

November 3, 1999

Chairman William E. Kennard
Federal Communications Commission
445 12th Street, SW
Suite 8 - B201
Washington, DC 20554

Dear Chairman Kennard:

This letter is written on behalf of the Coalition to Ensure Responsible Billing (“CERB”). CERB is composed of seven billing clearinghouses that process more than 90 percent of all billing submitted for inclusion on the local telephone bill by third parties. The local bill plays a central role in ensuring that competitive telecommunications service providers can bill and collect from customers for services rendered. Consumers clearly prefer to see all of their telecommunications charges on a single bill. Recognizing this, hundreds of smaller competitive telecommunications service providers contract with billing and collection clearinghouses to ensure that their charges for services are presented on the local telephone bill. The service providers who use the local bill offer such popular and valuable consumer services as voice mail, caller ID, wireless service, paging, Internet access and other services.

For over a year, CERB has consistently identified for policy makers an ongoing effort by the LECs to leverage their market power in the local telephone market to gain a dominant position in the market for ancillary services through the use of anti-competitive initiatives. LECs are acting anti-competitively by imposing arbitrary and discriminatory conditions on competitive service providers that deny these providers the ability to reach their consumers through the local telephone bill. CERB repeatedly raised this concern in filed comments before the FCC, including the FCC’s Calling Party Pays proceeding, Pay-Per-Call proceeding, Truth-in-Billing proceeding, and the U S West / Qwest Merger Application proceeding. CERB has many times noted that as a result of these anti-competitive initiatives, consumers lose access to numerous ancillary services, service providers and billing aggregators see their businesses effectively destroyed, and the competitive market for ancillary telecommunications services is weakened.

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We write today to inform you that one RBOC, U S West, – in the boldest attempt to circumvent competition yet – has announced that as of December 1, 1999, it will cease all third-party billing on the local telephone bill for ancillary services.

U S WEST's new initiative represents a grossly anti-competitive effort. Under this program, U S WEST separates billing for its own ancillary services and billing for competitors' ancillary services. Thus, while it purports to offer to process and print a separate non-branded bill for each of the clearinghouses' third-party provider clients, U S WEST will only do so by moving these providers' charges to an inferior secondary envelope separate and apart from the traditional U S WEST envelope in which the LEC's competitive services are billed. If a customer orders ancillary services from U S WEST, it will see those charges as part of its local telephone bill. By contrast, non-U S WEST ancillary service charges will be on a separate bill in a separate envelope. The lack of a single bill – the very marketing advantage that U S WEST trumpets to potential customers on its website – is cause for significant concern under the new program. In light of U S WEST's statements to potential customers regarding the value of a single bill, it is hard to argue that the new initiative represents anything other than an effort to make competitors' services less attractive to consumers.

The truly invidious nature of U S West's initiative can perhaps best be demonstrated through an example of the curious manner in which U S WEST administers it. While U S WEST would push third-party providers off of the local telephone bill under the new program, it has made exceptions to this policy – but only in cases where it has a proprietary interest in the underlying service offering. In other words, U S WEST is willing to grant exceptions to third-party vendors – and the clearinghouses that serve them – only if U S WEST itself maintains an

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interest in the product in question. By contrast, for comparable products offered by other third-party vendors, U S WEST has made clear that under no circumstances will it allow these other vendors' charges onto the local telephone bill. Such patent discrimination clearly provides U S WEST and its affiliated interests with a significant competitive advantage.

U S West's attempts to defend this patently anti-consumer initiative as a pro-consumer, anti-cramming effort are not credible. By U S West's own admission, ongoing industry efforts have successfully reduced cramming. Forcing all competitors off of the local bill regardless of any history of unauthorized charges is hardly a targeted solution, and is really just an excuse for U S West's anti-competitive goals. Further proof that U S West's policy is not primarily directed at reducing cramming is the fact that U S West is offering its direct bill alternative to all providers, without any screening at all.

Although we recognize that billing and collections has not been regulated by the FCC since 1986, we feel compelled to bring to your attention U S WEST's attempts to leverage its power in the local telephone service market to gain an unfair advantage in the highly competitive market for ancillary telecommunications services. Allowing U S WEST to displace its competitors with impunity will set a dangerous precedent and threaten the robust competition that currently exists among the many providers who reach their customers through the local bill. We urge you to act now to protect competition and consumer choice.

CERB looks forward to working with you on this critical consumer issue.

Sincerely yours,

Gary D. Slaiman
Counsel for CERB