charge was unauthorized for which AT&T Mobility demonstrated that purchaser provided Express Informed Consent; (2) refunds/credits provided due to AT&T Mobility's inability to provide proof of Express Informed Consent in response to such a claim by a Consumer; and (3) any other information necessary to prepare the Quarterly Reports described in Section 13.j; and
 - ii. implement systems that allow it to maintain the information described in this Section. Each record created pursuant to this Section shall be maintained for a period of six (6) years from the date of its creation. AT&T Mobility's obligation to maintain records for six years from the date of their creation shall

continue after AT&T Mobility's obligation to provide the Quarterly Reports described in Section 13.j expires.

- (i) **Cooperation with Bureau.** AT&T Mobility shall, for at least six (6) years from 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 Mobility's Bill, 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 Mobility has access to such information. AT&T Mobility shall provide such information within a reasonable period and shall cooperate in good faith with such requests, including investigating any reports of Unauthorized Third-Party Charges AT&T Mobility receives from the Bureau.
- (j) **Information Sharing with the Bureau.**
 - i. AT&T Mobility shall, for at least six (6) years from April 1, 2015, provide a report to the Bureau every three (3) months ("Quarterly Reports") documenting its compliance with the requirements of Section 13.f. Without limiting AT&T Mobility's obligations under Section 13.f, the quarterly reports shall include the following:
 - 1. the total number of Consumer claims for unauthorized Third-Party Charges for which Carrier has demonstrated that the purchasers provided Express Informed Consent;
 - 2. all refunds/credits provided, in dollars, due to AT&T Mobility's inability to provide proof of Express Informed Consent in response to such a claim by Consumers;
 - 3. for the claims and refunds/credits identified under subsections 1 and 2, above, the Third-Party Product, the Third Party, and the entity responsible for ensuring Express Informed Consent from the Consumer if different than AT&T Mobility; and
 - 4. a description of any remedial action taken by AT&T Mobility against Third Parties for Unauthorized Third-Party Charges, including, but not limited to, any actions taken to limit or terminate a Third Party's ability to place Third-Party Charges on a Consumer's Bill. The description of any remedial action provided under this subsection shall include: (a) the name and contact information of such Third Party, (b) a description of the Product in connection with which the remedial action that was taken, (c) an indication of whether the Product was suspended or terminated (and if the Product was suspended, AT&T Mobility shall include the date or conditions for reinstatement), and (d) the reason for the remedial action.
 - ii. Information in Quarterly Reports shall be presented on a national basis and provided electronically in a format to be agreed to by the Parties. Quarterly Reports shall be provided within thirty (30) days of the end of each calendar quarter.

- iii. AT&T Mobility shall contemporaneously file with the Bureau copies of all reports filed with the FTC pursuant to the FTC Settlement.
 - iv. The Bureau shall treat all reports received under Sections 13.i or 13.j as confidential under 47 C.F.R. § 0.457.
- (k) **Consumer Redress for Unauthorized Charges.** The Parties recognize that AT&T Mobility has agreed to contribute to and participate in the consumer redress program administered by the FTC in consultation with the FCC and the Participating States, pursuant to the FTC Settlement.
- (l) **Settlement Amount.** AT&T has agreed to a global settlement with the FCC, FTC and Participating States valued at one hundred five million dollars (\$105,000,000) to fully resolve the Investigation as well as the allegations and claims related to Third Party Charges that are subject of the FTC Settlement and the States Attorneys General Settlement. Specifically:
- i. As part of and pursuant to this Consent Decree, AT&T shall pay, within thirty (30) days of the Effective Date, five million dollars (\$5,000,000) to the United States Treasury, in accordance with Section 15, in order to settle the Bureau's Investigation;
 - ii. As part of and pursuant to the FTC Settlement, AT&T shall pay eighty million dollars (\$80,000,000) to a consumer redress program, administered by the FTC in consultation with the FCC and the Participating States; and
 - iii. As part of and pursuant to the States Attorneys General Settlement, AT&T has agreed to pay twenty million dollars (\$20,000,000) to the Participating States.
14. **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 Act against AT&T Mobility 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 Commission from investigating new evidence of noncompliance by AT&T Mobility with the Communications Laws.
15. **Payment Process.** AT&T Mobility acknowledges and agrees that upon Effective Date of this Consent Decree, the payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).³ AT&T Mobility shall send electronic notification of each payment to Richard Hindman at richard.hindman@fcc.gov and to fceebaccess@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.⁴ 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 AT&T Mobility must follow based on the form of payment it selects:

³ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

⁴ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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.

If AT&T Mobility has questions regarding payment procedures, it may contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

16. **Waivers.** AT&T Mobility 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, provided the Bureau issues the Adopting Order as defined herein. AT&T Mobility 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 Adopting Order, neither AT&T Mobility nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and AT&T Mobility shall waive any statutory right to a trial *de novo*. AT&T Mobility hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.
17. **Invalidity.** In the event that (i) this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, or (ii) a court of competent jurisdiction fails to approve the FTC Settlement, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.
18. **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 Mobility does not expressly consent) that provision will be superseded by such Rule or Commission order.
19. **Application.** The provisions of this Consent Decree shall apply to AT&T Mobility and its officers, employees, agents, successors, assignees, merged or acquired entities, wholly owned subsidiaries, and all other persons or entities acting in concert or participation with any of them, who receive actual notice of this Consent Decree, regarding AT&T Mobility's placement of Third-Party Charges on Consumer Bills.
20. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

21. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.
22. **Section Headings.** The headings of the sections in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.
23. **Authorized Representative.** The individual signing this Consent Decree on behalf of AT&T Mobility represents and warrants that he is authorized by AT&T Mobility to execute this Consent Decree and to bind AT&T Mobility to the obligations, including all payment obligations, set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.
24. **Entire Agreement; Counterparts.** This Consent Decree (and any attachments) represents the full and complete terms of the settlement entered by the parties hereto. This Consent Decree may be signed in any number of counterparts (including by facsimile and by electronic copy), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Travis LeBlanc
Chief
Enforcement Bureau

Date

Mark S. Collins
Senior Vice President
AT&T Mobility Services LLC
1055 Lenox Park Blvd NE, Office D245
Atlanta, GA 30319

Date