

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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DEC 11 2006

PUBLIC SERVICE
COMMISSION

In the Matter of:

AN INQUIRY INTO LIMITATIONS)
OF USE FOR TARIFFED SERVICES) ADMINISTRATIVE
DESIGNATED OR OTHERWISE) CASE NO. 2005-00186
REFERRED TO AS UNLIMITED)

ATTORNEY GENERAL'S MOTION TO CANCEL HEARING AND FOR LEAVE
TO TENDER WRITTEN COMMENTS IN LIEU OF HEARING

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and hereby moves the Commission to cancel the hearing in this matter, currently scheduled for December 19, 2006, and further moves the Commission that in lieu of said hearing, he and the other parties hereto be granted the right to tender written comments, if they so choose.¹ The Attorney General's tendered Written Comments are attached hereto.

In support of this motion, the Attorney General states that the Commission in its order of June 22, 2005 opened this docket on its own initiative as an administrative case. In that order, the Commission mandated that all telecommunications carriers having tariffs with "unlimited plans" respond to ten (10) data requests that were appended to that order. The Commission has now

¹ The order setting the hearing in this matter was issued on August 21, 2006.

received responses to those data requests, which are filed of record. Additionally, the Attorney General filed two (2) sets of data requests, the responses thereto also being filed of record.

On August 29, 2005 the Attorney General moved for a hearing. In that motion, the Attorney General noted in general observations that some telecommunications carriers offering plans designated as “unlimited” nonetheless did impose various limitations or restrictions on usage of said plans.

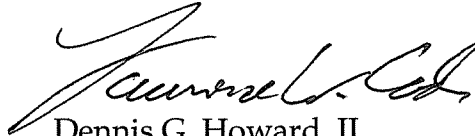
On May 23, 2006 the Attorney General filed a Motion to Compel Responses to Supplemental Requests for Information, citing as grounds that one carrier had provided inadequate responses, and that other carriers identified in said motion had failed to respond to the requests.² Since that time, the Attorney General has in fact received adequate responses to the initial and supplemental data requests from all relevant carriers. The Attorney General continues to work with two other carriers to obtain additional information.

Given these facts, it now appears that taking any evidence at a hearing would only introduce redundant information into the record, thus making the hearing superfluous and indeed unnecessary. The Attorney General believes that allowing parties to tender final written comments would be in the best interests of the Commission and all parties of record.

² Upon best information and belief, it appears that Comm South Companies, Inc. is no longer transacting business in the Commonwealth.

WHEREFORE, the Attorney General respectfully requests that the Commission grant his motion to cancel the hearing in this matter; that the Commission grant the Attorney General's attached tendered Written Comments to be filed of record; and that other parties hereto be granted the right to tender written comments, if they so choose.

Respectfully submitted,
GREGORY D. STUMBO
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Dennis G. Howard, II". The signature is fluid and cursive, with a large initial "D" and "H".

Dennis G. Howard, II
Lawrence W. Cook
Assistant Attorneys General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204
502-696-5453

Certificate of Service

Counsel certifies filing of the original and ten photocopies of the foregoing by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, service of the filing was by mailing a true and correct copy of the same, first class postage prepaid, to:

1-800-RECONEX, Inc. dba US Tel
Attn: Jennifer Sikes, Regulatory Mgr.
P.O. Box 9
Hubbard, OR 97032-0009

ACCESS INTEGRATED NETWORKS, INC.
Technologies Management, Inc.
Attn: Carey Roesel
P. O. Drawer 200
Winter Park, FL 32790-0200

AERO COMMUNICATIONS, LLC
Attn: Todd Heinrich, President
1301 Broadway
Paducah, KY 42001

WINDSTREAM COMMUNICATIONS,
INC.
(previously Alltel Communications)
Attn: Daniel Logsdon, VP External Affairs
130 W. New Circle Rd., Ste. 170
Lexington, KY 40505

AT&T COMMUNICATIONS OF THE
SOUTH CENTRAL STATES, LLC.
Douglas Brent, Esq.
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 W. Jefferson St.
Louisville, KY 40202

BELL ATLANTIC COMMUNICATIONS,
INC.
dba VERIZON LONG DISTANCE
Douglas Brent, Esq.
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 W. Jefferson St.
Louisville, KY 40202

BELLSOUTH LONG DISTANCE, INC.
Ms. Cheryl Winn, Atty.
601 W. Chestnut St., Rm. 407
Louisville, KY 40203

BELLSOUTH TELECOMMUNICATIONS,
INC.
Attn: Mary Keyer, General Counsel
P.O. Box 32410
Louisville, KY 40232

BULLSEYE TELECOM, INC.
Technologies Management, Inc.
Attn: Monique Byrnes
P. O. Drawer 200
Winter Park, FL 32790-0200

CINCINNATI BELL TELEPHONE CO., LLC
Attn: Jouett Kinney Brenzel, Esq.
P.O. Box 2301
Cincinnati, OH 45201-2301

EVERYCALL COMMUNICATIONS, INC.
Attn: Kyle Coats
10500 Coursey Blvd., Ste. 306
Baton Rouge, LA 70816

EXCELL TELECOMMUNICATIONS, INC.
Attn: Courtney Weddington, Sr. Reg.
Analyst
2440 Marsh Lane
Carrollton, TX 75006

LIGHTYEAR NETWORK SOLUTIONS,
LLC.
Attn: Linda Hunt
Director, Legal & Regulatory Affairs
1901 Eastpoint Parkway
Louisville, KY 40223

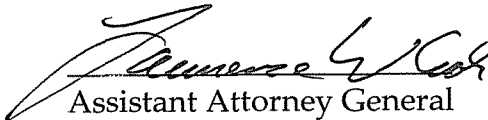
MOMENTUM TELECOM , INC.
Douglas Brent, Esq.
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 W. Jefferson St.
Louisville, KY 40202

-
all on this 11th day of December, 2006

NETWORK TELEPHONE CORPORATION
Attn: Ms. Margaret H. Ring
Director-Regulatory & Government Affairs
3300 N. Pace Boulevard
Pensacola, FL 32401

TRINSIC COMMUNICATIONS, INC.
Technologies Management, Inc.
Attn: Monique Byrnes
P. O. Drawer 200
Winter Park, FL 32790-0200

VARTEC TELECOM, INC.
Attn: Courtney Weddington, Sr. Reg.
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Assistant Attorney General

COMMONWEALTH OF KENTUCKY
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AN INQUIRY INTO LIMITATIONS)
OF USE FOR TARIFFED SERVICES) ADMINISTRATIVE
DESIGNATED OR OTHERWISE) CASE NO. 2005-00186
REFERRED TO AS UNLIMITED)

ATTORNEY GENERAL'S TENDERED WRITTEN COMMENTS

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and hereby tenders his Written Comments regarding the above-styled matter.

After reviewing responses to both the Commission's and the Attorney General's initial data requests, the Attorney General found numerous instances of carriers providing calling plans designated, advertised, held out to the public or otherwise referred to as being "unlimited." The Attorney General identified many plans which required additional review, and therefore submitted supplemental data requests to 23 carriers.¹ Upon review of additional materials,

¹ The following carriers were served with Supplemental Data Requests: MCI Network Services, Inc.; MCI Metro Access Transmission; Excel Telecommunications, Inc.; Vartec Solutions, Inc.; Bell Atlantic Communications, Inc. (dba Verizon Long Distance, and NYNEX Long Distance Co. (dba Verizon Enterprise Solutions); Nuvox Communications, Inc.; Everycall Communications, Inc.; Momentum Telecom, Inc.; Aero Communications, LLC; Windstream Communications, Inc.; Comm South Companies, Inc. [upon best information and belief, this entity is no longer transacting business in the Commonwealth]; Cincinnati Bell Telephone Co.; 1-800-Reconex, Inc. (dba USTel); AT&T Communications of the South Central States, LLC; BellSouth Telecommunications, Inc.; BellSouth Long Distance, Inc.; Trinsic Communications, Inc.; Lightyear Network Solutions, Inc.; Network Telephone Corp.; BullsEye Telecom, Inc.; Vertex Communications, Inc.; CAN Communications Services, Inc.; Access Integrated Network, Inc.

it appeared that some carriers had no restrictions / limitations to their unlimited plans, and that therefore no follow-up actions were warranted. However, further review also indicated that other carriers' plans either required closer scrutiny or further actions. For purposes of this pleading, the Attorney General divides his discussion between: (a) those carriers having restrictions / limitations based on minutes of usage and/or areas of calling, but which for reasons set forth in more detail below appear to be acceptable for purposes of this matter; and (b) those carriers with restrictions / limitations in their unlimited plans that appear to be unacceptable for purposes of this matter.

A. Restrictions Acceptable for Purposes of this Matter

Many of the tariffs and advertising materials pertaining to plans falling under this category had "Acceptable Use Policies" ("AUPs") that placed certain restrictions on usage. These restrictions included, but were not limited to: internet access, telemarketing, auto-dialed calls, multi-party conference calls, calls to "900" numbers, fax blasting, calling cards, collect calls, international calling, toll free calling services, and excessive usage predominantly during business hours. Virtually all of the "unlimited" plans subject to scrutiny in the instant case are residential plans; therefore, it appears that restrictions in residential plans prohibiting usage that is clearly commercial in nature are acceptable for purposes of this matter.

The Attorney General initially was concerned that any limitation for "excessive usage predominantly during business hours" was too vague.

However, further communications with carriers having such a restriction indicated that any usage initially deemed excessive did not result in levying penalties or in automatic termination. Instead, excess usage triggered further investigation to indicate whether usage patterns occurred solely during business hours, which would indicate the plan subscriber's usage was more business-related rather than personal. The Attorney General believes that as long as a carrier investigates (including contact with the plan user prior to imposing any changes in the plan or charges to the plan user) to determine whether usage occurs solely during normal business hours, that a restriction prohibiting excessive usage predominantly during hours is acceptable for purposes of this matter.

The Attorney General also found that several carriers with "unlimited" plans had as a part of their AUP a provision that set a certain threshold of minutes of usage to trigger additional investigation. The further investigation would reveal whether usage patterns included prohibited commercial uses, such as fax blasting. Such a threshold of usage thus merely requires further investigation, and does not operate as a pure limitation on minutes of usage. The Attorney General believes that as long as a restriction on minutes of usage merely triggers further investigation to inquire as to whether the user is engaging in commercial applications (as described above), then such a restriction is acceptable for purposes of this matter.

B. Restrictions Not Acceptable for Purposes of this Matter

The Attorney General found several carriers that had pure limitations on minutes of usage on their "unlimited" plans. The Attorney General believes such restrictions to be unacceptable, and indeed potentially illegal under the Kentucky Consumer Protection Act, KRS 367.110 et seq. The Attorney General obtained Assurances of Voluntary Compliance² from some carriers³ whereby the carrier agreed to pursue one of the following two (2) options:

OPTION ONE: (a) re-file the company's tariffs referencing "unlimited" plans in such a way as to either eliminate the word "unlimited," or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and (b) cease advertising or in any way offering any plan using the word "unlimited," unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

OPTION TWO: (a) leave the company's tariffs unchanged; and (b) agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures so that all limitations are clearly and conspicuously disclosed. For purposes of this settlement, the phrase "clearly and conspicuously" is defined and set forth in the attachment accompanying this letter.

The Attorney General commends those companies for their willingness to work with him to reach a just resolution of this issue.

Finally, the Attorney General also believes to be unacceptable any restriction found in an "unlimited" plan that purports to place a threshold of

² An "Assurance of Voluntary Compliance" ("AVC") is authorized by and subject to KRS 367.230, which provides (in part) that an AVC shall not be considered an admission of violation for any purpose. The AVCs referenced here were approved by and filed with the Franklin Circuit Court.

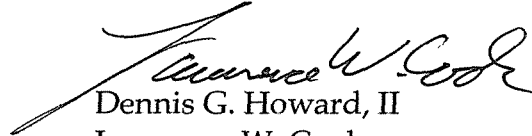
³ The Attorney General attaches hereto copies of the AVCs he obtained from these carriers.

usage and then shifts the burden to the plan user to show why his plan should not be terminated. However, the Attorney General believes such a restriction can be acceptable for purposes of this matter if prior to shifting the burden, the company engages in further investigation (including contact with the plan user prior to imposing any changes in the plan or charges to the plan user) and finds commercial usage patterns.

Recommendations

Based on his review of all relevant material, the Attorney General recommends the following: (a) tariffs for “unlimited” plans that do in fact place pure limits on minutes of usage unfortunately provide incentive to carriers to advertise their plans in a potentially misleading manner, thus causing harm to the public at large. The Attorney General believes that some of the advertising for “unlimited” plans could be deemed unfair, misleading or false; therefore, the Commission should cease accepting tariffs from carriers that place pure restrictions on the number of minutes of usage; and (b) it should be acceptable for carriers to have reasonable Acceptable Use Policies (“AUPs”) which preclude commercial uses for plans that are deemed residential, subject to the limitations discussed above.

Respectfully submitted,
GREGORY D. STUMBO
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Lawrence W. Cook". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Dennis G. Howard, II
Lawrence W. Cook
Assistant Attorneys General
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Frankfort, KY 40601-8204
502-696-5453

N:\ORI\LCook\Public\2005-00186 UNLIMITED TEL PLANS\AG_Final_Comments.doc

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Attn: Courtney Weddington, Sr. Reg.
Analyst
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Carrollton, TX 75006

all on this 11th day of December, 2006


Assistant Attorney General

From:

10/11/2006 15:02 #274 P.001

ENTERED
DEC 11 2006
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____

CIVIL ACTION NO. Misc # 101

COMMONWEALTH OF KENTUCKY, EX. REL,
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

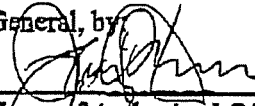
v. ASSURANCE OF VOLUNTARY COMPLIANCE

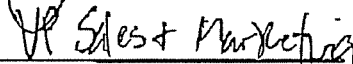
ACCESS INTEGRATED NETWORKS, Inc.
4885 Riverside Dr.
Ste. 202
Macon, GA 31210

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney

General, by

Name of Authorized Officer


Authorized Officer's Title, on behalf of
Access Integrated Networks, Inc.

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration

of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent is a telecommunications provider located at 4885 Riverside Dr., Ste. 202, Macon, GA 31210, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

6. KRS 367.230 provides, *inter alia*, that the Attorney General may accept an AVC with respect to any practice deemed to be in violation of KRS 367.110 to 367.300 from any person who has engaged in that practice, that the AVC shall be in writing and shall be filed with and subject to the approval of the Circuit Court in which the alleged violator resides or has his principal place of business, that the AVC shall not be considered an admission of violation for any purpose, that it shall be a willful violation of KRS 367.170 to fail to comply with the AVC, and that the Attorney General may reopen matters closed through an AVC at any time for further proceedings in the public interest.

7. KRS 367.990 provides, *inter alia*: a civil penalty of up to two-thousand dollars (\$2,000) for each willful violation of KRS 367.170, except that the civil penalty may be up to ten-thousand dollars (\$10,000) if the conduct was directed at a person of age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

8. Paragraphs 1 through 7 are hereby incorporated by reference.

9. The Petitioner alleges that the Respondent engaged in unfair, false, misleading or deceptive acts in violation of KRS 367.170, et seq., as applicable, in relation to the following:

A. The Respondent caused to be marketed or otherwise made available to Kentucky consumers, and/or caused certain tariff filings to be made at the Kentucky Public Service Commission regarding certain telephone calling plans, and thereby held such plans out to the public or referred to said plans as being "unlimited," whereas said plans in fact contained restrictions in the number of minutes of permitted usage, and/or restrictions in locations users could place calls.

10. The Petitioner alleges that the Respondent willfully or intentionally engaged in the aforementioned methods, acts or practices.

11. In 2005, the Kentucky Public Service Commission caused to be filed an administrative case styled: "An Inquiry Into Limitations of Use for Tariffed Services Designated or Otherwise Referred to as Unlimited" (Public Service Commission Case No. 2005-00186). The Attorney General for the Commonwealth of Kentucky intervened in such action on behalf of all Kentucky ratepayers, and obtained various documents from Respondent in discovery.

V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

14. Paragraphs 1 through 13 are hereby incorporated by reference.

15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word "unlimited," or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any

way offering any plan using the word “unlimited,” unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

B. Leave the company’s Kentucky Public Service Commission tariffs unchanged; and agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures regarding said telephone calling plans so that all limitations are clearly and conspicuously disclosed. For purposes of this AVC, a statement is “clear and conspicuous” if it is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. 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, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. The audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for a consumer to read and comprehend it. In a print advertisement or promotional material directed to consumers, the disclosure shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in print that contrasts with the background against which it appears.

With reference to advertisements communicated through an electronic medium (e.g., television, video, radio, and interactive media such as the Internet and online services), there shall be a rebuttable presumption that the disclosures are clear and conspicuous if, in addition to the foregoing, such disclosures are presented simultaneously in both the audio and visual portions of the advertisement. Provided, however, that in any advertisement presented through a solely visual medium or a solely audio medium, the disclosure may be made through the same means in which the ad is presented.

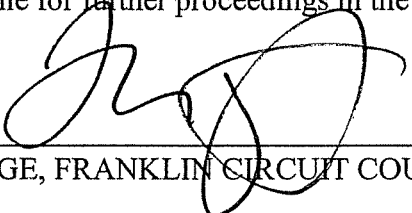
2. In accordance with KRS 367.990, Respondent is liable for civil penalties in the sum of \$2,000 per violation. For purposes of this AVC, one violation exists for each tariff filing made with the Kentucky Public Service Commission in which a plan referred to as “unlimited” in fact contains limitations of minutes of usage, and / or restrictions in locations users could place calls. However, payment of any and all such penalties is hereby conditionally suspended for so long a period of time as Respondent complies with the terms of this AVC. In the event Respondent ceases compliance with the terms of this AVC, payment for such violations as is applicable shall be made by official check, certified check, money order, or other guaranteed form of payment,

payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.

4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.

5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: 12/11/06

DISTRIBUTION LIST

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601

(_____)

PETITIONER

Access Integrated Networks, Inc.
4885 Riverside Dr.
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(_____)

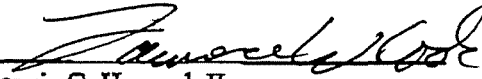
RESPONDENT

From:

10/11/2006 15:03 #274 P.007


HAVING SEEN AND AGREED TO:

**GREGORY D. STUMBO
ATTORNEY GENERAL**

By: 

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

ACCESS INTEGRATED NETWORKS, INC.

By: 
[NAME and TITLE OF AUTHORIZED SIGNER]

4885 Riverside Drive
Macon GA 31210

Address and Telephone Number of Authorized Signer

ENTERED
SEP 28 2006
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____

FILED
SEP 28 2006
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

CIVIL ACTION NO. MISC # 80

COMMONWEALTH OF KENTUCKY, EX. REL.
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

v. **ASSURANCE OF VOLUNTARY COMPLIANCE**

BULLSEYE TELECOM, INC.
25900 Greenfield Road
Ste. 330
Oak Park, Michigan 48237

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney

General, by:

SCOTT LOWEY
Name of Authorized Officer

VICE PRESIDENT, MARGARET W
Authorized Officer's Title, on behalf of
BullsEye Telecom, Inc.

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent, Bullseye Telecom, Inc. is a telecommunications provider located at 25900 Greenfield Road Ste. 330, Oak Park, Michigan 48237, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

6. KRS 367.230 provides, *inter alia*, that the Attorney General may accept an AVC with respect to any practice deemed to be in violation of KRS 367.110 to 367.300 from any person who has engaged in that practice, that the AVC shall be in writing and shall be filed with and subject to the approval of the Circuit Court in which the alleged violator resides or has his principal place of business, that the AVC shall not be considered an admission of violation for any purpose, that it shall be a willful violation of KRS 367.170 to fail to comply with the AVC, and that the Attorney General may reopen matters closed through an AVC at any time for further proceedings in the public interest.

7. KRS 367.990 provides, *inter alia*: a civil penalty of up to two-thousand dollars (\$2,000) for each willful violation of KRS 367.170, except that the civil penalty may be up to ten-thousand dollars (\$10,000) if the conduct was directed at a person of age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

8. Paragraphs 1 through 7 are hereby incorporated by reference.

9. The Petitioner alleges that the Respondent engaged in unfair, false, misleading or deceptive acts in violation of KRS 367.170, et seq., as applicable, in relation to the following:

A. The Respondent caused to be marketed or otherwise made available to Kentucky consumers, and/or caused certain tariff filings to be made at the Kentucky Public Service Commission regarding certain telephone calling plans, and thereby held such plans out to the public or referred to said plans as being "unlimited," whereas said plans in fact contained restrictions in the number of minutes of permitted usage, and/or restrictions in locations users could place calls.

10. The Petitioner alleges that the Respondent willfully or intentionally engaged in the aforementioned methods, acts or practices.

11. In 2005, the Kentucky Public Service Commission caused to be filed an administrative case styled: "An Inquiry Into Limitations of Use for Tariffed Services Designated or Otherwise Referred to as Unlimited" (Public Service Commission Case No. 2005-00186). The Attorney General for the Commonwealth of Kentucky intervened in such action on behalf of all Kentucky ratepayers, and obtained various documents from Respondent in discovery.

V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

14. Paragraphs 1 through 13 are hereby incorporated by reference.

15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word "unlimited," or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any

way offering any plan using the word “unlimited,” unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

B. Leave the company’s Kentucky Public Service Commission tariffs unchanged; and agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures regarding said telephone calling plans so that all limitations are clearly and conspicuously disclosed. For purposes of this AVC, a statement is “clear and conspicuous” if it is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. 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, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. The audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for a consumer to read and comprehend it. In a print advertisement or promotional material directed to consumers, the disclosure shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in print that contrasts with the background against which it appears.

With reference to advertisements communicated through an electronic medium (e.g., television, video, radio, and interactive media such as the Internet and online services), there shall be a rebuttable presumption that the disclosures are clear and conspicuous if, in addition to the foregoing, such disclosures are presented simultaneously in both the audio and visual portions of the advertisement. Provided, however, that in any advertisement presented through a solely visual medium or a solely audio medium, the disclosure may be made through the same means in which the ad is presented.

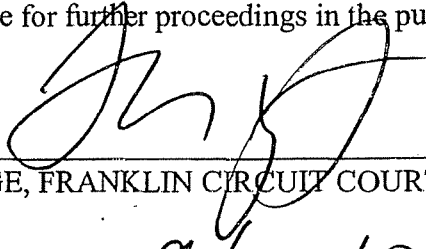
2. In accordance with KRS 367.990, Respondent is liable for civil penalties in the sum of \$2,000 per violation. For purposes of this AVC, one violation exists for each tariff filing made with the Kentucky Public Service Commission in which a plan referred to as “unlimited” in fact contains limitations of minutes of usage, and / or restrictions in locations users could place calls. However, payment of any and all such penalties is hereby conditionally suspended for so long a period of time as Respondent complies with the terms of this AVC. In the event Respondent ceases compliance with the terms of this AVC, payment for such violations as is applicable shall be made by official check, certified check, money order, or other guaranteed form of payment,

payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.

4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.

5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: _____

9/28/06

DISTRIBUTION LIST

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601

PETITIONER

()

Bullseye Telecom, Inc.
25900 Greenfield Road
Ste. 330
Oak Park, Michigan 48237

RESPONDENT

()

HAVING SEEN AND AGREED TO:

GREGORY D. STUMBO
ATTORNEY GENERAL

By: 

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

BULLSEYE TELECOM, INC.

By: 
NAME and TITLE OF AUTHORIZED SIGNER

SCOTT LOWEY, VICE PRESIDENT, MARKETING
25900 GREENFIELD RD. #330
OAK PARK, MI 48237

Address and Telephone Number of Authorized Signer
248. 784 - 2509

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____

CIVIL ACTION NO. Misc# 83

ENTERED
SEP 28 2006
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY, EX. REL.
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

v.

ASSURANCE OF VOLUNTARY COMPLIANCE

EXCEL TELECOMMUNICATIONS.

RESPONDENT

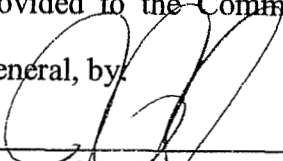
2440 Marsh Ln.

Carrollton, TX 75006

Attn: Melissa Drennon, VP - Litigation + Compliance

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney General, by:



Name of Authorized Officer

Chief Administrative Officer

Authorized Officer's Title, on behalf of
Excel Telecommunications, dba of Comtel Telecom Assets LP
By its General Partner, Comtel Assets Inc.

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration

of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent, Excel Telecommunications, is a telecommunications provider located at 2440 Marsh Ln., Carrollton, TX 75006, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

6. KRS 367.230 provides, *inter alia*, that the Attorney General may accept an AVC with respect to any practice deemed to be in violation of KRS 367.110 to 367.300 from any person who has engaged in that practice, that the AVC shall be in writing and shall be filed with and subject to the approval of the Circuit Court in which the alleged violator resides or has his principal place of business, that the AVC shall not be considered an admission of violation for any purpose, that it shall be a willful violation of KRS 367.170 to fail to comply with the AVC, and that the Attorney General may reopen matters closed through an AVC at any time for further proceedings in the public interest.

7. KRS 367.990 provides, *inter alia*: a civil penalty of up to two-thousand dollars (\$2,000) for each willful violation of KRS 367.170, except that the civil penalty may be up to ten-thousand dollars (\$10,000) if the conduct was directed at a person of

age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

8. Paragraphs 1 through 7 are hereby incorporated by reference.

9. The Petitioner alleges that the Respondent engaged in unfair, false, misleading or deceptive acts in violation of KRS 367.170, et seq., as applicable, in relation to the following:

A. The Respondent caused to be marketed or otherwise made available to Kentucky consumers, and/or caused certain tariff filings to be made at the Kentucky Public Service Commission regarding certain telephone calling plans, and thereby held such plans out to the public or referred to said plans as being "unlimited," whereas said plans in fact contained restrictions in the number of minutes of permitted usage, and/or restrictions in locations users could place calls.

10. The Petitioner alleges that the Respondent willfully or intentionally engaged in the aforementioned methods, acts or practices.

11. In 2005, the Kentucky Public Service Commission caused to be filed an administrative case styled: "An Inquiry Into Limitations of Use for Tariffed Services Designated or Otherwise Referred to as Unlimited" (Public Service Commission Case No. 2005-00186). The Attorney General for the Commonwealth of Kentucky intervened in such action on behalf of all Kentucky ratepayers, and obtained various documents from Respondent in discovery.

V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

14. Paragraphs 1 through 13 are hereby incorporated by reference.

15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word

“unlimited,” or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any way offering any plan using the word “unlimited,” unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

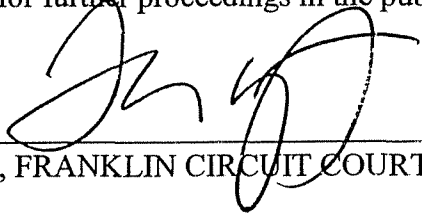
B. Leave the company’s Kentucky Public Service Commission tariffs unchanged; and agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures regarding said telephone calling plans so that all limitations are clearly and conspicuously disclosed. For purposes of this AVC, a statement is “clear and conspicuous” if it is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. 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, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. The audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for a consumer to read and comprehend it. In a print advertisement or promotional material directed to consumers, the disclosure shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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2. In accordance with KRS 367.990, Respondent is liable for civil penalties in the sum of \$2,000 per violation. For purposes of this AVC, one violation exists for each tariff filing made with the Kentucky Public Service Commission in which a plan referred to as “unlimited” in fact contains limitations of minutes of usage, and / or restrictions in locations users could place calls. However, payment of any and all such penalties is hereby conditionally suspended for so long a period of time as Respondent complies with the terms of this AVC. In the event Respondent ceases compliance with the terms of this AVC, payment for such violations as is applicable shall be made by

official check, certified check, money order, or other guaranteed form of payment, payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.
4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.
5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: 9/28/06

DISTRIBUTION LIST

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601

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PETITIONER

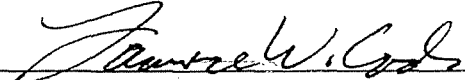
Excel Telecommunications
2440 Marsh Ln.
Carrollton, TX 75006
Attn: Melissa Drennan
V.P. - Litigation & Compliance

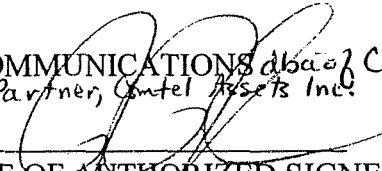
RESPONDENT

()

HAVING SEEN AND AGREED TO:

GREGORY D. STUMBO
ATTORNEY GENERAL

By: 
Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

EXCEL TELECOMMUNICATIONS *subsidiary of Centel Telecom Assets LP*
By its General Partner, Centel Assets Inc.
By: 
NAME and TITLE OF AUTHORIZED SIGNER
Effective September 22, 2006:
433 E. Las Colinas Blvd.
Irving, TX 75039-5508
Address and Telephone Number of Authorized Signer

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____
CIVIL ACTION NO. MISC #81

ENTERED
SEP 28 2006
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY, EX. REL.
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

v.

ASSURANCE OF VOLUNTARY COMPLIANCE

Everycall Communications, Inc.
10500 Coursey Blvd.
Ste. 306
Baton Rouge, LA 70816
Atnt: Kyle Coats

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney General, by:

Kyle Coats
Name of Authorized Officer

President
Authorized Officer's Title, on behalf of
Everycall Communications, Inc.

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration

of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent, Everycall Communications, Inc., is a telecommunications provider located at 10500 Coursey Blvd., Ste. 306, Baton Rouge, LA 70816, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

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age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

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11. In 2005, the Kentucky Public Service Commission caused to be filed an administrative case styled: "An Inquiry Into Limitations of Use for Tariffed Services Designated or Otherwise Referred to as Unlimited" (Public Service Commission Case No. 2005-00186). The Attorney General for the Commonwealth of Kentucky intervened in such action on behalf of all Kentucky ratepayers, and obtained various documents from Respondent in discovery.

V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

14. Paragraphs 1 through 13 are hereby incorporated by reference.

15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word

“unlimited,” or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any way offering any plan using the word “unlimited,” unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

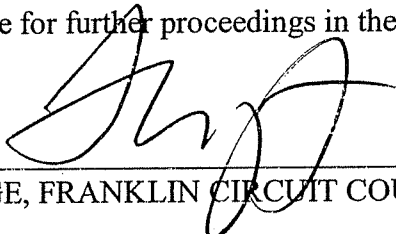
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2. In accordance with KRS 367.990, Respondent is liable for civil penalties in the sum of \$2,000 per violation. For purposes of this AVC, one violation exists for each tariff filing made with the Kentucky Public Service Commission in which a plan referred to as “unlimited” in fact contains limitations of minutes of usage, and / or restrictions in locations users could place calls. However, payment of any and all such penalties is hereby conditionally suspended for so long a period of time as Respondent complies with the terms of this AVC. In the event Respondent ceases compliance with the terms of this AVC, payment for such violations as is applicable shall be made by

official check, certified check, money order, or other guaranteed form of payment, payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.
4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.
5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: _____

9/28/06

DISTRIBUTION LIST

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601

PETITIONER

()

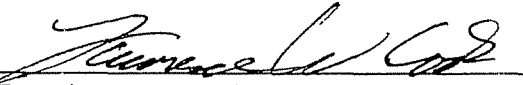
Everycall Communications, Inc.
10500 Coursey Blvd.
Ste. 306
Baton Rouge, LA 70816
Atnt: Kyle Coats

RESPONDENT

(_____)

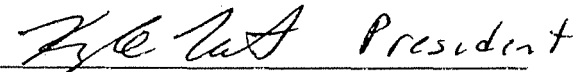
HAVING SEEN AND AGREED TO:

GREGORY D. STUMBO
ATTORNEY GENERAL

By: 

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

EVERYCALL COMMUNICATIONS, INC.

By:  President

NAME and TITLE OF AUTHORIZED SIGNER

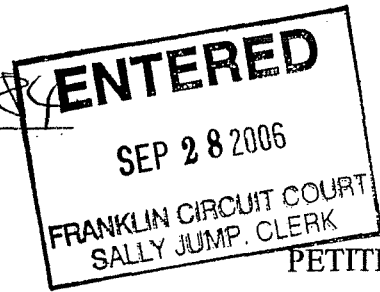
10500 Coursey Blvd Suite 306 Baton Rouge La 70816

225-293-3332

Address and Telephone Number of Authorized Signer

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____

CIVIL ACTION NO. MISC # 04



COMMONWEALTH OF KENTUCKY, EX. REL.
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

v.

ASSURANCE OF VOLUNTARY COMPLIANCE

LIGHTYEAR NETWORK SOLUTIONS, LLC
1901 Eastpoint Parkway
Louisville, KY 40223
Attn: Linda Hunt
Director, Legal & Regulatory Affairs

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney General, by:

John J. Greive
Name of Authorized Officer

VP/General Counsel
Authorized Officer's Title, on behalf of
Lightyear Network Solutions, LLC

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration

of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent, Lightyear Network Solutions, LLC, is a telecommunications provider located at 1901 Eastpoint Parkway, Louisville, KY 40223, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

6. KRS 367.230 provides, *inter alia*, that the Attorney General may accept an AVC with respect to any practice deemed to be in violation of KRS 367.110 to 367.300 from any person who has engaged in that practice, that the AVC shall be in writing and shall be filed with and subject to the approval of the Circuit Court in which the alleged violator resides or has his principal place of business, that the AVC shall not be considered an admission of violation for any purpose, that it shall be a willful violation of KRS 367.170 to fail to comply with the AVC, and that the Attorney General may reopen matters closed through an AVC at any time for further proceedings in the public interest.

7. KRS 367.990 provides, *inter alia*: a civil penalty of up to two-thousand dollars (\$2,000) for each willful violation of KRS 367.170, except that the civil penalty may be up to ten-thousand dollars (\$10,000) if the conduct was directed at a person of

age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

8. Paragraphs 1 through 7 are hereby incorporated by reference.

9. The Petitioner alleges that the Respondent engaged in unfair, false, misleading or deceptive acts in violation of KRS 367.170, et seq., as applicable, in relation to the following:

A. The Respondent caused to be marketed or otherwise made available to Kentucky consumers, and/or caused certain tariff filings to be made at the Kentucky Public Service Commission regarding certain telephone calling plans, and thereby held such plans out to the public or referred to said plans as being "unlimited," whereas said plans in fact contained restrictions in the number of minutes of permitted usage, and/or restrictions in locations users could place calls.

10. The Petitioner alleges that the Respondent willfully or intentionally engaged in the aforementioned methods, acts or practices.

11. In 2005, the Kentucky Public Service Commission caused to be filed an administrative case styled: "An Inquiry Into Limitations of Use for Tariffed Services Designated or Otherwise Referred to as Unlimited" (Public Service Commission Case No. 2005-00186). The Attorney General for the Commonwealth of Kentucky intervened in such action on behalf of all Kentucky ratepayers, and obtained various documents from Respondent in discovery.

V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

14. Paragraphs 1 through 13 are hereby incorporated by reference.

15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word

“unlimited,” or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any way offering any plan using the word “unlimited,” unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

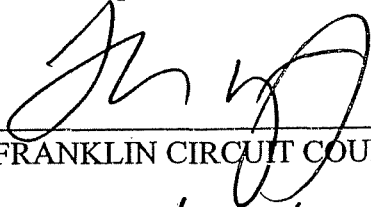
B. Leave the company’s Kentucky Public Service Commission tariffs unchanged; and agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures regarding said telephone calling plans so that all limitations are clearly and conspicuously disclosed. For purposes of this AVC, a statement is “clear and conspicuous” if it is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. 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, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. The audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for a consumer to read and comprehend it. In a print advertisement or promotional material directed to consumers, the disclosure shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in print that contrasts with the background against which it appears.

With reference to advertisements communicated through an electronic medium (e.g., television, video, radio, and interactive media such as the Internet and online services), there shall be a rebuttable presumption that the disclosures are clear and conspicuous if, in addition to the foregoing, such disclosures are presented simultaneously in both the audio and visual portions of the advertisement. Provided, however, that in any advertisement presented through a solely visual medium or a solely audio medium, the disclosure may be made through the same means in which the ad is presented.

2. In accordance with KRS 367.990, Respondent is liable for civil penalties in the sum of \$2,000 per violation. For purposes of this AVC, one violation exists for each tariff filing made with the Kentucky Public Service Commission in which a plan referred to as “unlimited” in fact contains limitations of minutes of usage, and / or restrictions in locations users could place calls. However, payment of any and all such penalties is hereby conditionally suspended for so long a period of time as Respondent complies with the terms of this AVC. In the event Respondent ceases compliance with the terms of this AVC, payment for such violations as is applicable shall be made by

official check, certified check, money order, or other guaranteed form of payment, payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.
4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.
5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: 9/28/06

DISTRIBUTION LIST

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601

()

PETITIONER

Lightyear Network Solutions, LLC
1901 Eastpoint Parkway
Louisville, KY 40223
Atnt: Linda Hunt
Director, Legal & Regulatory Affairs

()

RESPONDENT

HAVING SEEN AND AGREED TO:

GREGORY D. STUMBO
ATTORNEY GENERAL

By: *Lawrence W. Cook*

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

LIGHTYEAR NETWORK SOLUTIONS, LLC

By: *John J. Greive*
NAME and TITLE OF AUTHORIZED SIGNER

John J. Greive, VP/General Counsel
1901 Eastpoint Parkway, Lou. KY 40223
Address and Telephone Number of Authorized Signer
(502) 244-6666

ENTERED
SEP 28 2006
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____

CIVIL ACTION NO. MISC #86

COMMONWEALTH OF KENTUCKY, EX. REL.
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

v.

ASSURANCE OF VOLUNTARY COMPLIANCE

NETWORK TELEPHONE CORPORATION
3300 N. Pace Boulevard
Pensacola, FL 32501
Atnt: Ms. Margaret H. Ring
Director-Regulatory & Government Affairs

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney General, by:

Aloysius T. Lamm
Name of Authorized Officer
EVP - General Counsel
Authorized Officer's Title, on behalf of
Network Telephone Corporation

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration

of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent, Network Telephone Corporation, is a telecommunications provider located at 3300 N. Pace Boulevard, Pensacola, FL 32501, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

6. KRS 367.230 provides, *inter alia*, that the Attorney General may accept an AVC with respect to any practice deemed to be in violation of KRS 367.110 to 367.300 from any person who has engaged in that practice, that the AVC shall be in writing and shall be filed with and subject to the approval of the Circuit Court in which the alleged violator resides or has his principal place of business, that the AVC shall not be considered an admission of violation for any purpose, that it shall be a willful violation of KRS 367.170 to fail to comply with the AVC, and that the Attorney General may reopen matters closed through an AVC at any time for further proceedings in the public interest.

7. KRS 367.990 provides, *inter alia*: a civil penalty of up to two-thousand dollars (\$2,000) for each willful violation of KRS 367.170, except that the civil penalty may be up to ten-thousand dollars (\$10,000) if the conduct was directed at a person of

age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

8. Paragraphs 1 through 7 are hereby incorporated by reference.

9. The Petitioner alleges that the Respondent engaged in unfair, false, misleading or deceptive acts in violation of KRS 367.170, et seq., as applicable, in relation to the following:

A. The Respondent caused to be marketed or otherwise made available to Kentucky consumers, and/or caused certain tariff filings to be made at the Kentucky Public Service Commission regarding certain telephone calling plans, and thereby held such plans out to the public or referred to said plans as being "unlimited," whereas said plans in fact contained restrictions in the number of minutes of permitted usage, and/or restrictions in locations users could place calls.

10. The Petitioner alleges that the Respondent willfully or intentionally engaged in the aforementioned methods, acts or practices.

11. In 2005, the Kentucky Public Service Commission caused to be filed an administrative case styled: "An Inquiry Into Limitations of Use for Tariffed Services Designated or Otherwise Referred to as Unlimited" (Public Service Commission Case No. 2005-00186). The Attorney General for the Commonwealth of Kentucky intervened in such action on behalf of all Kentucky ratepayers, and obtained various documents from Respondent in discovery.

V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

14. Paragraphs 1 through 13 are hereby incorporated by reference.

15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word "unlimited," or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any way offering any plan using the word "unlimited," unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

B. Leave the company's Kentucky Public Service Commission tariffs unchanged; and agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures regarding said telephone calling plans so that all limitations are clearly and conspicuously disclosed. For purposes of this AVC, a statement is "clear and conspicuous" if it is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. 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, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. The audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for a consumer to read and comprehend it. In a print advertisement or promotional material directed to consumers, the disclosure shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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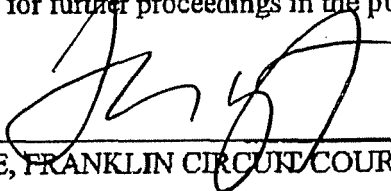
2. In accordance with KRS 367.990, Respondent is liable for civil penalties in the sum of \$2,000 per violation. For purposes of this AVC, one violation exists for each tariff filing made with the Kentucky Public Service Commission in which a plan referred to as "unlimited" in fact contains limitations of minutes of usage, and / or restrictions in locations users could place calls. However, payment of any and all such penalties is hereby conditionally suspended for so long a period of time as Respondent complies with the terms of this AVC. In the event Respondent ceases compliance with

the terms of this AVC, payment for such violations as is applicable shall be made by official check, certified check, money order, or other guaranteed form of payment, payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.

4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.

5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: 9/28/06

DISTRIBUTION LIST

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
PETITIONER

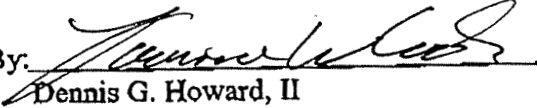
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Network Telephone Corporation
3300 N. Pace Boulevard
Pensacola, FL 32501
Atnt: Ms. Margaret H. Ring
Director-Regulatory & Government Affairs
RESPONDENT

()

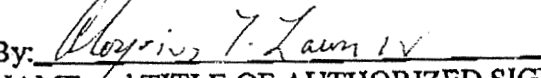
HAVING SEEN AND AGREED TO:

**GREGORY D. STUMBO
ATTORNEY GENERAL**

By: 

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

NETWORK TELEPHONE CORPORATION

By: 
NAME and TITLE OF AUTHORIZED SIGNER

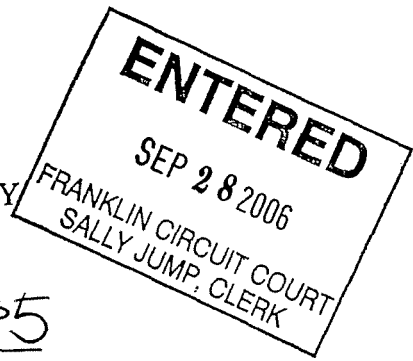
Aloysius T. Laun IV
EVP - General Counsel

Address and Telephone Number of Authorized Signer

6805 Route 202
New Hope, PA 18938
215-862-1500

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____

CIVIL ACTION NO. MISC #85



COMMONWEALTH OF KENTUCKY, EX. REL.
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

v.

ASSURANCE OF VOLUNTARY COMPLIANCE

TRINSIC COMMUNICATIONS, INC.
601 S. Harbour Island Blvd.
Ste. 220
Tampa, FL 33602

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney General, by:

Andrew L. Graham
Name of Authorized Officer

Secretary and VP Legal
Authorized Officer's Title, on behalf of
Trinsic Communications, Inc.

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent, Trinsic Communications, Inc. is a telecommunications provider located at 601 S. Harbour Island Blvd., Ste. 220, Tampa, FL 33602, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

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7. KRS 367.990 provides, *inter alia*: a civil penalty of up to two-thousand dollars (\$2,000) for each willful violation of KRS 367.170, except that the civil penalty may be up to ten-thousand dollars (\$10,000) if the conduct was directed at a person of age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

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8. Paragraphs 1 through 7 are hereby incorporated by reference.

9. The Petitioner alleges that the Respondent engaged in unfair, false, misleading or deceptive acts in violation of KRS 367.170, et seq., as applicable, in relation to the following:

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V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

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15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word "unlimited," or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any

way offering any plan using the word “unlimited,” unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

B. Leave the company’s Kentucky Public Service Commission tariffs unchanged; and agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures regarding said telephone calling plans so that all limitations are clearly and conspicuously disclosed. For purposes of this AVC, a statement is “clear and conspicuous” if it is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. 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, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. The audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for a consumer to read and comprehend it. In a print advertisement or promotional material directed to consumers, the disclosure shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in print that contrasts with the background against which it appears.

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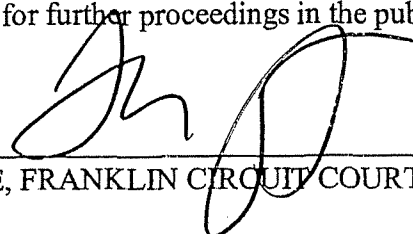
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payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.

4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.

5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: _____

9/28/06

DISTRIBUTION LIST

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601

()

PETITIONER


Trinsic Communications, Inc.
601 S. Harbour Island Blvd.
Ste. 220
Tampa, FL 33602

()

RESPONDENT


HAVING SEEN AND AGREED TO:

GREGORY D. STUMBO
ATTORNEY GENERAL

By: 

Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

TRINSIC COMMUNICATIONS, INC.

By: 

NAME and TITLE OF AUTHORIZED SIGNER

Andrew L. Groham

Secretary

Address and Telephone Number of Authorized Signer

601 S Harbour Island Blvd.
Suite 220
Tampa, FL 33602
(813) 233-4567

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION _____

CIVIL ACTION NO. MISC# 82

ENTERED
SEP 28 2006
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY, EX. REL.
GREGORY D. STUMBO, ATTORNEY GENERAL

PETITIONER

c/o Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

v.

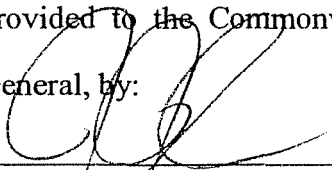
ASSURANCE OF VOLUNTARY COMPLIANCE

VARTEC TELECOM
2440 Marsh Lane
Carrollton, TX 75006

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance ["AVC"] is provided to the Commonwealth of Kentucky, ex. rel. Gregory D. Stumbo, Attorney General, by:



Name of Authorized Officer

Chief Administrative Officer
Authorized Officer's Title, on behalf of
VarTec Telecom, a dba of Comtel Telecom Assets LP
By its General Partner, Comtel Assets Inc.

I. PARTIES

1. The Petitioner, Gregory D. Stumbo, is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

2. The Respondent, VarTec Telecom, is a telecommunications provider located at 2440 Marsh Lane, Carrollton, TX 75006, and is registered with the Kentucky Secretary of State to transact business in this Commonwealth.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this AVC pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby incorporated by reference.

5. KRS 367.170 provides, *inter alia*, that unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

6. KRS 367.230 provides, *inter alia*, that the Attorney General may accept an AVC with respect to any practice deemed to be in violation of KRS 367.110 to 367.300 from any person who has engaged in that practice, that the AVC shall be in writing and shall be filed with and subject to the approval of the Circuit Court in which the alleged violator resides or has his principal place of business, that the AVC shall not be considered an admission of violation for any purpose, that it shall be a willful violation of KRS 367.170 to fail to comply with the AVC, and that the Attorney General may reopen matters closed through an AVC at any time for further proceedings in the public interest.

7. KRS 367.990 provides, *inter alia*: a civil penalty of up to two-thousand dollars (\$2,000) for each willful violation of KRS 367.170, except that the civil penalty may be up to ten-thousand dollars (\$10,000) if the conduct was directed at a person of age sixty (60) or older and the defendant knew or should have known the person was substantially more vulnerable than other members of the public.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

8. Paragraphs 1 through 7 are hereby incorporated by reference.

9. The Petitioner alleges that the Respondent engaged in unfair, false, misleading or deceptive acts in violation of KRS 367.170, et seq., as applicable, in relation to the following:

A. The Respondent caused to be marketed or otherwise made available to Kentucky consumers, and/or caused certain tariff filings to be made at the Kentucky Public Service Commission regarding certain telephone calling plans, and thereby held such plans out to the public or referred to said plans as being "unlimited," whereas said plans in fact contained restrictions in the number of minutes of permitted usage, and/or restrictions in locations users could place calls.

10. The Petitioner alleges that the Respondent willfully or intentionally engaged in the aforementioned methods, acts or practices.

11. In 2005, the Kentucky Public Service Commission caused to be filed an administrative case styled: "An Inquiry Into Limitations of Use for Tariffed Services Designated or Otherwise Referred to as Unlimited" (Public Service Commission Case No. 2005-00186). The Attorney General for the Commonwealth of Kentucky intervened in such action on behalf of all Kentucky ratepayers, and obtained various documents from Respondent in discovery.

V. NO ADMISSION BY RESPONDENT

12. Paragraphs 1 through 11 are hereby incorporated by reference.

13. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose.

VI. GENERAL STATEMENTS

14. Paragraphs 1 through 13 are hereby incorporated by reference.

15. Respondent consents and agrees to compromise and settle the consumer protection violations alleged by the Petitioner, and consents to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC. Respondent avers that none of its customers were financially harmed as a result of the practices set forth in this AVC. Respondent agrees that if any of its unlimited plan customers should file complaints with either the company or the Attorney General at any time after the date this AVC is entered, it will work with the Attorney General to resolve said complaints.

16. Respondent states that it is represented by legal counsel in this matter.

17. The individual signing on behalf of Respondent states that he or she has full authority to sign and enter into this AVC on behalf of respondent; that he or she is under no disability; and has read and knowingly consents and agrees to this AVC.

18. This AVC shall be binding and effective as of the date of its entry by the Clerk.

19. The Respondent waives service of process for the filing of this AVC, and does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for signature and its entry by the clerk of said court.

WHEREFORE, the parties having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised;

IT IS HEREBY ORDERED as follows:

1. Respondent shall either:

A. Re-file the company's Kentucky Public Service Commission tariffs referencing "unlimited" plans in such a way as to either eliminate the word "unlimited," or revise the tariff so that there are absolutely no limitations on the number of minutes or places that can be called; and cease advertising or in any

way offering any plan using the word “unlimited,” unless the plan in fact has absolutely no restrictions on the number of minutes or places that can be called; or

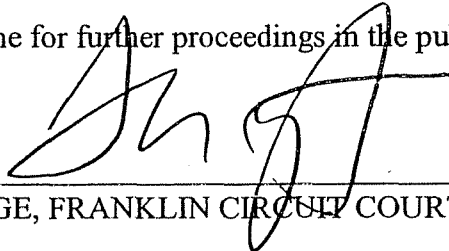
B. Leave the company’s Kentucky Public Service Commission tariffs unchanged; and agree to change any and all advertisements, descriptions, plan summaries, and or any and all other disclosures regarding said telephone calling plans so that all limitations are clearly and conspicuously disclosed. For purposes of this AVC, a statement is “clear and conspicuous” if it is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. 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, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. The audio disclosure shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for a consumer to read and comprehend it. In a print advertisement or promotional material directed to consumers, the disclosure shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in print that contrasts with the background against which it appears.

With reference to advertisements communicated through an electronic medium (e.g., television, video, radio, and interactive media such as the Internet and online services), there shall be a rebuttable presumption that the disclosures are clear and conspicuous if, in addition to the foregoing, such disclosures are presented simultaneously in both the audio and visual portions of the advertisement. Provided, however, that in any advertisement presented through a solely visual medium or a solely audio medium, the disclosure may be made through the same means in which the ad is presented.

2. In accordance with KRS 367.990, Respondent is liable for civil penalties in the sum of \$2,000 per violation. For purposes of this AVC, one violation exists for each tariff filing made with the Kentucky Public Service Commission in which a plan referred to as “unlimited” in fact contains limitations of minutes of usage, and / or restrictions in locations users could place calls. However, payment of any and all such penalties is hereby conditionally suspended for so long a period of time as Respondent complies with the terms of this AVC. In the event Respondent ceases compliance with the terms of this AVC, payment for such violations as is applicable shall be made by official check, certified check, money order, or other guaranteed form of payment,

payable to the Kentucky State Treasurer, and delivered to the Consumer Protection Division, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

3. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.
4. As provided in KRS 367.230, it shall be a willful violation of KRS 367.170 if Respondent fails to comply with the terms of this AVC.
5. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.



JUDGE, FRANKLIN CIRCUIT COURT

DATE: 9/28/06

DISTRIBUTION LIST

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Lawrence W. Cook
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Assistant Attorneys General
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Frankfort, Kentucky 40601

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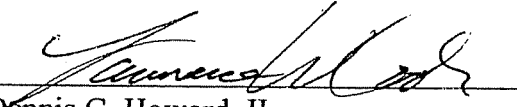
PETITIONER

VARTEC TELECOM
2440 Mash Lane
Carrington, Texas 75006
Attn: Melissa Drennon, VP - Litigation & Compliance

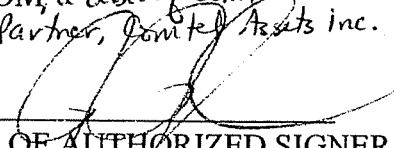
RESPONDENT ()

HAVING SEEN AND AGREED TO:

GREGORY D. STUMBO
ATTORNEY GENERAL

By: 
Dennis G. Howard, II
Lawrence W. Cook
Kevin Winstead
Assistant Attorneys General
1024 Capital Center Drive, Ste. 200
Frankfort, Kentucky 40601
(502) 696-5453

VARTEC TELECOM, a dba of Comtel Telecom Assets LP
By its General Partner, Comtel Assets Inc.

By: 
NAME and TITLE OF AUTHORIZED SIGNER
Effective September 22, 2006:
433 E. Las Colinas Blvd.

Irving, TX 75039-5508
Address and Telephone Number of Authorized Signer