

Before the  
Federal Communications Commission  
Washington, DC 20554

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In the Matter of	)	File No.: EB-TCD-14-00016039
	)	
T-Mobile USA, Inc.	)	Acct. No.: 201532170002
	)	
Unauthorized Third-Party Billing Charges	)	FRN: 0004121760
	)	

**ORDER**

**Adopted: December 19, 2014**

**Released: December 19, 2014**

Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) and T-Mobile USA, Inc. (T-Mobile) have entered into a Consent Decree as part of a global settlement totaling at least \$90,000,000 in payments and restitution to consumers. This Consent Decree resolves allegations that T-Mobile charged consumers for third-party products and services that the consumers did not authorize, a practice that is more commonly known as cramming.

2. T-Mobile provides mobile voice and data services to consumers throughout the United States. T-Mobile bills its customers not only for its own voice and data services, but also for the products and services of numerous third parties. Until late 2013, T-Mobile 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 charge for these types of subscriptions ranged from \$0.99 to \$14.00, but typically was \$9.99 per month.

3. T-Mobile's PSMS charges generated complaints from consumers. As T-Mobile customers inquired and learned about the third-party charges T-Mobile assessed on their bills, some complained that they did not authorize such charges, and sought refunds. Although T-Mobile provided full refunds in some instances, it told other customers that it could do nothing about the unauthorized charges, or that it could offer only a partial refund. In still other cases, T-Mobile instructed customers to seek refunds directly from the merchant associated with a third-party charge, but failed to provide accurate contact information for such merchant.

4. T-Mobile's bills often presented the PSMS charges as associated with to a string of digits and letters, such as, for example, "8888906150BrnStorm23918," which did not clearly identify the nature and source of the charge. The Commission's investigation uncovered complaints from consumers making allegations like "T-Mobile is charging me extra and is making it difficult to prove who initiated

these charges,”<sup>1</sup> and “T-Mobile[’s] bill is confusing . . . who knows what these [charges] are for anyway.”<sup>2</sup>

5. The Bureau has investigated these matters and contends that T-Mobile 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, T-Mobile will provide no less than \$90,000,000 in payments and funds for consumer redress. Specifically, a minimum of \$67,500,000 that will inure directly to the benefit of consumers. T-Mobile has agreed to honor 100% of claims by consumers, even if they exceed \$67,500,000. In addition, T-Mobile has agreed to pay \$18,000,000 to the fifty states and District of Columbia participating in the settlement, and \$4,500,000 to the United States Treasury. The Consent Decree will also, among other things, prohibit T-Mobile from charging customers for third-party PSMS products or services; require T-Mobile to develop and implement a system to verify third-party charges via consumers’ express informed consent before charges are placed on bills; require T-Mobile 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.

6. In this Order, we adopt the attached Consent Decree entered into between the Bureau and T-Mobile. The Consent Decree terminates the investigation initiated by the Bureau regarding T-Mobile’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).

7. The Bureau and T-Mobile 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.

8. 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.

9. 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 T-Mobile possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

10. 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**.

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

12. **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 David H. Solomon, Counsel for T-

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<sup>1</sup> Complaint of D. McMillan, Better Business Bureau Complaint File No. 22405221 (Sept. 6, 2013).

<sup>2</sup> Complaint of P. Briganti, Better Business Bureau Complaint File No. 22404777 (Sept. 30, 2013).

Mobile USA, Inc., Wilkinson Barker Knauer, LLP, 2300 N Street, NW, Suite 700, Washington, DC 20037.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc  
Chief, Enforcement Bureau

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	File No.: EB-TCD-14-00016039
	)	
T-Mobile USA, Inc.	)	Acct. No.: 201532170002
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Unauthorized Third Party Billing Charges	)	FRN: 0004121760
	)	
	)	

**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission and T-Mobile USA, Inc., by their authorized representatives, hereby enter into this Consent Decree that resolves and terminates an investigation into T-Mobile’s compliance with Section 201(b) of the Communications Act of 1934, as amended, and the Truth-In-Billing Rules.<sup>1</sup>

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) “Account Holder” means any individual or entity who is or was responsible for paying all charges associated with all lines on that individual’s or entity’s mobile phone account with T-Mobile.
  - (b) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (c) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (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 materially modifies, explains or clarifies other information with which it is

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

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 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 T-Mobile is subject.
- (k) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at Section 16.
- (l) “Consumer” means a current or former T-Mobile customer, subscriber, or purchaser of Products for which Third-Party Charges are or were placed on the Consumer’s Bill from T-Mobile, whether that person is the individual 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 T-Mobile 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 Western District of Washington 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 T-Mobile and the FTC in the U.S. District Court for

the Western District of Washington 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-14-00016039, and involving the facts and allegations set forth in Sections 2-10 of this Consent Decree and the facts and allegations developed by the FTC in the inquiry underlying the FTC Settlement, which the FTC shared with the Bureau, as they relate to conduct occurring before the Effective Date.
- (r) “Newly Acquired Entities” means any entities T-Mobile 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 Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, as well as the District of Columbia.
- (t) “Parties” mean T-Mobile and the Bureau, each of which is a “Party.”
- (u) “Person” shall have the same meaning as defined in 47 U.S.C. § 153(39).
- (v) “Premium Short Messaging Service,” or “PSMS,” means a service that distributes paid content to a Consumer using the Short Message Service and Multimedia Messaging Service communication protocols via messages that are routed using a Short Code, resulting in a Third-Party Charge.
- (w) “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 T-Mobile. “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 and white label products where content and services are sold jointly and cooperatively by T-Mobile and another entity, where the content and/or services is placed on the Consumer’s Bill as a T-Mobile charge, and T-Mobile is responsible for accepting complaints, processing refunds, and other communications with the Consumer regarding the charge. “Product” also excludes handset insurance, extended warranty offerings, and collect calling services.
- (x) “Rules” mean the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (y) “Short Code” means a common code leased from the CTIA Common Short Code Administration that is composed of a set of numbers, usually 4 to 6 digits, to and from which text messages can be sent and received from using a mobile telephone.
- (z) “States Attorneys General Settlement” means the Assurances of Voluntary Compliance executed by T-Mobile 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.

- (aa) “T-Mobile” means T-Mobile USA, Inc. and its affiliates, successors, and assigns.
- (bb) “Third Party” means an entity or entities, other than T-Mobile, that provides a Product to Consumers for which billing is made through T-Mobile’s Bills.
- (cc) “Third-Party Charge” means a charge for the purchase of a Third-Party Product placed on a Consumer’s Bill.
- (dd) “Third-Party Product” means a Product provided by a Third Party.
- (ee) “Third-Party Merchant” means any Person, other than T-Mobile, that purportedly provides one or more Products to mobile telephone users.
- (ff) “Truth-In-Billing Rules” mean the Rules set forth at 47 C.F.R. § 64.2400 *et seq.*
- (gg) “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. T-Mobile provides mobile voice and data services to Consumers throughout the United States. T-Mobile bills its customers not only for its own voice and data services, but also for the products and services of some third parties. Until late 2013, T-Mobile included Third-Party 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 ranged from \$0.99 to \$14.00, but typically was \$9.99 per month.

3. On customer mobile phone bills, T-Mobile identified Third-Party Charges as “Usage Charges” in the bill summary on the first page of its bill and within the Monthly Summary section as “Premium Services” in the “Account Service Detail” of its bills. Near the middle or end of its mobile bills, within the Account Service Detail/Premium Service/Other Service Provider Charges subsection, T-Mobile purported to identify the date, content provider, time, description, and usage charges associated with a Third-Party Charge; an example of the description of a service offered was “8888906150BrnStorm23918.” In this example, T-Mobile explains that the “8888906150” portion of the description refers to the toll-free number; the “BrnStorm” portion refers to the specific service in question (a text messaging service called “Brain Storm” in this example); and the last 5 digits (“23918”) refer to the applicable short code associated with the service. In this example, T-Mobile identified on the bill the content provider as “Shaboom Media.” In billing information available online to customers, T-Mobile also identified Third-Party Charges as “Usage Charges” in the bill summary, and as “Premium Services” to customers who clicked on an icon to expand the information available for “Use Charges.”

4. As T-Mobile customers inquired and learned about the Third-Party Charges T-Mobile assessed on their bills, some complained that they did not authorize such charges, and sought refunds. T-Mobile did not provide full refunds in all instances.

5. The Bureau alleges as follows: T-Mobile calculated monthly “refund rates” to track how many customers complained that they had not authorized the Third-Party Charges appearing on their bills. T-Mobile subjected subscription offerings with a refund rate that exceeded 15% to a “Performance Improvement Plan,” or “PIP,” but it continued to charge its customers for the subscription. Even if T-Mobile discontinued one subscription offering through the PIP process, T-Mobile continued to charge its customers for other subscriptions offered by the same Third-Party Merchant. T-Mobile charged its customers for some subscriptions with refund rates as high as 40% in a single month.

6. The Bureau also alleges as follows: In some instances, T-Mobile assessed Third-Party Charges for subscriptions after receiving industry “alerts” identifying the subscription offerings and associated Third-Party Merchants as failing to obtain valid authorization from Consumers. In other instances, T-Mobile assessed Third-Party Charges for subscriptions offered by Third-Party Merchants who had been the subject of news articles or law enforcement or other legal actions for failing to obtain valid authorization from Consumers.

7. 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).

8. 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 billed 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.”

9. The Bureau alleges that T-Mobile, 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.

10. The Bureau and T-Mobile negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

### III. TERMS OF AGREEMENT

11. **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.

12. **Jurisdiction.** For purposes of this matter, T-Mobile 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.

13. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become operative 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. Subject to Section 16, for Newly Acquired Entities, T-Mobile 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 T-Mobile 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 T-Mobile made any material misrepresentation or material omission relevant to the resolution of this Investigation, the Bureau retains the right to seek modification of this Consent Decree.

14. **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, T-Mobile 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 T-Mobile on the resolved issues except for purposes of enforcing this Consent Decree. 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, including any allegations contained in Sections 2 through 10 of this Consent Decree, heretofore made or any potential claims; (b) an admission by T-Mobile 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 T-Mobile has engaged in any act or practice declared unlawful by any laws, rules, or regulations of any state. T-Mobile 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.

15. **Compliance Officer.** Within thirty (30) days of the Effective Date, T-Mobile shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer 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 T-Mobile complies with the terms and conditions of the Compliance Plan and this Consent Decree.

16. **Compliance Plan.** T-Mobile shall implement and comply with the following:

- (a) **Commercial PSMS.** T-Mobile shall not make available to Consumers the option to purchase Products through Commercial PSMS and shall not bill new charges for Commercial PSMS.
- (b) **Authorization of Third-Party Charges.** T-Mobile shall begin developing and implementing a system, which shall be fully implemented by T-Mobile no later than March 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 T-Mobile or to another person or entity obligated to T-Mobile to obtain such consent. T-Mobile 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 T-Mobile, T-Mobile shall implement reasonable policies and practices<sup>2</sup> to confirm Express Informed Consent shall 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

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<sup>2</sup> For purposes of this Section, for charges incurred through operating system storefronts, such reasonable policies and practices may, for example, consist of T-Mobile 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.

Consent is appropriately collected and documented, and where Express Informed Consent has not been appropriately collected and documented, shall 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, T-Mobile 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.** Beginning no later than April 1, 2015, T-Mobile shall implement a system whereby the Consumer (and, for multiline accounts, the Account Holder, if designated) will be sent a purchase confirmation separate from the Bill of every Third-Party Charge, including recurring charges, 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 the recurrence of a Third-Party Charge and shall identify Blocking options that T-Mobile makes available to Consumers and/or provide access to such information. For multiline accounts, T-Mobile may provide the Account Holder the option to elect not to receive such purchase confirmations.
- (d) **Information on Blocking.** Beginning no later than April 1, 2015, T-Mobile shall:
- 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 Blocking options in informational material provided at or near the time of subscribing to service to the extent Third-Party Charges are offered and available with the service, and which is provided in a context separate from the actual subscriber agreement documents. 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.** Beginning no later than April 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 T-Mobile'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.
  - 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 T-Mobile includes a Third-Party Charge billing section for each mobile line on the account, T-Mobile 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 T-Mobile with regard to a Third-Party Charge incurred after the Effective Date, or a Block, T-Mobile shall:

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- i. Provide the Consumer with access to a customer service representative who shall have access to the Consumer's account information for at least the prior twelve (12) months. For Newly Acquired Entities, if such information is not available, T-Mobile 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 current Customers, offer the Consumer the opportunity to Block future Third-Party Charges at no charge to the Consumer;
  - iii. Beginning no later than thirty (30) days after the Effective Date, for any Consumer who claims that he or she did not authorize a Third-Party charge incurred after the Effective Date, provide the Consumer a full refund or credit of any and all disputed Third-Party Charges not previously credited or refunded to the Consumer. T-Mobile may deny a refund under this subsection if:
    1. T-Mobile 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
    2. The last disputed Third-Party Charge for the particular Product at issue (either a single charge or a recurring charge) was incurred more than three (3) months prior to when the Consumer contacted T-Mobile and T-Mobile is in compliance with Section 16(c) with respect to the charge.
  - iv. If the Consumer is not satisfied with the relief obtained under the process contained in subsection (iii) of this Section, T-Mobile shall:
    1. Offer the Consumer the opportunity to receive a full refund if the Consumer submits his or her request in writing via U.S. Mail, email, or web-based form affirming that he or she did not authorize such charge, and provide such refund, unless T-Mobile can demonstrate fraud or misrepresentation in connection with the claim.
    2. This subsection (iv) shall expire four (4) years from the Effective Date.
  - v. 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 subsection does not prohibit asking the Consumer if he or she has contacted the Third Party and/or has already received a credit or refund from the Third Party for some or all of the claimed Unauthorized Third-Party Charge; and
  - vi. Beginning no later than April 1, 2015, in the event a Consumer disputes a Third-Party Charge as Unauthorized, until such time as the provisions of subsection (iii) (1) or (2) of this Section are satisfied:
    1. not require the Consumer to pay the disputed Third-Party Charge, including any related late charge or penalty;
    2. not send the disputed Third-Party Charges to collection;
    3. not make any adverse credit report based on non-payment of the disputed Third-Party charge; and/or

4. not 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 the disputed Third-Party Charges. The remedies in this subsection are inapplicable to Consumer complaints involving dissatisfaction with purchases where the Consumer does not dispute that Consumer authorized the purchase.
- (g) **Training.** T-Mobile 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 T-Mobile no longer permits Third-Party Charges on Consumers' Bills, T-Mobile 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 T-Mobile does not permit Third-Party Charges on Consumers' Bills.
- (h) **Record Keeping.** No later than April 1, 2015, T-Mobile shall:
- i. implement a process to track (1) all Consumer claims that a Third-Party Charge was unauthorized for which T-Mobile demonstrated that the purchaser provided Express Informed Consent; (2) refunds/credits provided pursuant to Section 16(f); and (3) any other information necessary to prepare the Quarterly Reports described in Section 16(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. T-Mobile's obligation to maintain records for six years from the date of their creation shall continue after T-Mobile's obligation to provide the Quarterly Reports described in Section 16(j) expires.
- (i) **Cooperation with the Bureau:** T-Mobile shall 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. The information and assistance shall include information regarding the identity of Third Parties placing charges on T-Mobile's Bill, revenue from such Third Parties, refunds provided relating to such Third Parties, any audits conducted of such Third Parties (to the extent not protected by attorney-client privilege or attorney work product), and any applications or other information provided by Third Parties, to the extent that T-Mobile has access to such information. Consistent with T-Mobile's legal obligations to safeguard the confidential or proprietary information of Consumers and Third Parties, T-Mobile 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 T-Mobile receives from the Bureau.
- (j) **Reporting Requirements.**
- i. T-Mobile shall, for at least six (6) years from the period beginning April 1, 2015, provide a report to the Bureau every three (3) months ("Quarterly Reports") documenting its compliance with the requirements of Section 16(f). Without limiting T-Mobile's obligations under Section 16(f), the Quarterly Reports shall include the following:

1. the total number of Consumer claims for unauthorized Third-Party Charges for which T-Mobile has demonstrated that the purchaser provided Express Informed Consent or for which T-Mobile has demonstrated that the claim was untimely under Section 16(f)(iii)(2);
  2. all refunds/credits provided, in dollars, due to T-Mobile's inability to provide proof of Express Informed Consent in response to such a claim by Consumers;
  3. all other refunds/credits provided, in dollars;
  4. for the claims and refunds/credits identified under subsections 1, 2, and 3 above, the Third-Party Product, the Third Party, and the entity responsible for ensuring Express Informed Consent from the Consumer if different than T-Mobile; and
  5. a description of any remedial action taken by T-Mobile 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, T-Mobile 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. T-Mobile shall contemporaneously file with the Bureau copies of all reports filed with the FTC pursuant to the FTC Settlement.
  - iv. This Section 16(j) shall expire six (6) years from the Effective Date.
- (k) **Consumer Redress for Unauthorized Charges.** The Parties recognize that T-Mobile has agreed to the consumer redress program contained in Section V of the FTC Settlement, which sets forth a detailed process for Consumer Redress. This Agreement does not alter, amend, replace, or expand the Consumer Redress program set forth in Section V of the FTC Settlement.
- (l) **Settlement Amount.** T-Mobile has agreed to a global settlement with the FCC, FTC and Participating States with a value of at least ninety million dollars (\$90,000,000) 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, T-Mobile shall pay, within thirty (30) days of the Effective Date, four million, five hundred thousand dollars (\$4,500,000) ("the Payment") to the United States Treasury, in accordance with Section 18, below, in order to settle the Bureau's Investigation;

- ii. As part of and pursuant to the States Attorneys General Settlement, T-Mobile has agreed to pay eighteen million dollars (\$18,000,000) to the Participating States;
- iii. As part of and pursuant to the FTC Settlement, T-Mobile has agreed to pay to consumers or to the FTC a minimum of sixty-seven million five hundred thousand dollars (\$67,500,000) pursuant to the Consumer Redress provision contained in Section V of the FTC Settlement.

17. **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 T-Mobile 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 T-Mobile with the Communications Laws.

18. **Payment Process.** T-Mobile acknowledges and agrees that upon execution of this Consent Decree, the Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).<sup>3</sup> T-Mobile shall send electronic notification of the Payment to Richard Hindman at richard.hindman@fcc.gov and to fcebackaccess@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.<sup>4</sup> 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 T-Mobile must follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payment (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 T-Mobile 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.

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

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

19. **Construction.** Nothing in any provision of this Consent Decree shall be read or construed to require T-Mobile (a) to share customer proprietary network information (“CPNI”) with any person not legally entitled to receive CPNI; (b) to share customer information in such a way that it would violate any applicable law, or violate any privacy policy restricting access to account information; or (c) to grant more than one full refund for any single Unauthorized Third-Party Charge. T-Mobile shall not amend its privacy policy to excuse its compliance with the reporting, tracking, or other provisions of this Consent Decree related to the sharing of customer information unless required by law.

20. **Waivers.** T-Mobile 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. T-Mobile 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 T-Mobile nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and T-Mobile shall waive any statutory right to a trial *de novo*. T-Mobile 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.

21. **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.

22. **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 T-Mobile does not expressly consent) that provision will be superseded by such Rule or Commission order.

23. **Successors and Assigns.** T-Mobile agrees that the provisions of this Consent Decree shall apply to T-Mobile and be binding on its officers, employees, agents, successors, assigns, 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 T-Mobile’s placement of Third-Party Charges on Consumer Bills.

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

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

26. **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.

27. **Authorized Representative.** The individual signing this Consent Decree on behalf of T-Mobile represents and warrants that he is authorized by T-Mobile to execute this Consent Decree and to bind T-Mobile 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.

28. **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

\_\_\_\_\_  
David A. Miller  
Executive Vice President and Chief Legal Officer  
T-Mobile USA, Inc.

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Date