

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-10-TC-467
)	
VoiceNet Telephone, LLC)	NAL/Acct. No.: 201132170019
)	
Apparent Liability for Forfeiture)	FRN: 0010943694
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: June 7, 2011

Released: June 16, 2011

By the Commission:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that VoiceNet Telephone, LLC (“VoiceNet” or “Company”)¹ has apparently willfully and repeatedly violated section 201(b) of the Communications Act of 1934, as amended (“Communications Act” or “Act”),² by “cramming” monthly charges for its dial-around long distance service on consumers’ local telephone bills without authorization of any kind from them. Over a twelve-month period, VoiceNet billed as many as 17,384 consumers monthly, but *no more than 20 consumers* (or 0.1 percent) ever actually used its service.³ Based upon our review of the facts and surrounding circumstances, we find that VoiceNet is apparently liable for a proposed forfeiture in the amount of three million dollars (\$3,000,000).

II. BACKGROUND

2. Cramming, the practice of adding charges to a customer’s local telephone bill without the customer’s authorization, results in significant consumer harm. Charges can often range from \$2.99 to as much as \$19.99 per month, and can go undetected by consumers for many months or longer because they

¹ VoiceNet’s principal address is 6059 Allentown Boulevard, Harrisburg, PA 17112. Cathy Burger-Gray is the owner of the company and the Chief Executive Officer of VoiceNet is Barry Rynearson. Accordingly, all references in this NAL to “VoiceNet” also encompass Ms. Burger-Gray and all other principals and officers of this entity, as well as the corporate entity itself. The owners of Adept Results, Inc. (“Adept Results”), the company that manages VoiceNet, are also associated with another telecommunications carrier, Cheap2Dial Telephone, LLC (“Cheap2Dial”). Cheap2Dial is the subject of another enforcement action we take today. Mr. Barry Rynearson, who owns Cheap2Dial and a 9.75% interest in Adept Results, is the Chief Financial Officer of Adept Results, the President and Chief Executive Officer of Cheap2Dial, as well as the Chief Executive Officer of VoiceNet. The President, Secretary, and Treasurer of Adept Results is Joshua Gray.

² 47 U.S.C. § 201(b).

³ Of these 20 customers, at least one was an employee of Adept Results. *See* Letter from Mitchell F. Brecher, Counsel for VoiceNet Telephone, LLC, to Kimberly A. Wild, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, at Section II, Tab A and Tab B (Mar. 28, 2011) (“Response to Second LOF”).

are not generally disclosed clearly or conspicuously on the bill. The cramming entity can be the customer's own local exchange carrier ("LEC") or an unaffiliated third-party such as VoiceNet, in the instant case. The charges can be for additional telephone services, voice mail and similar services, or for other unrelated products and services such as chat lines, diet plans, and cosmetics.⁴

3. The Enforcement Bureau ("Bureau") began its investigation of VoiceNet on September 23, 2010, by issuing a letter of inquiry to the Company requesting information and documents relating to its charges for long distance service.⁵ In its initial response, dated November 8, 2010,⁶ VoiceNet represented, among other things, that it provides domestic interexchange telecommunications service on a resale basis through two "dial-around" service plans: the More Minutes Plan, which offers 332 minutes of domestic interexchange calling per month for \$12.95, and the More Minutes Plus Plan, which provides 383 minutes of domestic interexchange calling per month for \$14.95. VoiceNet also charges consumers monthly a maximum billing fee of \$3.95 and applicable Universal Service Fund charges.⁷

4. VoiceNet's process for billing consumers involves three parties: VoiceNet; its billing aggregator, Billing Solutions Group, Limited d/b/a Billing Concepts ("Billing Concepts"); and the LEC that issues the bill to the consumer. Billing Concepts uses the name "USBI" in billing for long distance services. The LEC is compensated by Billing Concepts/USBI for placing the charges on the consumers' bills; Billing Concepts/USBI is paid by VoiceNet to manage billing requests and payments between the LEC and VoiceNet; and VoiceNet ultimately receives the money collected from the consumers who pay the charges. Generally, the third-party carrier supplies only a consumer's telephone number and the amount to be charged to the billing aggregator, which directs the LEC to place the charge on the consumer's telephone bill. Proof of consumer authorization is not provided by the third-party carrier nor required by the LEC.

5. VoiceNet markets its service exclusively on the Internet, using banners and webpages posted on various Internet sites.⁸ Online enrollment forms used to sign up customers allow for the input of the consumer's first name, last name, address, email address, home telephone number, and date of

⁴ For example, Adept Results markets cosmetics and other products, the charges for which are placed on consumers' telephone bills. See "BBB Issues Warning on Web Companies Linked to Adept Results," Nov. 11, 2009, <http://wisconsin.bbb.org/article/bbb-issues-warning-on-web-companies-linked-to-adept-results-13501>.

⁵ See Letter from Kimberly A. Wild, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, to VoiceNet Telephone, LLC (Sept. 23, 2010) ("LOI"). The Bureau sent a second LOI to VoiceNet on February 25, 2011. See Letter from Kimberly A. Wild, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, to VoiceNet Telephone, LLC (Feb. 25, 2011) ("Second LOI").

⁶ See Letter from Mitchell F. Brecher, Counsel for VoiceNet Telephone, LLC, to Kimberly A. Wild, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau, FCC (Nov. 8, 2010) ("Response to LOI").

⁷ See Response to LOI at 3-4. "Dial-around" long distance service allows a telephone subscriber to bypass (*i.e.*, dial around) the subscriber's preselected long distance telephone carrier, if any, and instead use the dial-around carrier's long distance service for a particular telephone call. For each telephone call, the subscriber must use the dial-around carrier's number and, in some instances, enter a PIN to connect the call.

⁸ *Id.* at Attachment 2. VoiceNet contends that it obtains certain marketing and account management services from Adept Results. It appears that Adept Results, in fact, handles the vast majority of VoiceNet's business operations, including customer service, call center needs, banking and accounting, and legal services. The underlying carrier whose service VoiceNet resells is "TCS Communications Solutions, LLC." See *id.* at 6.

birth.⁹ Below the enrollment form is a summary of the terms of use, including a statement that the consumer will receive monthly recurring charges on his or her local telephone bill until the plan is cancelled.

6. As part of its investigation, the Bureau examined more than sixty complaints that had been filed by consumers about VoiceNet's service. These included ones that had been filed not only with the FCC, but also with state regulatory authorities, the Better Business Bureau, or with VoiceNet directly. All of the complainants contended that VoiceNet had charged them for service without their authorization.

7. These complaints notwithstanding, VoiceNet claims that it has "strict policies and procedures for verifying all service requests prior to activating and billing any customer account."¹⁰ According to VoiceNet, it "performs a series of tests to verify the enrollment information provided by the potential customer."¹¹ The Company states that these procedures include validating enrollment information through outside third-party database vendors."¹²

8. VoiceNet responded to consumer complaints with one of four different letters providing different explanations to consumers about how VoiceNet purportedly verified their enrollment. In one, the consumer is told that his or her first or last name was accurately matched with the address and telephone number provided. In the second, the consumer is told that his or her name was accurately matched with the address and telephone number provided and that the IP address used at sign-up passed VoiceNet's validation process and fell within the 100 mile radius of the address. The third letter says nothing about the address and telephone number matching, but notes that the IP address passed the Company's validation process and fell within the 100 mile radius of the enrollment address. This letter also provides the IP address used to sign up for service, and recommends that the complainant contact the Internet service provider of that address to determine who fraudulently used his or her telephone number during the sign-up process. The fourth letter says nothing about the address, telephone number, or IP address but provides the sign-up date and time and the IP address used during the sign-up, and recommends that the complainant contact the Internet service provider of that address to determine who fraudulently used the customer's telephone number during the sign-up process.¹³

9. VoiceNet states that following enrollment, it sends customers welcome messages via email and postal mail, using the email and postal addresses provided on the enrollment forms.¹⁴ The consumer is not required to confirm that the emails were received or to otherwise respond to the emails before VoiceNet begins charging for the service.

III. DISCUSSION

A. Violation of Section 201(b) of the Act

⁹ *Id.* at Attachment 2.

¹⁰ *See* Letters to FCC responding to consumer complaints.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

10. 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 hereby declared to be unlawful...”¹⁵ The Commission has found that the inclusion of unauthorized charges and fees on consumers’ telephone bills is an “unjust and unreasonable” practice under section 201(b).¹⁶

11. We find that VoiceNet has willfully and repeatedly placed, or caused to be placed, charges on consumers’ telephone bills for services the consumers did not request or authorize. As indicated above, each of the more than sixty consumer complaints that the Bureau has reviewed – whether they were filed with the FCC, state regulatory authorities, the Better Business Bureau or with VoiceNet directly – contends that VoiceNet charged consumers for service without their authorization.¹⁷ The complainants consistently state they did not sign up for VoiceNet’s service, did not have any contact with VoiceNet prior to discovering the charges, and in most cases, do not even know the person whom VoiceNet alleges authorized the service. Moreover, many of the complainants observed that they had long distance (often unlimited) service with another carrier and therefore would have no need to pay for additional service with VoiceNet.¹⁸

12. For instance, Complainant Bateman alleged that VoiceNet had been cramming long distance charges on his telephone bill since March 2009.¹⁹ As Mr. Bateman observed, neither the name, address, nor email address of the person “authorizing” the service was associated with his telephone number. In his letter to VoiceNet, Mr. Bateman explains:

Your purported “authorization” for billing me is an online application, purportedly filled out by a “Jack Nelson” (jackinthebox12@aol.com) of 127 Fairfax Street, Berkeley Springs, West Virginia. ...

A quick internet search reveals that there is no Jack Nelson in Berkeley Springs, West Virginia. It further reveals that jackinthebox12@aol.com is a non-working email address. It also reveals that 127 Fairfax Street is the address of the Berkeley Springs Chamber of Commerce.

Moreover, had you called the telephone number you would have also learned it was not assigned to “Jack Nelson.” If you had contacted Verizon, the service provider, you would have also learned that the billing address for the number was Washington, DC, not Berkeley Springs, WV.²⁰

13. Mr. Bateman’s experience with VoiceNet is far from unique. Complainant Hudson

¹⁵ 47 U.S.C. § 201(b).

¹⁶ See *Long Distance Direct, Inc. Apparent Liability for Forfeiture*, Memorandum Opinion and Order, 15 FCC Rcd 3297, 3302, ¶ 14 (2000) (“*LDDI Forfeiture Order*”) (finding that the company’s practices of cramming membership and other unauthorized fees on consumer telephone bills was an unjust and unreasonable practice in connection with communication services).

¹⁷ We note that VoiceNet provided only those complaints it received in writing or via email. It did not provide complaints VoiceNet may have received over the telephone.

¹⁸ See, e.g., Complaint from K. Carrel.

¹⁹ See Complaint from C. Bateman.

²⁰ *Id.*

alleged that he found third-party charges on his telephone bill from VoiceNet and Norristown Telephone.²¹ Mr. Hudson explains, “[w]hen I looked over the Voicenet application, which I never applied for, I saw that someone used my phone number, a false name and a different address. . . . Apparently Voicenet never called the phone number to verify the name and address on the application. I called the tax office and found out that the taxes for that address . . . [were] listed in the name of Robert Floyd, which is also different from the name on the application.”²²

14. In some cases, the consumers who were signed up for VoiceNet’s services were surprised to find out that the authorization form they had allegedly provided was over the Internet because they do not own computers. For example, Complainant Smith, in his complaint filed with the North Carolina Attorney General’s office, observes, “I found that I had been charged for [a] long distance company that I don’t do business with. I have long distance service with CenturyLink already. Service was said to be added via Internet. I don’t have a computer.”²³

15. The complainants’ contention that VoiceNet “crammed” charges for its dial-around long distance service on their bills is corroborated by the fact that, between March 2010 and February 2011, VoiceNet placed charges on a total of over 150,000 monthly telephone bills, knowing that just 20 consumers were using the service at any one time.²⁴ The number of consumers VoiceNet billed per month during this period fluctuated from 17,384 to 9,056; however, just 20 consumers (or 0.1 percent) were recorded ever using the service – compelling evidence that few if any of the consumers being billed had actually ordered service or were aware that they were being charged for it.²⁵

16. To the extent it actually uses them, VoiceNet’s validation and verification processes are clearly inadequate to confirm that the person who “enrolled” in one of its plans, *i.e.*, the one whom VoiceNet will charge for service, in fact authorized the service. As indicated, VoiceNet asserts that one of the ways it confirms customer authorization is to verify that the IP address used to sign up for service is within 100 miles of the telephone customer’s billing address.²⁶ As Complainant Smith observed, however, this process “doesn’t validate anything other than someone entered the application within 100 miles of the location of that particular phone exchange.”²⁷ The fact remains that, in many cases, the name and address in VoiceNet’s enrollment records do not match the name and address of the customer who was charged for service.²⁸ Similarly, the email address used to sign up for service often does not belong to the customer who is billed for the service. The only information that consistently belonged to the customer whom the Company charged was, in fact, his or her telephone number. Based on our review of the record, it appears that any validation procedure that VoiceNet actually performed simply verified the

²¹ See Complaint from J. Hudson.

²² *Id.*

²³ See Complaint from R. Smith (emphasis in original).

²⁴ See Response to Second LOI at Section II, Tab A and Tab B.

²⁵ *Id.*

²⁶ See Letter to FCC responding to consumer complaint.

²⁷ See Complaint from K. Smith.

²⁸ The fact that the name and address in VoiceNet’s records do not match the name and address of the person billed for the service shows that even a cursory examination of the authorization would have determined that it was invalid. Many of the so-called authorizations contained names and addresses that matched the telephone numbers, which is publicly available information.

general existence of the telephone number and that the number was a working number – and in no way verified that an enrollee actually in any way intended to subscribe to VoiceNet’s dial-around service.

17. VoiceNet’s claims that it “verifies” a service request by sending welcome messages via email to the email address identified on the form is likewise of no consequence.²⁹ The process does not require any action on the part of the consumer to confirm either that the consumer received the email or that the consumer signed up for or agreed to be charged for VoiceNet’s service. Indeed, many of the complainants assert they never received any emails or other communications from VoiceNet regarding its long distance service. This would not be surprising given that, as noted above, the email address in VoiceNet’s records is generally not the consumer’s. Similarly, the welcome message sent to the postal address provided on the enrollment form would not reach the consumer when that address does not belong to the billed customer. Even if a consumer did, in fact, receive this welcome material, it is possible, if not probable, that he or she might reasonably discard the material as “junk” mail or spam, given that the consumer did not create a relationship with, or even know of the existence of, VoiceNet. On these facts, if a consumer did not authorize VoiceNet’s service, the mere act of sending an email or mail without requiring a response from the consumer is not sufficient “verification.”³⁰

18. VoiceNet’s success in what appears to be a constructively fraudulent enterprise seems to rely on the fact that individuals and businesses the Company enrolled in its service failed to notice the unauthorized charges in their multipage telephone bills and so simply proceeded to pay them, often unaware that they contained charges from an entity other than their own telephone company. The charges were often listed on the last pages of the bill and/or did not contain clear descriptions of the services provided. For example, the Verizon bill for Complainant E. Wahl had VoiceNet charges on page 16 of the bill, listed as a “USBI miscellaneous billing charge.” It would be difficult for someone who had never heard of VoiceNet or USBI to know that this was an unauthorized charge from them on the Verizon bill.³¹

19. If and when consumers ever discovered VoiceNet’s charges, the Company required them to expend significant time and effort to attempt to have charges removed from their bills. For example, in

²⁹ See Letter to FCC responding to consumer complaint.

³⁰ Indeed, we note that much of the identifying information VoiceNet requests of a person when signing up for its long distance service – name, address, email address, telephone number, and date of birth – can be obtained through the purchase of aggregated lists of consumers that are commercially sold or from free internet websites such as whitepages.com. Nothing within VoiceNet’s sign-up webpage prevents the individual who is inputting the data from using someone else’s identifying information or otherwise falsifying that data. If the person signing up for the VoiceNet service inputs someone else’s telephone number, the person associated with that telephone number will be billed by VoiceNet regardless of whether the other information in the application is correct. See, e.g., Complaint from K. Carrel (person on authorization was Justin James); Complaint from B. Shuman (person on authorization was Chris Dairy; address was not Ms. Shuman’s); Complaint from S. Sullivan (person on authorization was Jesse Costas; address was not Ms. Sullivan’s); Complaint from M. Mery (person on the 6/30/2009 authorization was his ex-wife who died 11/29/2005; address was not Mr. Mery’s); Complaint from C. Monroy (person on the authorization was Yareli Barahona); Complaint from J. Johnson (person on authorization was Nick Lloydz; address was not Mr. Johnson’s); Complaint from L. Andrews (person on authorization was Alexis Checketts); Complaint from K. Craig (person on authorization was Sam Long; address was not Ms. Craig’s); Complaint from A. Adams (person on authorization was Sharoll Fuxler; address was not Mr. Adams’); Complaint from S. Wilczek (person on authorization was John Townsead; address was not Ms. Wilczek’s).

³¹ A practice that “convey[s] insufficient information as to the company’s identity, rates, practices, and range of services” may constitute a violation of section 201(b). See *Telecommunications Research & Action Center & Consumer Action*, 4 FCC Rcd 2157, 2159 ¶ 14 (Com.Car.Bur. 1989).

many cases, according to the complaints we reviewed, VoiceNet made it difficult for consumers to obtain full refunds of unauthorized charges, and only offered consumers a partial refund. Complainant Carrel was initially offered an adjustment of \$14.95 even though VoiceNet had charged him \$89.97. Similarly, while Complainant Sullivan was billed \$226.92 by VoiceNet, the Company offered to credit just \$16.07 of the charges.³² In other cases, refunds were not provided until after the consumer filed a complaint with a state or federal regulatory authority or consumer protection agency. For example, Complainant Smith, who filed a complaint with the Better Business Bureau, explained:

This company has been charging me on my AT&T bill since May 2009 for services I DID NOT REQUEST. I had never heard of this company before today.... I called this company and spoke with 3 different representatives. Each one telling me that they could only refund 4 months of charges. I asked for a copy of the application that was submitted for these services and the name is not even spelled like mine NOR is the date of birth mine. This service is supposed to be for some type of extra long distance service. I have AT&T and DO NOT NEED ANY FURTHER LONG DISTANCE CARRIER which I explained to them. They REFUSE to refund the money that they have scammed from me. I was told from the AT&T representatives that this has happened to people all over the US from this company and I think it needs to be stopped!³³

20. As another example of the difficulty consumers experienced in attempting to obtain refunds, Complainant Franz, investigating the VoiceNet charges on her elderly mother's AT&T bill, stated, "I contacted VoiceNet Telephone LLC [and] spoke to Amy to see what the charges were[.] [T]hey offered no explanation for the charges but gave me a line about [how] I could cancel the service and receive one month's credit for the charges[.] I asked to speak w/a supervisor repeatedly[.] I was finally transferred to Terry who hung up on me."³⁴

21. Based on the record, we conclude that VoiceNet apparently has willfully and repeatedly placed, or caused to be placed, charges on complainants' telephone bills that they never authorized. The facts suggest that VoiceNet engaged in this conduct deliberately. To the extent it did not, we find that VoiceNet either knew, or reasonably should have known, through numerous customer inquiries and complaints that many of its customers had not authorized service and that the vast majority of them were not using its service – yet VoiceNet nevertheless proceeded to charge these consumers for months and sometimes years. VoiceNet's dismissive responses to the consumer complaints is further evidence that it apparently is deliberately billing consumers for services they did not authorize. Accordingly, we find that VoiceNet's cramming constitutes an unjust and unreasonable practice and demonstrates apparent willful and repeated violations of section 201(b) of the Act.

B. Proposed Forfeiture Pursuant to Section 503(b) of the Act

22. Section 503(b)(1) of the Act states that any person who willfully or repeatedly fails to comply with any provision of the Act or any rule, regulation, or order issued by the Commission, shall be liable to the United States for a forfeiture penalty.³⁵ Section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture of up to \$150,000 for each violation, or each day of a continuing

³² See Complaint from K. Carrel; Complaint from S. Sullivan.

³³ See Complaint from S. Smith.

³⁴ See Complaint from K. Franz.

³⁵ 47 U.S.C. § 503(b)(1)(B). See also 47 C.F.R. § 1.80(a)(2).

violation, up to a statutory maximum of \$1,500,000 for a single act or failure to act by common carriers.³⁶ In determining the appropriate forfeiture amount, we consider the factors enumerated in section 503(b)(2)(E) of the Act, including “the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”³⁷ Although the forfeiture guidelines do not establish a forfeiture amount for unjust or unreasonable practices, such as the imposition of unauthorized charges on consumers’ telephone bills, the guidelines do state that, “. . . any omission of a specific rule violation from the . . . [forfeiture guidelines]. . . should not signal that the Commission considers any unlisted violation as nonexistent or unimportant.”³⁸ Apart from the guidelines, the Commission has the discretion to issue forfeitures on a case-by-case basis, under its general forfeiture authority contained in section 503 of the Act.³⁹

23. In Long Distance Direct, Inc. (“LDDI”), the Commission found that the “imposition of unauthorized charges on consumers’ telephone bills is a practice which is unjust and unreasonable within the meaning of section 201(b) of the Act,”⁴⁰ and assessed a \$40,000 penalty for each cramming violation investigated in that case.⁴¹ Consistent with LDDI, we find that each charge VoiceNet caused to be placed on a consumer’s bill without the consumer’s authorization constitutes an independent unjust and unreasonable practice, and thus a separate and distinct violation of section 201(b) of the Act. There appear to be thousands of such violations in this case for which the Commission is empowered to assess a penalty.⁴²

24. Weighing the facts before us and taking into account the extent and gravity of VoiceNet’s egregious conduct, as well as its culpability and information in the current record about its revenues, we find that a total forfeiture amount of \$3,000,000 is appropriate under the specific circumstances of this case.⁴³ As noted above, VoiceNet placed unauthorized charges of at least \$12.95 on more than 150,000 telephone bills over a twelve-month period alone and therefore billed nearly \$2,000,000 to consumers over that time period through its cramming operation. The forfeiture clearly must exceed this amount in

³⁶ 47 U.S.C. § 503(b)(2)(B). *See also* 47 C.F.R. § 1.80(b)(2). In 2008, the Commission amended section 1.80(b)(2) of the rules, 47 C.F.R. § 1.80(b)(2), to increase the maximum forfeiture amounts in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. *See Amendment of Section 1.80 of the Commission’s Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845, 9847 (2008) (adjusting the maximum statutory amounts for common carriers from \$130,000/\$1,300,000 to \$150,000/\$1,500,000).

³⁷ 47 U.S.C. § 503(b)(2)(E).

³⁸ *See Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Policy Guidelines*, Report and Order, 12 FCC Rcd 17087, 17099, ¶ 22 (1997) (“*Forfeiture Policy Statement*”); *recon. denied*, 15 FCC Rcd 303 (1999).

³⁹ *Forfeiture Policy Statement*, 12 FCC Rcd at 17099, ¶ 22.

⁴⁰ *See Long Distance Direct, Inc.*, Notice of Apparent Liability for Forfeiture, 14 FCC Rcd 314, 333 ¶ 25 (1998).

⁴¹ *Id.* at 337 ¶ 30.

⁴² As noted in the text, *see supra* ¶ 15, VoiceNet apparently caused unauthorized charges to be placed on more than 150,000 bills dated between March 2010 and February 2011. More than 100,000 of these bills date from June 2010 – within one year of the date of the instant NAL – and thus remain actionable under the statute of limitations set forth in section 503(b)(6)(B) of the Act. 47 U.S.C. § 503(b)(6)(B).

⁴³ The \$3 million penalty we propose is equivalent to applying a \$40,000 penalty to 75 violations, but as indicated, *see supra* note 42, the record shows that VoiceNet’s conduct involves a considerably higher number of violations during the actionable time period.

order to serve as an adequate deterrent and reflect the apparently intentional nature of VoiceNet's conduct. We therefore propose a forfeiture in the amount of \$3,000,000. In the event VoiceNet continues to engage in conduct that apparently violates section 201(b)'s prohibition against unjust and unreasonable practices, such apparent violations could result in future NALs proposing substantially greater forfeitures and revocation of VoiceNet's operating authority. Other third-party service providers are also on notice that practices such as those engaged in by VoiceNet are unjust and unreasonable, and that we may propose more significant forfeitures in the future as high as is necessary, within the range of our statutory authority, to ensure that such companies do not charge consumers for unauthorized services.

IV. CONCLUSION

25. We have determined that VoiceNet Telephone, LLC apparently violated section 201(b) of the Act as identified above. We have further determined that VoiceNet Telephone, LLC is apparently liable for a proposed forfeiture in the amount of \$3,000,000.

V. ORDERING CLAUSES

26. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Act, as amended, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that VoiceNet Telephone, LLC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of \$3,000,000, for willful and repeated violations of section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 201(b).

27. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,⁴⁴ within thirty (30) days of the release date of this *Notice of Apparent Liability for Forfeiture*, VoiceNet Telephone, LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

28. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). VoiceNet Telephone, LLC will also send electronic notification to Johnny.Drake@fcc.gov on the date said payment is made. Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

29. The written statement, if any, must be mailed both to: Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division; and to Richard A. Hindman, Division Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications

⁴⁴ 47 C.F.R. § 1.80.

Commission, 445 12th Street, SW, Washington, DC 20554, and must include the NAL/Acct. No. referenced in the caption. Documents sent by overnight mail (*other than* United States Postal Service Express Mail) must be addressed to: Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, 9300 East Hampton Drive, Capitol Heights, MD 20743. Hand or messenger-delivered mail should be directed, without envelopes, to: Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554 (deliveries accepted Monday through Friday 8:00 a.m. to 7:00 p.m. only). *See* www.fcc.gov/osec/guidelines.html for further instructions on FCC filing addresses.

30. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

31. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by Certified Mail Return Receipt Requested and First Class mail to VoiceNet Telephone, LLC, Attention: Matthew Berry, Patton Boggs LLP, 2550 M Street, NW, Washington, D.C. 20037.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary