

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

<p>FEDERAL TRADE COMMISSION,</p> <p>Plaintiff</p> <p>v.</p> <p>AT&T MOBILITY, LLC, a limited liability corporation,</p> <p>Defendant.</p>	<p>Case No. <u>1:14-cv-3227-HLM</u></p> <p>STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT</p>
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Plaintiff, the Federal Trade Commission (“FTC”), filed its Complaint for a permanent injunction and other equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The FTC and Defendant, AT&T Mobility, LLC (“AT&T”), stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”), without trial or final adjudication of any issue of fact or law, in order to resolve all matters in dispute in this action and the concurrent multi-state and Federal Communications Commission (“FCC”) investigations.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. There being no objection, the Court finds that it has jurisdiction over this matter.

2. The Complaint charges that AT&T participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, by including unauthorized charges on the telephone bills of its mobile phone customers.

3. AT&T waives all jurisdictional defenses or objections related to either the FTC Act or the Communications Act of 1934, 47 U.S.C. §§ 151, *et seq.*, solely for purposes of entry, construction, modification, and enforcement of this Order. AT&T does not admit or consent to the FTC's jurisdiction for any other purposes or proceedings.

4. The parties, by and through their counsel, have agreed that entry of this Order 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 Order and precludes further litigation between the FTC and AT&T on the resolved issues except for purposes of enforcing this Order or collecting on this Judgment.

5. AT&T waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this

action through the date of this Order, and agrees to bear its own costs and attorney's fees.

6. AT&T and the FTC waive all rights to appeal or otherwise challenge or contest the validity of this Order.

7. The FTC and AT&T acknowledge and agree that this is a compromise settlement of disputed issues and AT&T neither admits nor denies the truth or falsity of any claims or allegations made in the Complaint. Accordingly, this Order shall not be deemed or construed in any other proceeding as: (a) an admission of the truth or falsity of any claims or allegations heretofore made or any potential claims except as specifically stated in this Order; (b) an admission by AT&T 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. It is the intent of the parties that this Order shall not be used as evidence or precedent in any action or proceeding, except an action or proceeding to enforce this Order or collect on the Judgment.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

1. “AT&T” is defined as AT&T Mobility LLC, acting on behalf of itself and its wireless operating affiliates, its successors, assignees, affiliates, merged or acquired entities, parent or controlling entities, and subsidiaries. Affiliates, acquired entities, and subsidiaries are considered AT&T during the time such entities are or were affiliates or subsidiaries of AT&T.
2. “Bill” means a Consumer’s mobile telephone bill or prepaid mobile account, as applicable.
3. “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.
4. A statement is “Clear and Conspicuous” if it is disclosed in such size, color, contrast, location, duration, and/or audibility that it is readily noticeable, readable, understandable, and capable of being heard. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains or clarifies other information with which it is presented, then the statement must

be presented in proximity to the information it modifies, explains or clarifies, in a manner that is readily noticeable, readable, and understandable, and not obscured in any manner.

In addition:

- a. An audio disclosure must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it;
 - b. A text message, television, or internet disclosure must be of a type size, location, and shade and remain on the screen for a duration sufficient for a consumer to read and comprehend it based on the medium being used; and
 - c. 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.
5. "Commercial PSMS" means the use of PSMS to bill for Products.

6. “Consumer” means a current or former customer, subscriber, or purchaser of Products for which Third-Party Charges are placed on the Consumer’s Bill from AT&T, whether that person is responsible for paying the Bill or has a device that is billed to a shared account. “Consumer” does not include any business entity or any state, federal, local, or other governmental entity, if (1) the business entity or government, and not the employees or individuals working for or with that business entity or government, is solely liable to the AT&T 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.
7. “Effective Date” means the date this Stipulated Order for Permanent Injunction and Monetary Judgment is approved and entered by the Court.
8. “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.

9. “FCC Settlement” means the Consent Decree adopted by the FCC’s Bureau of Enforcement to resolve the concurrent investigation by the FCC regarding Unauthorized Third-Party Charges.

10. “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.

11. “Premium Short Messaging Service” or “PSMS” means a service that distributes paid content to a Consumer using the Short Message Service (“SMS”) and Multimedia Messaging Service (“MMS”) communication protocols via messages that are routed using a Short Code, resulting in a Third-Party Charge.

12. “Product” means content and/or services that can be used on a mobile device for which charges are placed on the Consumer’s Bill by AT&T. “Product” excludes contributions to charities, candidates for public office, political action committees, campaign committees, campaigns involving a ballot measure, or other similar contributions. “Product” also excludes co-branded, co-marketed (where AT&T markets via national media the content and/or services with both AT&T’s brand and a Third Party’s brand), or white label products branded by AT&T where (i) the content and/or services are sold by AT&T or jointly and cooperatively by AT&T and another entity; (ii) the content and/or services are placed on the Consumer’s Bill as an AT&T charge; and (iii) AT&T is responsible for

accepting complaints, processing refunds, and other communications with the Consumer regarding the charge.

13. “Short Code” means a common code leased from the CTIA Common Short Code Administration that is comprised of a set of numbers, usually four (4) to six (6) digits, which text messages can be sent to and received from using a mobile telephone.
14. “States Attorneys General Settlement” means the Assurances of Voluntary Compliance executed by AT&T 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.
15. “Third Party” means an entity or entities, other than AT&T, that provides a Product to Consumers for which billing is made through AT&T’s Bills.
16. “Third-Party Charge” means a charge for a Third-Party Product placed on a Consumer’s Bill.

17. “Third-Party Product” means a Product provided by a Third Party.
18. “Unauthorized Third-Party Charge” means a Third-Party Charge placed on a Consumer’s Bill without the Consumer’s Express Informed Consent.

ORDER

I. OBTAINING CONSENT TO CHARGES

It is hereby ordered that AT&T and its officers, agents, servants, employees, and attorneys and all others in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly shall:

A. Begin developing and implementing a system, which shall be fully implemented by AT&T no later than February 1, 2015, to obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge. The Consumer’s Express Informed Consent may be provided to AT&T or to another person or entity obligated to AT&T to obtain such consent. AT&T or other person or entity shall retain sufficient information to allow such consent to be verified. If Express Informed Consent is not directly collected by AT&T, AT&T shall implement reasonable policies and

practices to confirm Express Informed Consent will be appropriately collected and documented by the person or entity obligated to do so, and shall monitor and enforce those policies and practices to confirm Express Informed Consent is appropriately collected, require remedial action (which may include, for example, suspension, proactive credits, or retraining), or cease billing for such charges. While the system described by this Section is being developed and implemented, AT&T shall take reasonable steps to obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge. Provided, for purposes of this Section, for charges incurred through operating system storefronts, such reasonable policies and practices may, for example, consist of AT&T or its agents making a statistically valid random sample of purchases to demonstrate whether the storefront is collecting Express Informed Consent consistent with this Order.

B. Implement a system whereby the Consumer (and, for multiline accounts, the primary or principal account holder or owner (collectively “primary account holder”), if designated) will be sent a purchase confirmation separate from the Bill of every Third-Party Charge that will appear on his or her Bill. Any such purchase confirmation shall be sent within a reasonable period of time following the time a Third-Party Product is purchased or renewed and identify the Block options that AT&T makes

available to Consumers and/or provide access to such information. For multiline accounts, AT&T may provide the primary account holder the option to elect not to receive such purchase confirmations.

II. REQUIRED DISCLOSURES

It is further ordered that:

A. No later than September 30, 2014, to the extent AT&T permits Third-Party Charges on Consumers' Bills, AT&T shall provide a Clear and Conspicuous disclosure about Third-Party Charges and Block options in informational material provided at or near the time of subscribing to or activating service, and which is provided in a context separate from the actual subscriber agreement document. Such disclosure shall include or provide access to a description of Third-Party Charges, how Third-Party Charges appear on Bills, and options available to Consumers to Block Third-Party Charges. Consumers shall not incur any data or text charges for receiving or accessing the information discussed in this Section.

III. REFUND PRACTICES

It is further ordered:

A. AT&T 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 Order, including training

that instructs customer service representatives to not require the Consumer to first contact the Third Party in order to receive a refund/credit of any claimed Unauthorized Third-Party Charge. Provided, to the extent that AT&T no longer permits Third-Party Charges on Consumers' Bills, AT&T will conduct one training program within three months of such cessation and will have no further obligation to conduct training programs under this Section so long as AT&T does not permit Third-Party Charges on Consumers' Bills; and

B. When a Consumer contacts AT&T with regard to a Third-Party Charge or a Block, AT&T shall:

1. Provide the Consumer with access to a customer service representative who has access to the Consumer's account information related to Third-Party Charges for at least the prior twelve (12) months. For Newly Acquired Entities as defined in Section IV, if such information is not available, AT&T 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;

2. Beginning no later than thirty (30) days after the Effective Date, for any Consumer who claims he or she did not

authorize a Third-Party Charge incurred after the Effective Date, either (a) provide the Consumer a full refund or credit of any and all disputed Third-Party Charges not previously credited or refunded to the Consumer, or (b) deny a refund if: (i) AT&T 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 (ii) the disputed Third Party Charge (either a single charge or a recurring charge) was initially incurred more than six (6) years prior to when the Consumer contacts AT&T and AT&T is in compliance with Section I.B with respect to the charge;

3. If the Consumer claims that he or she did not authorize a Third-Party Charge, and the Consumer is a current customer of AT&T, offer the Consumer the opportunity to Block future Third-Party Charges;

4. Beginning no later than thirty (30) days after the Effective Date, not require the Consumer to first contact the Third Party in order to receive a refund/credit of any claimed Unauthorized Third-Party Charge, although this Section does not prohibit asking the Consumer if he or she has contacted the Third Party and/or if the

Consumer has already received a credit or refund from the Third Party for some or all of the claimed Unauthorized Third-Party Charge;

5. Beginning no later than thirty (30) days after the Effective Date, in the event a customer disputes a Third-Party Charge as unauthorized, until such time as the provisions of Section III.B.2(b)(i) or (ii) are satisfied, AT&T shall not:

- a. require the Consumer to pay the disputed Third-Party Charge, including any related late charge or penalty;
- b. send the disputed Third-Party Charge to collection;
- c. make any adverse credit report based on non-payment of the disputed Third-Party Charge; and
- d. suspend, cancel, or take any action that may adversely affect the Consumer's mobile telephone service or functionality for any reason related to non-payment of any disputed Third-Party Charge.

IV. NEWLY ACQUIRED ENTITIES

For entities AT&T has acquired since September 2013, and for entities AT&T acquires in the future ("Newly Acquired Entities"), except as provided in Section III.B., AT&T 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 Order. During the six (6) month period, AT&T shall take reasonable steps to obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge.

V. MONETARY JUDGMENT

A. AT&T has agreed to pay One Hundred and Five Million Dollars (\$105,000,000) as follows:

1. Judgment in the amount of Eighty Million Dollars (\$80,000,000) is entered in favor of the FTC against AT&T. AT&T is ordered to pay this amount to the FTC, as equitable monetary relief, including consumer redress, as set forth below.

2. In addition to the amount to be paid to the FTC, the parties recognize that AT&T has also agreed to pay Twenty Million Dollars (\$20,000,000) to the participating states pursuant to the Multi-States Attorneys General settlement and Five Million Dollars (\$5,000,000) to the United States Treasury on behalf of the FCC pursuant to the FCC Settlement.

B. Payment to the FTC must be made within fifteen (15) days of entry of this Order by electronic fund transfer in accordance with instructions provided by a representative of the FTC.

C. Except as set forth in Sections VI.M., VI.N, and VI.O, AT&T relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

D. AT&T acknowledges that its Taxpayer Identification Number, which AT&T must submit to the FTC, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

E. All money paid to the FTC pursuant to this Order shall be deposited into a fund administered by the FTC or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. After completing the distributions described in Section VI.M below, if the FTC, in consultation with the executive committee of the Attorneys General of the Participating States and the FCC, determines further redress is no longer practicable, the FTC may apply all remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to AT&T's

practices alleged in the Complaint. Any funds not used for redress or other equitable relief such as consumer informational remedies, shall be deposited to the U.S. Treasury as disgorgement as equitable relief, or transferred to the Attorneys General of the Participating States to be used for proper purposes as set forth in their assurances of voluntary compliance, consent decrees, and court orders with AT&T.

F. Nothing in this Order limits AT&T's right, at its sole discretion, to provide refunds or credits to Consumers in addition to what is required in this Order.

VI. REDRESS PROGRAM

It is further ordered that:

A. The FTC shall engage a Settlement Administrator, which shall not be a governmental entity, to administer this Redress Program, except as to AT&T's responsibilities set forth in this Section VI.

B. The FTC may engage a third-party independent auditor ("Auditor"), which shall not be a governmental entity, to review and report on the Settlement Administrator's performance of its duties under this Order. The Settlement Administrator and AT&T shall allow for an independent review of the Settlement Administrator's work and AT&T's provision of

credits set forth in Section VI. The cost of the review by the Auditor shall be paid out of the fund established to administer redress.

C. AT&T agrees to compile and deliver to the Settlement Administrator the records specified in Section VI.D. below, in the format requested by the FTC or the Settlement Administrator, no later than sixty (60) days after the date the FTC or Settlement Administrator provides AT&T with the necessary information regarding how the data needs to be formatted and delivered. Should the Settlement Administrator or the FTC request additional Consumer information necessary to effectuate redress and this information is readily available to AT&T, AT&T agrees to provide the information to the Settlement Administrator within sixty (60) days of any subsequent written request from a representative of the FTC, or from the Settlement Administrator. To the extent AT&T cannot deliver the information in the format requested due to technological reasons, the parties will work together to develop a format upon which the information can be delivered.

D. For the purposes of effecting this Order and to protect Consumers from fraud in accordance with 47 U.S.C. § 222(d), AT&T agrees that such records provided to the Settlement Administrator and the Auditor shall include information for each Consumer whom AT&T billed for PSMS

Third-Party Charges from January 1, 2009 through the date of entry of this Order. AT&T agrees that this information will include the following, to the extent reasonably available: First Name; Middle Name; Last Name; Alias-Surname; mailing records recorded as Address 1, Address 2, City, State, Zip Code, and Country; e-mail address; all telephone numbers; mobile Billing Account Number (“BAN”); a designation indicating whether the Consumer is a current or former customer; a list of all PSMS Third-Party Charges charged to each Consumer’s mobile phone account, including the month and year of the charges, the amounts charged, the Third Party and billing aggregator affiliated with each PSMS Third-Party Charge, and a list of any refunds previously provided by AT&T to the Consumer. AT&T agrees that the Settlement Administrator shall instruct AT&T to submit the information to it in a secure, encrypted format, and AT&T agrees to submit the information in a secure, encrypted format.

E. AT&T agrees to provide all the records described in Section VI.D to the Auditor. Upon the Auditor’s request, the Settlement Administrator may share any Consumer information with the Auditor.

F. In accordance with the Electronic Communications Privacy Act, 18 U.S.C. § 2702(c)(6), neither the Settlement Administrator nor the Auditor shall share with any representative of the FTC, or any other

governmental entity, the information provided by AT&T unless Consumers' personally identifiable information, such as name, address, telephone, e-mail address, or other unique identifier that could permit the information shared to be associated with the relevant subscriber or customer of AT&T, is redacted. At any time during the redress program, the Settlement Administrator also may share with a representative of the FTC the information provided by AT&T in aggregate form. Aggregate form includes, *inter alia*, the total number of Consumers, by state, potentially entitled to redress and the amount of such potential redress, the total number of Consumers, by state, who have received redress and the amount of such redress, and the total amount of redress by state. Aggregate form must not include any information that includes Consumers' personally identifiable information. The Settlement Administrator shall at no time be an agent of the FTC, or any other governmental entity, for purposes of the possession, custody, or control of such information.

G. At the conclusion of the redress program in Section VI, the FTC shall provide to the executive committee of the Attorneys General of the Participating States aggregate data reflecting the total number of Consumers, by state, who have received redress and the total amount of such redress. In addition, the Settlement Administrator shall provide to AT&T a

list of all former Consumers who have received redress, including to the extent reasonably available: First Name; Middle Name; Last Name; Alias-Surname; mailing records recorded as Address 1, Address 2, City, State, Zip Code, and Country e-mail address; all telephone numbers; mobile BAN; a list of all PSMS Third-Party Charges for which redress was made, including the month and year of the charges, the amounts charged, and the Third Party and Billing Aggregator affiliated with each PSMS Third-Party Charge.

H. The Settlement Administrator and Auditor shall operate in accordance with, and shall be deemed for purposes of carrying out this Order to be subject to, the information security, data breach notification and confidentiality standards and requirements of the FTC's Standards for Safeguarding Customer Information Rule, 16 C.F.R. Part 314, the FTC's Disposal of Consumer Report Information and Records Rule, 16 C.F.R. Part 682, the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809 and §§ 6821-6827, and the Telecommunications Act, 47 U.S.C. § 222, and 47 C.F.R. §§ 64.2010-2011. The Settlement Administrator and the Auditor shall destroy all records associated with the redress program following notification by a representative of the FTC and shall certify to AT&T that all such records have been destroyed.

I. Within the time periods specified in this Section, AT&T shall provide the following notifications to Consumers who were billed for PSMS Third-Party Charges from January 1, 2009 to the date of entry of the Order of the right to receive refunds for unauthorized PSMS Third-Party Charges:

1. For current Consumers only, text message notification as set forth in Appendix A, starting no later than sixty (60) days after written request by a representative of the FTC. AT&T shall send the text message to consumers one time per month for a period of three months. The text message notifications shall be provided at AT&T's expense and at no charge to Consumers.

2. For current Consumers only, AT&T shall send an e-mail notification, as set forth in Appendix A, one time within sixty (60) days of written request by the FTC, to the extent such e-mail addresses are reasonably known to AT&T. Upon written request by a representative of the FTC or the Settlement Administrator, AT&T shall send an additional e-mail notification, as set forth in Appendix A, to the extent such e-mail addresses are reasonably known to AT&T.

3. For current Consumers only who receive hard-copy bills, AT&T shall include a bill insert on a different color paper than the bill

as set forth in Appendix A, starting no later than ninety (90) days after written request by a representative of the FTC. The notification shall be included with the hard-copy bills for a period of three months.

4. For current Consumers only:

a. who may view their bills electronically on www.att.com, AT&T shall include a notice as set forth in Appendix A, either listed first under “Alerts” or above the fold, both of which will be on the first landing page after Consumers log in to their online account, starting no later than sixty (60) days after written request by a representative of the FTC. Such notice shall appear for a period of three months.

b. who may view their bills via MyATT application, AT&T shall provide the notice as set forth in Appendix A either by the Consumer clicking the “Alert” button or by including it above the fold on the first page of the application after the log in, starting no later than sixty (60) days after written request by a representative of the FTC. Such notice shall appear for a period of three months.

J. If practicable, the Settlement Administrator, at the direction of the FTC, may use other means to provide notice to former Consumers such as U.S. Mail, e-mail, and publication notices.

K. Consumers may submit a written bill summary request to the Settlement Administrator, and the Settlement Administrator will respond using the data provided by AT&T under Section VI.D above.

L. Consumers shall have six (6) months from the date notice is first given to them under Section VI.I. above to request a Bill summary.

M. At the direction of the FTC, and to the extent practicable, the Settlement Administrator shall:

1. Consider all claims submitted to it by Consumers who claim that they had Unauthorized PSMS Third-Party Charges on their AT&T bills, determine the validity of such claims, and:

- a. For current Consumers, provide AT&T with a list of those Consumers to receive redress and the amount of redress AT&T is to provide to each of those Consumers. For each Consumer, the list shall include: First Name; Middle Name; Last Name; all telephone numbers associated with the Consumer's account; the mobile BAN; and the total amount to be credited. The Settlement Administrator shall notify the FTC

of the total amount of credits, and the FTC shall transfer to AT&T the amount of funds necessary to redress the current Consumers identified in this Subparagraph. AT&T has no obligation to issue any credits under this Section unless and until AT&T receives the necessary funds from the FTC.

b. For former Consumers, provide redress to those Consumers with valid claims using the funds provided to the FTC pursuant to Section V.A.

2. Following the claims process described in Section VI.M.1, if redress funds remain, the Settlement Administrator, at the direction of the FTC, in consultation with the executive committee of the Attorneys General of the Participating States and the FCC, shall identify those Consumers who had charges placed on their bills initiated by Third-Parties and/or Billing Aggregators identified as defendants or respondents in civil or administrative actions or settlements alleging Unauthorized PSMS Third-Party Charges by the FTC, FCC, or any State Attorney General, and:

a. Provide AT&T with a list of those current Consumers to receive redress and the amount of redress AT&T is to provide to each of those Consumers. For each Consumer,

the list shall include: First Name; Middle Name; Last Name; all telephone numbers associated with the Consumer's account; the mobile BAN; and the total amount to be credited. The Settlement Administrator shall notify the FTC of the total amount of credits, and the FTC shall transfer to AT&T the amount of funds necessary to redress the current Consumers identified in this Subparagraph. AT&T has no obligation to issue any credits under this Section unless and until AT&T receives the necessary funds from the FTC.

b. Provide redress to those former Consumers eligible for redress under this Section using the funds provided to the FTC pursuant to Section V.A.

3. Following the claims process described in Section VI.M.2, if redress funds remain, the Settlement Administrator, at the direction of the FTC, in consultation with the executive committee of the Attorneys General of the Participating States and the FCC, shall identify Consumers who have been billed for PSMS Third-Party Charges from January 1, 2009 through the date of entry of this Order, and:

a. For current Consumers, provide AT&T with a list of those Consumers to receive redress and the amount of redress AT&T is to provide to each of those Consumers. For each Consumer, the list shall include: First Name; Middle Name; Last Name; all telephone numbers associated with the Consumer's account; the mobile BAN; and the total amount to be credited. The Settlement Administrator shall notify the FTC of the total amount of credits, and the FTC shall transfer to AT&T the amount of funds necessary to redress the current Consumers identified in this Subparagraph. AT&T has no obligation to issue any credits under this Section unless and until AT&T receives the necessary funds from the FTC.

b. For former Consumers, provide redress to those Consumers eligible for redress under this Section using the funds provided to the FTC pursuant to Section V.A.

4. In no event shall the aggregate amount of (1) all payments made by AT&T to the FTC and (2) any credits provided by AT&T in accordance with Section VI.M and Section VI.N (after receiving funds back from the FTC in the same amount of any credits given), exceed \$80 million.

N. Following each phase of the refund program outlined in Sections VI.M.1-3, within seventy-five (75) days of the later of (a) receipt of the list from the Settlement Administrator of current Consumers who are owed refunds under Sections VI.M.1.a, VI.M.2.a, and VI.M.3.a, and (b) payment from the FTC redress fund as provided under Sections VI.M.1.a, VI.M.2.a, and VI.M.3.a, AT&T shall provide a Bill credit to Consumers for the full amount the Settlement Administrator has determined. The Bill credit shall appear on Consumers' Bills as set forth in Appendix B.

O. Within sixty (60) days of receiving notice from the Settlement Administrator that a phase of the redress program pursuant to Section VI.M has been fulfilled and upon the Settlement Administrator's and AT&T's completion of their obligations pursuant to Section VI.N, AT&T (i) shall transfer any uncredited redress funds in full to the FTC-administered redress fund, and (ii) agrees to provide the Settlement Administrator with the identities of the Consumers for whom redress cannot be credited.

P. After AT&T has provided Bill credits to Consumers pursuant to Sections VI.M.1.a, VI.M.2.a, VI.M.3.a, and VI.N, AT&T shall certify to the FTC within a reasonable period of time that they have given such credits, and the total amount of credits given.

Q. If Consumers contact AT&T directly regarding the FTC redress program process, AT&T shall direct Consumers to contact the Settlement Administrator at the telephone number and the website listed in the notice set forth in Appendix A. Nothing herein shall prohibit AT&T from communicating with current or former customers about their accounts or service with AT&T, including any Unauthorized Third-Party Charges.

R. Reasonable adjustments requested by AT&T may be made to the redress process described in Section VI upon written agreement by the FTC, and when practicable, in consultation with the executive committee of the Participating States and the FCC.

VII. ACKNOWLEDGMENTS

Within seven (7) days of entry of this Order, AT&T must deliver a copy of this Order to all officers and directors of AT&T.

VIII. COMPLIANCE REPORTING

It is further ordered that:

A. One year after entry of this Order, AT&T must submit a compliance report. AT&T must: (i) identify the primary physical, postal, and e-mail address and telephone number, as designated points of contact, which representatives of the FTC may use to communicate with AT&T, and

AT&T will update this information as necessary; and (ii) provide a certification from a senior corporate manager with the requisite corporate and organizational authority that AT&T has established and implemented the requirements of this Order and is not aware of any material noncompliance that has not been (a) corrected, or (b) disclosed to the FTC. The certification will be based on the personal knowledge of the senior corporate manager or the personal knowledge of AT&T subject matter experts upon whom the senior corporate manager reasonably relies in making the certification.

B. For a period of one year after April 1, 2015, and upon request for five years thereafter, AT&T shall provide a report to the FTC every three (3) months (“Quarterly Reports”) documenting its compliance with the requirements of Section III.B (and its subsections). This documentation shall include:

1. The total number of Consumer claims for unauthorized Third-Party Charges for which Carrier has demonstrated that the purchasers provided Express Informed Consent;
2. All refunds/credits provided, in dollars, due to AT&T’s inability to provide proof of Express Informed Consent in response to such a claim by Consumers;

3. For the refunds/credits identified in the foregoing subsections 1 and 2, the Third-Party Product, the Third Party, and the entity responsible to AT&T for ensuring Express Informed Consent from the Consumer if different than AT&T; and

4. To the extent permitted by any applicable law, a description of any remedial action taken by AT&T 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: (i) the name and contact information of such Third Party, (ii) a description of the Product in connection with which the remedial action was taken, (iii) an indication of whether the Product was suspended or terminated (and if the Product was suspended, AT&T shall include the date or conditions for reinstatement), and (iv) the reason for the remedial action.

C. 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.

D. To the extent AT&T believes that Quarterly Reports submitted under the foregoing Section VIII.B constitute confidential commercial and financial information that is proprietary and sensitive, AT&T may produce such Quarterly Reports pursuant to the confidentiality provisions in 16 C.F.R. §§ 2.33 and 4.9(c) and mark them as confidential.

E. For 180 days after entry of this Order, AT&T must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against AT&T within fourteen (14) days of its filing.

F. Unless otherwise directed by a FTC representative in writing, all submissions to the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The subject line must begin: FTC v. AT&T Mobility LLC.

IX. RECORDKEEPING

It is further ordered that:

A. No later than February 1, 2015, AT&T shall implement a process to track (1) all Consumer claims that a Third-Party Charge was unauthorized for which AT&T demonstrated that purchaser provided

Express Informed Consent; (2) refunds/credits provided due to AT&T's inability to provide proof of Express Informed Consent in response to such a claim by a Consumer; and (3) any other information necessary to prepare the Quarterly Reports described in Section VIII.B.

B. No later than February 1, 2015, AT&T shall implement systems that allow it to maintain the information described in Section IX.A. Each record created pursuant to this Section shall be maintained for a period of six (6) years from the date of its creation. AT&T's obligation to maintain records for six years from the date of their creation shall continue for twenty (20) years after entry of the Order.

C. For twenty (20) years after the entry of this Order, AT&T must create accounting records showing the revenues associated with all Third-Party Charges and retain such records for five (5) years from the date of their creation. If such records are requested by the FTC those records may be produced by AT&T pursuant to the confidentiality provisions in 16 C.F.R. §§ 2.33 and 4.9(c) and marked by AT&T as confidential.

X. COMPLIANCE MONITORING

It is further ordered:

A. The FTC is authorized to seek discovery, without further leave of court, subject to the standards of Federal Rule of Civil Procedure 26,

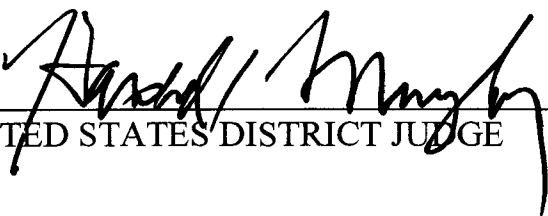
using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69. AT&T may assert any and all rights or privileges in the Federal Rules of Civil Procedure, the Federal Rules of Evidence, or any other applicable law.

B. Nothing in this Order limits the FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1. AT&T may assert any and all defenses, rights, or privileges available to it.

XI. RETENTION OF JURISDICTION

It is further ordered that this Court retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

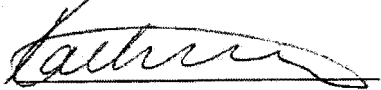
SO ORDERED this 8th day of October, 2014.


UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF:

FEDERAL TRADE COMMISSION



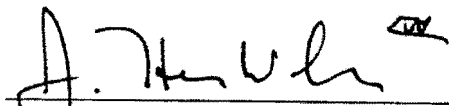
Katherine Worthman
(Phone: 202-326-2929)
(E-mail: kworthman@ftc.gov)

Courtney Estep
(Phone: 202-326-2788)
(E-mail: cestep@ftc.gov)

Jane Ricci
(Phone: 202-326-2269)
(E-mail: jricci@ftc.gov)
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Fax: (202) 326-2752

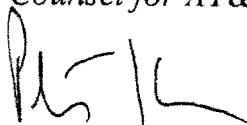
S. Spencer Elg
Ga. Bar No. 940592
(Phone: 404-656-1354)
(E-mail: selg@ftc.gov)
Federal Trade Commission
225 Peachtree St. NE, Ste. 1500
Atlanta, GA 30303
Fax: 404-656-1379

FOR AT&T:



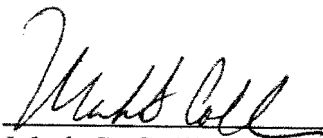
Date: 10-6-14

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Counsel for AT&T Mobility, LLC



Date: 10-6-14

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

APPENDIX A

Notice via text message:

AT&T FREE MESSAGE: Refunds available. You may have paid for charges from other companies on your AT&T bill that you did not authorize. Go to [refund program website] for information.

Notice via e-mail:

Subject line of e-mail: AT&T Refunds Available

AT&T Mobility and the Federal Trade Commission, the Federal Communications Commission, and Multi-State Attorneys General have agreed to a refund program for unauthorized charges from other companies that may have been placed on AT&T's wireless telephone bills during the period January 1, 2009 through [effective date]. For more information about the refund program and whether you may qualify, contact [Settlement Administrator] at [phone number] or [website address with online refund form]. You may also learn more by viewing the news releases about the settlement with AT&T, the Federal Trade Commission, the Federal Communications Commission, and the Multi-State Attorneys General, at www.ftc.gov/ _____, www.fcc.gov, and [Multi-State Website].

Notice via electronic bill alert and mobile application:

Refunds available. You may have paid for charges from other companies on your AT&T bill that you did not authorize. Go to [FTC refund program website] for information.

Notice via hard-copy Bill Insert:

Subject line of Bill Insert: AT&T Refunds Available

AT&T Mobility and the Federal Trade Commission, the Federal Communications Commission, and Multi-State Attorneys General have agreed to a refund program for unauthorized charges from other companies that may have been placed on AT&T's wireless telephone bills during the period January 1, 2009 through [effective date]. For more information about the refund program and whether you may qualify, contact [Settlement Administrator] at [phone number] or [website address with online refund form]. You may also learn more by viewing the news releases about the settlement with AT&T, the Federal Trade Commission, the Federal Communications Commission, and the Multi-State Attorneys General, at www.ftc.gov/_____, www.fcc.gov/, and [Multi-State Website].

APPENDIX B

Bill Credit Explanation on Bill:

Refund from settlement with AT&T and the Federal Trade Commission,
Federal Communications Commission, and Multi-State Attorneys General.