

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170
)	
IP-Enabled Services)	WC Docket No. 04-36
)	

COMMENTS OF INCOMPAS

INCOMPAS,¹ by its undersigned counsel, respectfully submits these comments in response to the *Refreshing the Record Public Notice*² issued in the above-referenced dockets to urge the Commission to maintain its policy of excluding providers of interconnected VoIP service ("iVoIP") from truth-in-billing requirements that were designed for more traditional forms of voice service.

The Commission previously sought and received comment on whether to extend its truth-in-billing rules to iVoIP, and it made a decision to not do so at that time.³ There is no indication that circumstances have sufficiently changed in the intervening period to warrant a course reversal. In the *Public Notice*, the Commission notes that an increasing number of consumers have replaced their "traditional circuit-switched phone service" with iVoIP and that a significant

¹ INCOMPAS is the preeminent national industry association for providers of internet and competitive communications networks and services, including both wireline and wireless providers in the broadband and voice marketplaces.

² See generally *Consumer and Governmental Affairs Bureau Seeks to Refresh the Record on Truth-in-Billing Rules to Ensure Protections for All Consumers of Voice Services*, CC Docket No. 98-170; WC Docket No. 04-36, Public Notice, DA 19-1271 (CGB 2019) ("*Public Notice*").

³ See *Public Notice* at 1, citing *IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4910-11, para. 72 (2004).

number of billing complaints received in 2018 pertained to “telephone service.”⁴ But there is no indication in the *Public Notice* that these complaints pertained to iVoIP service specifically. Indeed, the *Public Notice* characterizes these complaints as specific to “telephone service,” which the Commission historically has distinguished from iVoIP. In the absence of clear evidence that customers are experiencing confusion or cognizable harms specifically from iVoIP billing practices, the Commission should maintain its current policy.

Applying the Commission's truth-in-billing rules to iVoIP would also present practical challenges because iVoIP is available on, and often incorporated as a feature into, a variety of different services and platforms. As a consequence, truth-in-billing rules that were designed for more traditional voice service would be difficult to apply across different and distinct iVoIP-related products and services, including iVoIP in applications on mobile devices, iVoIP in collaboration software, and iVoIP in smart speakers. Given the various forms iVoIP takes and the ways in which it is billed, requiring compliance with a static set of rules designed for more traditional forms of voice services and billing practices could well generate more confusion than clarity for customers.

From time to time, the Commission has applied certain telecommunications service obligations to iVoIP. For example, given the growing number of iVoIP subscribers, many of whom no longer subscribe to more traditional forms of voice service, it was understandable that from a law enforcement and public safety perspective the Commission made a policy decision to apply 911 and CALEA requirements to iVoIP. But these were targeted decisions, supported by

⁴ See *Public Notice* at 1-2.

specific factual findings that in the absence of such action public safety could be jeopardized.⁵ Here, by contrast, there is no clear record that the complaints received by the Commission regarding “telephone service” billing practices are specific to iVoIP. Given the Commission's historical and appropriate restraint in applying common carrier-style regulations to non-common carrier services, the application of truth-in-billing requirements to iVoIP service is not warranted.

The Commission also should not require iVoIP to distinguish between line-item fees that are government mandated and those that are not. As noted above, iVoIP is offered to customers on a variety of platforms and in a variety of billing arrangements, including all-inclusive plans. In some cases, iVoIP also is integrated as a feature into other product or service offerings for which the iVoIP service itself is not subject to a separate or additional charge, such as in the case of collaboration software and smart speakers. These offerings are vastly different from more traditional forms of voice service, and saddling them with specific billing requirements would add an unnecessary level of complexity to otherwise easy-to-use, consumer-friendly features. Doing so also would contravene the Commission’s goal of increasing clarity for consumers through truth-in-billing requirements, and thus should be avoided.

If, despite these arguments, the Commission nevertheless decides to extend its truth-in-billing rules to iVoIP, the Commission should exclude enterprise offerings from those requirements. The Commission's truth-in-billing rules are intended to provide consumers with

⁵ See, e.g., *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36; 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10246, para. 3 (2005) (“[W]e take critical steps to advance the goal of public safety by imposing E911 obligations on certain VoIP providers, steps we believe will have support in the public safety community and the industry.”); *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, ET Docket No. 04-295, First Report and Order and Further Notice of Proposed Rulemaking, 20 FCC Rcd 14989, 15010, para. 44 (“[T]he protection of public safety and national security compels us to apply CALEA to interconnected VoIP service providers.”).

protections by ensuring that their bills are easy to read, and, where appropriate, can be questioned. Enterprise customers already enjoy those benefits, as they typically negotiate the terms of their iVoIP arrangements through private contract and have meaningful resources to manage and question their iVoIP bills. They are sophisticated consumers of iVoIP and therefore do not require the same level of protections as individual consumers.

The Commission previously has embraced this very principal to exclude enterprise services from certain regulatory requirements. In the CPNI context, for example, the Commission incorporated a “Business Customer Exemption” into its rules because “businesses are typically able to negotiate the appropriate protection of CPNI in their service agreements.”⁶ This same rationale applies to truth-in-billing: businesses typically are able to negotiate the specific terms of their iVoIP arrangements and thus have greater clarity about the terms under which they are paying for those arrangements. For this reason, the same protections afforded iVoIP consumers, if applied, are unnecessary for enterprise customers.

⁶ See *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; IP-Enabled Services*, CC Docket No. 96-115; WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927, 6942-43, para. 25 (2007).

CONCLUSION

For the foregoing reasons, the Commission should refrain from applying its truth-in-billing rules, including any requirements to distinguish between government-mandated and other line item fees, to iVoIP.

Respectfully submitted,

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