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PUBLIC HEARING

before

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

ASSEMBLY BILL Nos. 4437 AND 4449

(Establish regulatory scheme for certain
telephone information services)

and the Committee Discussed

ASSEMBLY BILL No. 4630

(Makes telemarketing between the hours of
9 p.m. - 9 a.m. an unlawful business practice)

May 20, 1991
Glassboro Municipal Building
Glassboro, New Jersey

MEMBER OF COMMITTEE PRESENT:

Assemblyman David C. Kronick, Chairman

ALSO PRESENT:

Assemblywoman Ann A. Mullen
District 4

David L. Sallach
Office of Legislative Services
Aide, Assembly Consumer Affairs Committee

* * * * *

Hearing Recorded and Transcribed by
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New Jersey State Legislature
ASSEMBLY CONSUMER AFFAIRS COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625-0068
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PROPOSED

NOTICE OF PUBLIC HEARING

The
Assembly Consumer Affairs Committee
will hold a public hearing on
Monday, May 20, 1991 beginning at 6:30 p.m.
at the Glassboro Municipal Building, at Main and High Streets
Glassboro, New Jersey.

STATE REGULATION OF "900" NUMBERS

The purpose of this public hearing is to discuss legislation to establish a regulatory scheme to protect the State's consumers from deceptive practices by the sponsors of telephone information services and programs which are accessed by dialing the "900" area code.

The committee will discuss the following bills:

A-4437 Mecca/Mullen	Establishes regulatory scheme for certain telephone information services.
A-4449 Cimino	Establishes regulatory scheme for certain telephone information services.

The public may address comments and questions to Dave Sallach, committee aide, and persons wishing to testify should contact Ramona A. Morales, secretary, at (609) 984-0231. Persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

Issued 5/10/91

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1991

By Assemblyman MECCA and Assemblywoman MULLEN

1 AN ACT concerning information services provided from, in or
2 into the State and supplementing P.L.1960, c.39 (C.56:8-1 et
3 seq.)
4

5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. a. An information service constitutes a service within the
8 term "merchandise" as defined in P.L.1960, c.39 (C.56:8-1 et
9 seq.) and the provisions of that law concerning the advertisement
10 and sale of merchandise shall have the same application to the
11 advertisement and sale of an information service.

12 b. For the purposes of this act, "information service" means
13 live or pre-recorded voice or computer-generated communication
14 provided from, in or into the State via use of a seven-digit or
15 ten-digit telephone number or an automatic dialing device, for a
16 fee or charge billed by or on behalf of the information service
17 provider in addition to any charges for the local or long distance
18 transmission or other services associated with the call which are
19 subject to federal regulation or to regulation by the Board of
20 Public Utilities pursuant to Title 48 of the Revised Statutes.

21 2. a. It shall be an unlawful practice for a person to offer an
22 information service unless the following information is clearly
23 and conspicuously disclosed in advertisements offering the
24 information service and at the inception of the telephone call
25 connecting the caller with the information service:

26 1) the total price of the service, or the per-minute charge for
27 the service and the average length of service use and the charge
28 for that length of service use, in instances where a charge is
29 being imposed on a per-minute basis, or any other charges being
30 imposed for the service in instances where charges are imposed
31 on any other basis;

32 2) instruction to minors to obtain parental consent before
33 engaging the information service; and

34 3) the legal name and street address of the person advertising
35 or selling the information service.

36 b. Following the disclosure of the information required by
37 subsection a. of this section and prior to connection with the
38 information service, a reasonable period of time must be provided
39 during which the caller shall have the opportunity to disconnect
40 the call before charges are incurred for the information service
41 being sold. If the call is disconnected within this reasonable
42 period of time, there shall be no charge for the information

1 service. Notice of the conclusion of this period of time and the
2 commencement of charges accruing must also be provided.

3 3. It shall be an unlawful practice for a person to advertise or
4 sell an information service from, in or into the State that
5 involves:

6 a. the dialing of more than one seven-digit or ten-digit
7 telephone number for a fee in connection with the service;

8 b. the participation in a contest, raffle, lottery or game of
9 chance; or

10 c. the acquisition of a gift, bonus, prize or award.

11 4. It shall be an unlawful practice for a person to advertise or
12 sell an information service that involves a programmed automatic
13 dialing device in conjunction with linking capability to the
14 information service unless the disclosure of the information and
15 the opportunity to disconnect without charge are provided as
16 required by section 2 of this act.

17 5. The Attorney General may, pursuant to the provisions of the
18 "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et
19 seq.), adopt regulations necessary to effectuate the purposes of
20 this act and may require persons engaged in the advertisement or
21 sale of information services from, in or into the State to register
22 with the Division of Consumer Affairs in the Department of Law
23 and Public Safety and establish fees for this registration at a
24 level which allows for the proper administration and enforcement
25 of this act.

26 6. In addition to powers exercised by the Attorney General
27 pursuant to the provisions of section 8 of P.L.1960, c.39
28 (C.56:8-8) or any other law, upon a determination by the
29 Attorney General that a person advertising or selling an
30 information service from, in or into the State is in violation of
31 this act, the Attorney General shall have the authority to seek
32 and obtain in a summary action in the Superior Court, an
33 injunction prohibiting the person's access to telephone
34 subscribers from, in or into the State until the requirements of
35 this act are satisfied.

36 7. This act shall take effect on the 60th day following
37 enactment.

38 39 40 STATEMENT

41
42 This bill defines information services, commonly referred to as
43 700 or 900 numbers, and clarifies these services are included
44 under the term "merchandise" as defined in the State's consumer
45 fraud statute and are subject to the existing prohibitions against
46 unconscionable practices and abuses contained therein.

47 In addition, the bill supplements the existing act to specifically
48 prohibit the advertisement or sale of information services that do
49 not clearly and accurately disclose the costs associated with

1 these services and allow for the caller to disconnect the call prior
2 to the accrual of charges.

3 The bill also prohibits the use of automatic dialing of telephone
4 consumers followed by the patching through of those consumers
5 to an information service, unless the costs associated are
6 disclosed and an opportunity to disconnect the call is provided
7 prior to charges being accrued. These provisions are aimed at
8 eliminating common schemes designed to defraud the public, such
9 as chain referrals to additional 900 numbers for purposes of
10 obtaining desired information, contests and games offering
11 alluring prizes that ultimately prove either worthless or not
12 forthcoming, and the recently devised technology involving the
13 automatic dialing of telephone consumers followed by the
14 patching through of those consumers without their knowledge to
15 an information service.

16 The bill also authorizes the Attorney General to initiate
17 rulemaking proceedings designed to require those entities
18 providing information services to register with the New Jersey
19 Division of Consumer Affairs and pay a registration fee in an
20 amount commensurate with the overall enforcement
21 responsibilities imposed on the division under this act.

22

23

24

COMMUNICATIONS

25

26 Defines information services as merchandise; requires disclosure
27 of certain information in advertisements and before sale of this
28 merchandise.

ASSEMBLY, No. 4449

STATE OF NEW JERSEY

INTRODUCED JANUARY 31, 1991

By Assemblymen CIMINO and McGREEVEY

1 AN ACT concerning certain telephone information services and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).
3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. As used in this act:

7 "Premium telephone information service" or "service" means
8 any telephone service or program:

9 a. Offering passive or interactive telecommunications with
10 actual persons, voice messaging equipment or computer data
11 bases to a consumer in this State for the purported purpose of
12 transmitting information, be it of an educational, entertainment,
13 financial, charitable, or other nature, as may be prescribed by
14 rule and regulation, to that consumer;

15 b. Accessible by the consumer through the telephonic network
16 facilities of a telecommunications carrier, local exchange
17 telephone company, or a person otherwise providing access
18 through the use of cellular, mobile, portable or other specialized
19 telephonic communications methods that is subject to regulation
20 by the Federal Communications Commission or the Board of
21 Public Utilities of this State pursuant to Title 48 of the Revised
22 Statutes;

23 c. Where the consumer is billed for the service by the local
24 exchange telephone company providing dial tone and access to
25 the service or by the person providing access to the service
26 through the use of cellular, mobile, portable or other specialized
27 telephonic methods; and

28 d. Where the amount the consumer is billed exceeds the
29 amount the service sponsor is charged for the aggregate of: (1)
30 all federally regulated tariffed message transport costs; (2) all
31 applicable State and federal taxes; and (3) any other related fees,
32 charges, or costs provided under the terms of the contract
33 between the sponsor and the telecommunications carrier, local
34 telephone exchange company or other person providing telephonic
35 access to the service; and where that excess amount is remitted
36 to the sponsor.

37 "Sponsor" means any person who offers a premium telephone
38 information service to a consumer in this State.

39 2. It shall be an unlawful practice for a sponsor to advertise
40 the offering of a premium telephone information service to a
41 consumer in this State unless that advertisement shall, in a

1 manner prescribed by rule and regulation, clearly and
2 conspicuously set forth:

3 a. In the case of a service having a set fee or charge, the total
4 cost of the service to the consumer; or

5 b. In the case of a service having a per-minute fee or charge:

6 (1) The charge per-minute to the consumer;

7 (2) Whether or not the service consists of a scripted message
8 by an actual person, a pre-recorded message, voice messaging
9 equipment or a computer data base program, or is comprised of
10 non-scripted communication with an actual person, be that
11 person an employee or agent of the sponsor or another consumer
12 of the service. In the case of a service consisting of a scripted
13 message by an actual person, a pre-recorded message, voice
14 messaging equipment or a computer data base, the sponsor shall
15 notify the consumer of the total number of minutes for which he
16 may be charged for listening to the service.

17 (3) Whether or not there is any other fee or cost in addition to
18 the per-minute charge for which the consumer will be billed, and
19 if so the amount of that other fee or cost.

20 c. A statement that the consumer must be 18 years of age or
21 older; provided, however, a sponsor may offer a service for
22 consumers under the age of 18 if the advertisement clearly and
23 conspicuously, and in a manner understandable to such a
24 consumer, instructs that consumer to obtain parental permission
25 before accessing the service;

26 d. The sponsor's name and mailing address; and

27 e. Any other information the Department of Law and Public
28 Safety may by rule and regulation require.

29 3. It shall be an unlawful practice for any sponsor to offer a
30 premium telephone information service to a consumer in this
31 State that does not commence with a disclosure statement and
32 provide the consumer with an opportunity to terminate the
33 service without incurring any charge.

34 a. The disclosure statement shall include the following:

35 (1) A statement clearly and explicitly informing the consumer
36 that he will be charged for the service;

37 (2) The amount the consumer shall be charged:

38 (a) In the case of a service having a set fee or charge, the
39 statement shall disclose the total cost to the consumer;

40 (b) In the case of a service having a per-minute fee or charge,
41 the statement shall disclose the cost per-minute, whether the
42 service involves a scripted or non-scripted message, and whether
43 or not there is any other fee or cost, in addition to the
44 per-minute charge, for which the consumer will be billed. In the
45 case of a service involving a scripted message, the statement
46 shall disclose the length of that message in minutes; and

47 (3) Any other information the Department of Law and Public
48 Safety may, by rule and regulation, prescribe.

49 b. In addition to the disclosures required under the provisions

1 of subsection a. of this section, a sponsor who offers a premium
2 telephone information service in which a portion of the amount
3 for which the consumer is billed is to be allocated or remitted to
4 an organization either as a charitable donation or as a general
5 fundraising contribution shall also disclose:

6 (1) The name and purpose of the organization to which the
7 amounts donated or contributed are to be allocated or remitted;

8 (2) The amount to be allocated or remitted as a charitable
9 donation or contribution;

10 (3) What percentage that amount represents of the total cost
11 the consumer will be billed for the service; and

12 (4) Whether or not the consumer is entitled to treat the
13 amount so donated or contributed as a tax deductible contribution
14 for federal income tax purposes.

15 c. Notwithstanding the provisions of subsection a. of this
16 section, a sponsor who offers a service which is primarily
17 directed to or for consumers under the age of 18 shall commence
18 the service with a statement, presented in a manner that is
19 clearly understandable to the consumer to whom the service is
20 directed, which discloses that:

21 (1) There is a fee or charge for the service; and

22 (2) If the consumer has not obtain parental permission to
23 access the service, the service should be immediately terminated.

24 d. The disclosure statement required under the provisions of
25 this section shall conclude with the following statement:

26
27 "IF YOU DO NOT WISH TO BE CHARGED FOR THIS CALL,
28 PLEASE HANG UP NOW."
29

30 e. No consumer who terminates a service within five seconds
31 of the conclusion of the presentation of the statement required
32 under the provisions of subsection d. of this section shall incur
33 any charge for that service.

34 4. It shall be an unlawful practice for a sponsor to offer a
35 premium telephone information service to a consumer in this
36 State which involves in any manner the consumer's participation
37 in a contest, raffle, lottery, or game of chance.

38 5. It shall be an unlawful practice for a sponsor to notify, by
39 any means, as part of an advertising plan, campaign or scheme, a
40 consumer in this State that he has or may have won a prize, gift,
41 award, or other thing of value and, as a condition either for
42 receiving or for determining whether or not he is entitled to that
43 prize, gift, award, or other thing of value, to require that
44 consumer to access a premium telephone information service.

45 6. It shall be an unlawful practice for a sponsor to offer a
46 premium telephone information service to a consumer in this
47 State which, due to any act or employment of deception, false
48 pretense, false promise, misrepresentation, or the knowing,
49 concealment, suppression, or omission of any material fact with

1 intent that consumers rely upon that concealment, suppression or
2 omission in connection with the offering of the service, results in
3 the consumer accessing a second or subsequent premium
4 telephone information service.

5 7. Every sponsor who offers a premium telephone information
6 service to a consumer in this State shall, prior to that offering,
7 register with the Attorney General. The registration shall be in a
8 manner and form prescribed by rule and regulation. The Attorney
9 General shall fix a fee for the registration required under this
10 section sufficient to provide for the proper administration of this
11 act.

12 8. A sponsor who violates the provisions of this act shall, in
13 addition to any other penalty provided by law, be liable to a
14 penalty in an amount not to exceed \$25,000. If the violation is of
15 a continuing nature, each day shall constitute an additional
16 separate violation. The penalty provided for in this section shall
17 be collected in a summary proceeding pursuant to "the penalty
18 enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either
19 in the nature of a summons or a warrant and shall issue in the
20 name of the State, upon the complaint of the Attorney General.

21 In the event that any person found to have violated the
22 provisions of this act fails to pay a civil penalty assessed by the
23 court, the court may issue, upon application by the Attorney
24 General, a warrant for the arrest of that person for the purpose
25 of bringing him before the court to satisfy the civil penalty
26 imposed.

27 9. In any action or proceeding brought under the provisions of
28 this act, the Attorney General shall be entitled to recover costs
29 for the use of the State.

30 10. The Attorney General, in addition to the civil penalties
31 prescribed in this act, may bring an action in the Superior Court
32 to provide for the award of treble damages. In all actions under
33 this section, the court shall also award reasonable attorney's
34 fees, filing fees and reasonable court costs.

35 11. The Department of Law and Public Safety, pursuant to the
36 provisions of the "Administrative Procedures Act," P.L.1968,
37 c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations
38 to effectuate the purposes of this act.

39 12. This act shall take effect on the first day of the sixth
40 month following enactment, except that section 11 shall take
41 effect immediately.

42 43 44 STATEMENT

45
46 This bill supplements the Consumer Fraud Act, P.L.1960, c.39
47 (C.56:8-1 et seq.) to establish a regulatory scheme to protect the
48 State's consumers from deceptive and unlawful practices by the
49 sponsors of premium telephone information services.

1 Premium telephone information services, as defined in the bill,
2 are programs consumers may access by dialing either a "700" or
3 "900" area code and for which they are charged a fee that
4 exceeds the actual cost of the telephone call. The excess
5 amounts are remitted to the program sponsor. The bill clarifies
6 that the sponsor of the service is the person who offers the
7 program to the consumers of this State, not the
8 telecommunications carrier, local exchange telephone company,
9 or other telephonic or communications company transmitting and
10 providing access to the program. The regulatory scheme
11 established in this bill applies only to the sponsors, not the
12 entities carrying or providing access to the program. Those
13 entities are already subject to regulation by the Federal
14 Communications Commission or the State Board of Public
15 Utilities.

16 Under the provisions of the bill, the sponsors of premium
17 telephone information services are required to register with the
18 State and to disclose certain information to prospective
19 consumers. Advertisements for premium telephone information
20 services must disclose the cost of the service to the consumer
21 and whether there is a set fee for the service or the consumer
22 pays by the minute. If the service has a pay per-minute format,
23 the consumer must be informed whether the service has a
24 scripted message and if so the length of that message. The
25 consumer must also be informed whether there is any other fee or
26 charge for the service in addition to the per-minute charge.

27 The bill requires sponsors to disclose similar information to
28 each consumer when he calls the service. Sponsors who purport
29 to allocate or remit portions of the excess a consumer is charged
30 for charitable or fundraising purposes are required to disclose the
31 amount actually be allocated or remitted, the name of the
32 organization receiving that amount, and whether or not the
33 consumer may treat that amount as a tax deductible donation for
34 federal income tax purposes. Sponsors offering a service for
35 children must inform the child that there is an extra charge for
36 the call and that if parental permission has not been given, the
37 child should hang up.

38 Sponsors are also required to give the consumer an opportunity
39 to terminate the call without incurring any charge.

40 The bill also establishes certain unlawful practices. Sponsors,
41 for example, are not permitted to offer any service which
42 misleads, deceives, or through concealment, false pretense or
43 omission, has the consumer access a second or subsequent
44 premium telephone information service; offer a service which
45 involves participation in a contest, raffle, lottery, or game
46 change; or offer any program which requires a consumer to
47 access a premium telephone information service in order to

1 determine whether or not has won, or may be eligible for, a prize.
2 gift, award, bonus or other thing of value.

3 As a supplement to the Consumer Fraud Act, this bill
4 authorizes the Attorney General to exercise the extensive
5 investigative and enforcement powers available under that
6 statute.

7 In addition to the penalties currently available in cases of
8 consumer fraud, this bill authorizes the imposition of an
9 additional civil penalty of not more than \$25,000 for each
10 violation. If the violation is of a continuing nature, the bill
11 declares that each day during which the violation continues
12 constitutes a separate and distinct violation and, therefore, the
13 violator may be subject to additional civil penalties.

14 Finally, the bill permits the Attorney General to bring an
15 action in Superior Court for treble damages.

16
17
18 CONSUMER AFFAIRS
19

20 Establishes regulatory scheme for certain telephone information
21 services.

ASSEMBLY, No. 4630

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1991

By Assemblywoman MULLEN and Assemblyman MECCA

1 AN ACT concerning sales and advertising by telephone and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).
3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. It shall be an unlawful practice for a person to attempt to
7 sell, advertise, promote or otherwise offer any merchandise or
8 service by telephone between the hours of 9 p.m. and 9 a.m.

9 2. The Attorney General may, pursuant to the provisions of the
10 "Administrative Procedure Act", P.L.1968, c.410 (C. 52:14B-1 et
11 seq.), adopt regulations necessary to effectuate the purposes of
12 this act.

13 3. This act shall take effect immediately.
14
15
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17 STATEMENT
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19 This bill makes the practice of selling, advertising, promoting
20 or otherwise offering any merchandise or service by telephone,
21 often referred to as telemarketing, between the hours of 9 p.m.
22 and 9 a.m. an unlawful business practice under State consumer
23 fraud law.
24
25

26 COMMUNICATIONS
27

28 Makes telemarketing between the hours of 9 p.m. and 9 a.m. an
29 unlawful business practice.

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* * * * *

ASSEMBLYMAN DAVID C. KRONICK (Chairman): Good evening, everybody. This public hearing before the Assembly Consumer Affairs Committee will come to order. I want to thank everyone for coming out this evening. I would also like to thank my colleague, Assemblywoman Ann Mullen, for inviting the Committee to Glassboro. I have to tell you, Ann, this is my first trip to Glassboro, and I think I did it under the most difficult of conditions, because I didn't know the roads and they were quite busy. It reminded me of being back in Hudson County with that kind of traffic. I'm glad you share some of those problems. We can talk about them at another time.

The purpose of this hearing this evening is to discuss the issue of 900 numbers, and to explore legislative proposals which seek to protect consumers from 900 numbers which fail to disclose the total cost of the call, fail to provide the services advertised, and 900 services which entice the consumer to call for useless information.

Today, there are thousands of 900 lines offering a variety of services. There are many 900 lines which serve legitimate purposes, such as weather updates, Wall Street information, and sports scores. However, the number of complaints for this unregulated, billion-dollar industry continues to increase due to schemes such as 900 numbers which refer the caller to another 900 number or numbers, which provide the caller with the desired information at the end of the call.

Tonight, we will begin the first step toward regulating 900 numbers in New Jersey, to ensure that the consumer is informed of the cost of the call, and that the service promised is delivered to the caller.

At this point, I would like Assemblywoman Mullen to give us a briefing on her bill. Assemblywoman Mullen, would you be so kind?

ASSEMBLYWOMAN MULLEN: Thank you very much, Mr. Chairman, and thank you for coming such a long distance. We have a saying down here that if you work with a coworker who has to go more than 10 miles, you don't speak to them until after they are at their job for about an hour. But we do appreciate your coming such a distance.

ASSEMBLYMAN KRONICK: Thank you.

ASSEMBLYWOMAN MULLEN: Ladies and gentlemen, one of the reasons I got involved in this topic was because I had so many complaints from folks in my district who came in with little cards that said they would get prizes if they called a 900 number. I have had parents complain about the costs of their children making these calls unbeknownst to them. And, as you can see, this is certainly a big business. I understand there are about 5000 of these numbers. This is an advertisement from one of our local papers (Assemblywoman holds up newspaper) and you can see all these little telephone symbols on this paper. Each one of these is a 900 number offering some service or another.

But what really prompted me, was that one of the aides who works in my office -- and I see him smiling there -- told me he had received a call and it was offering a credit card, I believe. I should really get him up here to talk for himself, but he is shaking his head no, so I will tell you the story. He listened to the message and it said, "If you want more information, you punch in this number," and he did. The next thing he knew the telephone bill came in and his dad wanted to know what the \$15 charge was on the telephone bill. He had no warning that to get that information there would be a \$15 charge to listen to recorded information. This, apparently, is very, very common.

What my bill does is define the information services of these 900 or 700 numbers and actually see that these services are included under the term "merchandise." That way,

they can be regulated by the State. It would prohibit the switch over of the automatic dialing of telephones so there is a shunting through so consumers are patched into a call where the toll starts really running on them. It would prohibit that. They would have to be warned that there is a cost, and there would have to be a time during that span when they could hang up and shut that meter off.

So, that is what we attempted to do. This bill would also authorize the Attorney General to initiate rule-making proceedings designed to require those entities providing information services to register with the New Jersey Division of Consumer Affairs.

I think it would be best if you heard from the folks themselves. They will certainly give us more knowledge in this regard.

ASSEMBLYMAN KRONICK: Thank you, Assemblywoman. You know, the horror story that you just communicated about the \$15 charge-- From some of the material I read I learned there are figures as high as \$20,000. Can you believe that? So apparently there is a need, and that is what we are going to be looking at tonight -- the right way to approach it.

Our first speaker will be my friend, Jon Spinnanger, from New Jersey Bell. Good evening, sir. Thank you for coming.
J O N S P I N N A N G E R: I assume I use this table?

ASSEMBLYMAN KRONICK: Yes. Would you be so kind, Jon, as to spell your name? This is all being recorded.

MR. SPINNANGER: Yes, sure. My name is Jon Spinnanger. That's J-O-N S-P-I-N-N-A-N-G-E-R. I am the Director of Government Relations for New Jersey Bell Telephone.

Mr. Chairman and Assemblywoman Mullen, we are delighted to have the opportunity to present our testimony on this important subject. I am happy to tell you at the outset that Assemblywoman Mullen's bill -- A-4437 -- is fully supported by New Jersey Bell. We have no difficulty with the

provisions of that bill, and we would like to see it move very quickly.

But for the purposes of tonight's hearing, we thought it would be appropriate for us to give you, very quickly, a summary of just exactly what a 900 service is, how they work, and who is responsible, and, of course, we will leave you with a supply of this testimony as well. As a matter of fact, I have several people with me tonight, I am delighted to tell you. I have my colleagues, Andrew McDevitt and Maureen Fosko, both from New Jersey Bell, who are going to remain at the hearing tonight should questions arise later on that you might want to get a technical answer to. I wonder, could you provide these to the folks on the dais, and I will get underway? (handing copies of testimony to Mr. McDevitt)

I apologize, Mr. Chairman, but, like yourself, I live quite a bit to the north.

ASSEMBLYMAN KRONICK: Understandable.

MR. SPINNANGER: So, I will start. It is a series of 14 very brief questions. The first one is: What is the history of 900 services? AT&T first offered 900 services in 1980, when they were primarily used by ABC News during the Reagan-Carter debates as a medium for polling public opinion.

Beginning in the late 1980s when Telesphere, MCI, and Sprint began providing 900 transmission, billing, and collection, 900 services were used to provide talk lines, dating services, children's services, and as a medium to market and sell goods.

Question 2: Who provides 900 services? They are provided by long distance companies or interexchange carriers. Information service providers contract with these long distance companies to furnish taped messages, live messages, or to bridge several callers onto talk lines. It is believed that these information providers also determine the call charge level. New Jersey Bell provides only access to reach long

distance carriers and to enable their callers to reach 900 and other long distance services.

Question 3: How does a 900 service call work? When a caller dials a 900 number, New Jersey Bell switches the call to the long distance company which has reserved that number. The long distance company then connects the caller to the information service provider, who furnishes the taped message, live message, or connects the caller to several other callers. The long distance company collects the call data and bills the customer directly, or provides the information to the billing agent, which in many cases is New Jersey Bell.

Question 4: Why does New Jersey Bell bill for 900 services? New Jersey Bell is a billing agent. We are required to provide access to our network and provide certain billing services to long distance companies. Across-the-board denial of 900 call billing might lead to prohibiting our billing of "normal" long distance toll calls, resulting in at least two separate phone bills to each customer each month -- one, of course, from New Jersey Bell, and the other from the customer's long distance carrier.

Question 5: What is New Jersey Bell's current billing policy with respect to 900 services? New Jersey Bell has a contractual obligation to collect all legitimate charges. New Jersey Bell does not disconnect customers for nonpayment of 900 charges, however. New Jersey Bell tries to make payment arrangements with customers who cannot pay all charges immediately. When a customer refuses to pay these charges, New Jersey Bell removes the 900 service charges from the bill and refers the charges back to the long distance company for handling.

Effective July 1, 1989, New Jersey Bell issued a policy that it would not bill for any long distance company offering talk lines or recorded adult programs, unless the long distance company made these services available only upon

written request from an adult in the household and provided access in one of two ways: 1) The long distance company must designate a special code for the talk and adult lines, codes that would not be advertised as you had in that newspaper; or 2) the long distance company must establish a Personal Identification Number -- PIN -- system for customer access. So again, a youngster could not pick up a newspaper or some adult magazine and be able to directly call one of these adult lines.

Question 6: Why did New Jersey Bell introduce this billing policy? The guiding principle of this policy is to give the customer control over access to 900 services and not have New Jersey Bell be the censor of the services.

Customer complaints: We had numerous customer complaints prior to the implementation of this practice with the BPU and with our own executives. The adult content of several 900 services were well-known, and we felt obligated to do that. Also, prior to this policy, minors had free and open access. I'm sure the \$20,000 charge you referred to probably predated that policy change that was implemented in 1989.

Question 7: Has this billing policy been effective? The answer is, absolutely. The policy was favorably received by customers and the media, and our consumer complaints dropped immediately.

Question 8: Can New Jersey Bell customers block access to all 900 services, if they so desire? The answer is, yes. This blocking was first offered in October of 1990. There is a fee; there is a one-time charge per line: residences, \$21, and for businesses, \$26. There is no charge if this blocking is ordered when a new telephone line is first installed, and there is no charge to unblock. If someone has a block number, you know, if they want to call 900 services weather, which is offered by American Express, or something, there is no charge to unblock once they have been blocked.

Question 9: Why did New Jersey Bell adopt this blocking policy? The answer is very simple: in response to a large volume of customer complaints to the Board of Public Utilities.

Question 10: How many New Jersey Bell customers have selected 900 service blocking? As of March 1991, we had 69,500 customers who had selected blocking, about 44,000 of whom are residences, and 24,900 are business customers.

Question 11: How were customers notified about this blocking option? We inserted a bill insert in the fourth quarter of 1990 and also in every directory in the Customer Guide, page 16. Any directory after October 1990 contains the information currently about how to secure blocking.

I would like to digress for just one minute on what I think is a very important distinction: Your hearing and Assemblywoman Mullen's bill deal with 900 services. We have in New Jersey something that looks very much like a 900 service. We call it a 976 service. These are one-way, prerecorded messages for time, weather, the Lottery, sports, horoscopes. These are entirely intrastate provided; you know, within our service areas. There are no adult messages transmitted over these 976 lines. The maximum charge that a residence or a business would pay would be 13 cents per message. If you dial 976 from a pay phone, the maximum charge is 20 cents. The rates for 976 type services are strictly regulated by the Board of Public Utilities. So it is currently a regulated service.

That brings us to the question of: Who regulates 900 services? In effect, the Federal Communications Commission regulates 900 services, because these services are at present exclusively on an interstate basis. Also on the Federal side, the Federal Trade Commission and the U.S. Postal Service have some oversight.

The New Jersey Board of Public Utilities Commission regulates New Jersey Bell's access provision for intrastate 900

services, if we ever have one. At the present time we do not.

The last question is: Are there any pending rules currently -- Federal rules -- to regulate 900 services? On the Federal level, the Federal Communications Commission proposed rules on March 14 of this year, seeking to regulate the industry. All comments on these proposed regulations are due in just a -- this week, as a matter of fact, on Friday, by the FCC.

There are several things the FCC has proposed: to require a preamble describing services and costs. This is what Assemblywoman Mullen referred to in her presentation. You clearly have to know how much this is going to cost. If you are dissatisfied with that, you can hang up and not be billed. Of course, that would allow a customer to hang up after the preamble, but before the service is charged.

It would require the blocking option to be offered anywhere in the country. It would prevent local exchange carriers -- you know, the local telephone companies, if you will -- from disconnecting customers for nonpayment of 900 service charges. We currently do not disconnect in New Jersey. The Federal Trade Commission is also investigating three companies that advertise 900 number services for children on television, for unfair and deceptive marketing practices. The companies that are currently under investigation by the FTC are: Audio Communications of Nevada, Teleline, Inc. of California -- both of which have agreed to settle charges with the FTC -- and Phone Programs, Inc., which is protesting the FTC charges.

Of course, in New Jersey, the two bills you are considering tonight would be local responses -- legislative responses to this situation.

Mr. Chairman, that concludes the question and answer dialogue that we have prepared. I would be glad to answer any

questions you might have, or, in my absence, of course, I direct you back to Mr. McDevitt and Ms. Fosko.

ASSEMBLYMAN KRONICK: Thank you very much for that enlightening presentation, Mr. Spinnanger. I do have one question: In your question 5, where you said your company -- and I guess you are very progressive; it is obvious that you are concerned about your customer relations, and I really want to commend you for that-- You said that you do not bill people who do not pay for the 900 services. Do the competitors, the other companies that are out there-- What is their practice, since this is your practice?

MR. SPINNANGER: A person, for example someone who subscribes to an adult -- who calls an adult 900 service, may very well be billed for that through his Visa or Mastercard or some other means. We currently do not bill for that. I cannot answer for the other telephone companies. Does anyone in New Jersey disconnect -- United, or -- that you know of? (question addressed to Mr. McDevitt, in audience)

ASSEMBLYWOMAN MULLEN: Mr. Chairman, while Andy is coming up-- Jon, let me just ask you a question in that regard. I have a piece of information here that says that in 1989, customers were billed \$235 million; in 1990, \$515 million; and projected for 1991, \$750 million. It appears that they are being billed by U.S. Sprint, Telesphere, AT&T, and MCI.

MR. SPINNANGER: They can also bill directly. But, I want to point out -- and I think you mentioned this in your presentation, Assemblywoman -- there are many legitimate information services offered, and there are many more to come; for example, the ability to dial weather through American Express. I think there is a 50-cent charge, or an 80-cent charge. I really don't know. If you were going to take a trip to London, you could call American Express and they could tell you what the current temperature is in London and what the

forecast is. That is just an example of one of the legitimate 900 services.

So, this information services industry is just growing by leaps and bounds. Happily, there are legitimate services like American Express or, you know, sports -- various sports information service providers, and many more.

But let's defer to Mr. McDevitt for a moment.

ASSEMBLYMAN KRONICK: Could you please spell your name, Andrew?

A N D R E W M c D E V I T T: My name is Andrew McDevitt -- M-c-D-E-V-I-T-T. I am also a Director of Government Relations for New Jersey Bell Telephone.

If New Jersey Bell is told by customers that they are not going to pay the charges, we recourse, or send those charges back to the long distance carrier with whom we have a billing and collection agreement. The long distance carrier can then determine, on its own, whether they want to pursue billing or absorb it as a cost of doing business.

ASSEMBLYMAN KRONICK: Are there any statistics as to the percentage of nonpayment? I mean, are there any numbers in dollars or percentages?

MR. McDEVITT: Mr. Chairman, I do not have that information available. Usually, historically, 900 type billing occurred once, perhaps twice. Thereafter, there was either parental control or an understanding in the household about what kinds of bills were being developed. It appeared, if my recollection is correct, that it was not an ongoing problem, unless there was a domestic problem where someone could not be controlled in their calling habits.

ASSEMBLYMAN KRONICK: Do you have any questions, Assemblywoman?

ASSEMBLYWOMAN MULLEN: No.

MR. SPINNANGER: Thank you very much, Mr. Chairman, Assemblywoman.

MR. McDEVITT: Thank you.

ASSEMBLYMAN KRONICK: Thank you very much, gentlemen.

MR. SPINNANGER: I am going to leave these extra copies right up here.

ASSEMBLYWOMAN MULLEN: Mr. Chairman, I think the thing that troubles me so much is my concern about our young people being exposed to this sort of thing. It is not the weather forecast for travelers or good information like that, but things like fantasy girls and "do me." I mean, this is right in the paper here -- "Daydreams, Laura is back," and it goes on and on and on. I understand that young people getting involved with this can cost their parents thousands of dollars, besides being exposed to things that we do not want our children exposed to.

ASSEMBLYMAN KRONICK: That is exactly what we want to correct.

Mr. McDevitt, maybe you could elucidate on a point: Are most of these charges on the 900 numbers going to Visas, or to some other credit card? Are they being paid for in that manner?

MR. McDEVITT: The information provider makes arrangements with the interexchange carrier, or long distance carrier, on some occasions, to use direct payment like a Visa card, or whatever. My assumption would be -- and this is only a personal opinion -- that the adult type of entertainment calling practices would probably be the Visa direct bill type of thing, especially in New Jersey, since New Jersey Bell has a policy whereby if it is determined that that is the type of situation that is going on -- that is the call content -- we will investigate a complaint. If it is determined that they have not used a unique access code or special PIN code -- which was described in the direct testimony -- we will stop billing all their 900 services. We will stop every 900 service, good

or bad, that a long distance carrier may be providing to the public.

I hope I have answered your question. I believe the adult material normally would find its way to direct billing through Visa.

ASSEMBLYWOMAN MULLEN: Mr. Chairman, may I ask a question? I have a copy of an article here that is referring to two 13-year-old girls who racked up \$5000. They would not have access to their parents' Visa numbers or American Express cards.

MR. McDEVITT: The only thing I am not sure of, Assemblywoman, is whether or not they racked up the \$5000 on adult issues, or whether there were other things that might appeal more to children or young ladies or young men. It could be rock stars, talking to a rock star for \$5.95 a minute.

ASSEMBLYWOMAN MULLEN: It is a telephone talk line they are referring to.

MR. McDEVITT: That is referred to in telephone parlance as a "GAB" line, group access -- GAB. I have forgotten the last initial, but -- group access bridge. We will not bill a group access bridge service unless they use that unique code or a special PIN code, which, in both cases, starts out with an adult giving permission to even access those types of lines.

So, if we had a complaint of that sort and it proved to be true, unless the interexchange carrier elevated that service to the reduced access status, we would stop billing for them entirely.

ASSEMBLYMAN KRONICK: In the case of billing to a credit card, obviously you are out of the picture and there is no interest at that point.

MR. McDEVITT: We are out of the loop at that point.

ASSEMBLYMAN KRONICK: You're out of the loop, yeah. I've got it. (Chairman consults with Assemblywoman Mullen)

The question that has been presented is: Would you, say, access on a 900 bill using a collection agency as a means of retrieving the money? Do you resort to that, if need be?

MR. McDEVITT: Our policy would not be to resort to a collection agency for a 900 bill. Instead, it would be to recourse, or revert that bill back to the interexchange carrier, or long distance company. They, in turn, have, I guess, the option of going to a collection agency, but they cannot threaten the person's telephone service as far as denial is concerned, because it is our policy not to do that, in any case.

ASSEMBLYWOMAN MULLEN: It's nice to keep your telephone, but it is pretty frightening to get an \$11,000 telephone bill, as I am reading about here.

MR. McDEVITT: Absolutely true. We look forward to the day when the 900 services, in the main, will represent all of the good and positive things they are so capable of providing. I guess educated consumers, plus appropriate legislation, will hasten that day.

ASSEMBLYMAN KRONICK: Would the companies that are using your lines-- Would they resort, do you think -- to your knowledge -- to using collection agencies? You don't, but would they?

MR. McDEVITT: Because of exposure I had in my prior assignment, which involved working with the BPU on complaints, I know for a fact that there are some instances where the bill winds up with a collection agent. I would not say that that was necessarily the long distance carrier, however. It might be the third party in presenting the service, and that is the information provider himself or herself. The corporation that develops the tapes, develops what price will be charged per call and devises the prizes or the service that is supposed to be offered. Was that clear?

ASSEMBLYMAN KRONICK: Yes, I follow you. There are no further questions, so thank you very much, Mr. McDevitt.

MR. McDEVITT: Thank you.

ASSEMBLYMAN KRONICK: Our next speaker will be Mr. Ed McGoldrick, from the Gloucester County Consumer Affairs Office. Would you please spell your name, Mr. McGoldrick?

E D W A R D M c G O L D R I C K: My name is Ed McGoldrick. I am the Director of Consumer Affairs for the County of Gloucester. My office is located in Woodbury. I am also a member of the local Bell Tel Advisory Board.

Now, what I have to say about the 900/700 number scams is not new. I have been beating on this lemon for about seven years. Even though they came out in '80, by around 1982 or 1983, we were getting all kinds of complaints in my office from people who were being billed on these 900 numbers, who did not realize that their service would not be shut off if they didn't pay them. Strangely enough, I refer to them anymore as what a young mother said to me, when she wound up with a \$300-and-some bill because a couple of her son's boyfriends got together in his bedroom and made these phone calls on these adult lines. She aptly referred to these calls as, "calls made to the telephone hookers."

Now, I have copies of various columns I have written over the years about this thing, but it is an ongoing situation. You hit upon a possibility that when these charges are kicked back by Bell to the service provider, it is not beyond the realm of possibility -- although I have not seen any yet -- that somebody is going to come out, get a group together in a certain area, such as South Jersey, and assign it to a collection agency, which will go to small claims court, get judgments, and impair a consumer's credit record. That is quite possible. In fact, I imagine that some of these high-priced calls have already, in other states, been relegated to judgments. That would not surprise me a bit. I have not

seen any of it yet, but from the frustration we run into on the grass-roots level, the directors of the various counties -- and we have a couple here today-- We feel powerless to do anything about it, because we don't know which horse to beat.

When these complaints come in, they are almost impossible to document. We can't find the source of the charges. We can't dispute them with any reputable agency, except Bell Tel. Now, we just don't have the time or the wherewithal to get to the midwestern outfit, the west coast outfit, or the southeast outfit which generates these calls. It is getting really, really bad, to the point where now they are throwing 800 numbers into 900 numbers. A fellow calls up. He sees an ad in the paper, as Assemblywoman Mullen has. He calls an 800 number because it says they are going to get him a job in Kuwait or Saudi Arabia for \$57 an hour. He calls that phone number -- 800 -- and they switch him over-- They say, "Hold on, we will put you on to this particular part of our system and they will give you all the information you need."

The guy sits there and listens to a 10-minute tape, and he winds up with nothing. They want \$600 on top of it to give him contact with three supposed employers. It does not happen. They don't care. They have already gotten his money on the 10-minute phone call. The thing that pains me is -- and Bell said it -- the 69,500 call block connections made in New Jersey at 21 bucks a pop. That's a lot of money; a lot of money, 69,500, okay? Of course, they say they will put the block in at the inception of the new line, but how about the 69,500 people who had to fork out the 21 bucks? That's a lot of money.

By the way, I did find out that a law of this type is in effect in at least seven other states, Iowa being the first one. Iowa put this law through two years ago. You cannot call on a 900 number in Iowa or use it in that state, unless you tell the people who you are, how much per charge, and give them

three minutes to hang up. Things along those lines would be fine. Okay?

I want to thank you for giving me the opportunity to have my say here. I know there are others involved. I hope something can be done about it on the legislative level.

ASSEMBLYMAN KRONICK: Thank you, Mr. McGoldrick. One of the provisions of Assemblywoman Mullen's legislation would be addressing exactly what you said; that the company would be identified with name, address, phone number, complete, so we would be able to get back to them.

ASSEMBLYWOMAN MULLEN: One of the things the bill does, Mr. McGoldrick, is to make them register with the State as purveyors of merchandise. Then they would be under the laws governing consumer fraud. They would have to pay a registration fee, so there would be no cost to our residents, our taxpayers. I agree with you that people should be told right up-front, to give them a chance to break off.

Also, the bill has a part in it that would prohibit any of these calls, if a minor is involved, unless the child gets permission over the phone from the parents.

ASSEMBLYMAN KRONICK: Thank you very much, Assemblywoman.

Our next presenter will be Mr. Louis Moreno, from the Cumberland County Consumer Protection Agency. Thank you for being here, sir.

L O U I S M O R E N O: Thank you for having me. My name is Louis Moreno -- M-O-R-E-N-O. I am Acting Director of Consumer Protection in Cumberland County.

I, too, concur with Mr. McGoldrick's statement with regard to the bill you are bringing forth in the Assembly. It is a necessary one. You may be able to develop certain other avenues of control, because it is a very difficult thing. How in the world, with all of the protective measures you have instilled in it, you can determine that there is an adult on

the other side, or that an adult has given permission to do that, is beyond me. Until we get two-way TV telephones, we are going to have a difficult time. But, it is a step in the right direction, a very, very necessary one.

In our office, we have had, in the past year, over 135 inquiries of horrendous natures, one might say. I want to bring to your attention just one that I received this week which we are in the process of, that I feel may or may not induce some thought on your part:

This consumer was induced by a newspaper -- and now we have the combination of how to obtain, in a normal austerity program when life is very difficult, with people trying to get credit, a \$7500 Visa credit card at a very, very nominal cost. This consumer made several phone calls to a 900 number and was transferred to different ones. The total charge from Sprint for those telephone calls was \$69.95.

She is a real glutton for punishment, because she made several calls to another corporation to obtain the same thing, because she was in desperate need of getting this credit. That charge was \$117.51. Now, in no way was she induced by exotic creatures on TV. This gal was looking to try to save her household, for whatever reason, whether deservedly or not. She was supposed to -- by this inducement during the telephone conversations -- receive a credit card within seven days. This transpired in February. This young lady is still waiting. She has not received any notification from these people. So we have a collusion. It is not necessarily the telephone company's problem, but, in fact, here we have a media to get to the consumer. We will try to get it resolved for her, but just in this particular case I wanted to bring-- It was not exotic things, it was not children. There are grown adults in the world today who need some assistance. This is not the way to go, we realize that. But I just wanted to bring that to your attention.

The exotic situation, to back Bell Telephone-- We had a gentleman -- whether he did or did not, he claimed he did not -- who had an AT&T bill of \$399.91. We wrote a letter to AT&T. They wrote us a very cordial letter back indicating that they would not ask for that money; they would drop it. The \$71.61 he had with Sprint, of course, as was noted before-- New Jersey Bell notified them that they would not collect. We also wrote a letter, and evidently nothing has transpired.

These are the only things we know of. There are so many people who get involved who do not contact us, do not notify anyone in the area -- in the litigation area or the enforcement area -- who do nothing whatsoever. These are the people we do not know about. God knows who they are and how much money is really being taken in.

I also sit on the New Jersey Bell Telephone Consumer Advisory Board at the State level. I am also a member of NACAA, which is the National Association of Consumer Affairs Administrators. We are one of the ones responsible for the Federal legislation that is being brought forth. But you very well know that whatever comes forth from the Federal government, we must take that move here in the State, because if our bill -- or, your bill -- is stronger than theirs, yours takes precedence, and I hope it is strong, stronger than what the Federal government is coming out with.

I could go on and on and on, but I don't think that is necessary. There are a lot of people here. I just wanted to bring to your attention that Cumberland County definitely is in favor of your position in proposing this bill.

ASSEMBLYMAN KRONICK: Thank you very much for your statement, Mr. Moreno.

The next person will be Ms. Renee -- is it Borsted?

R E N E E L I T A B O R S T A D: Borstad.

ASSEMBLYMAN KRONICK: Borstad, excuse me.

MS. BORSTAD: That's okay, it's only me. (laughter)
It's B-O-R-S-T-A-D. I am the Director of the Burlington County
Office of Consumer Affairs. I brought a little something with
me. (referring to written statement)

I would like to preface my introduction of two very
important Burlington County senior consumers who are victims of
900 numbers, by thanking the Committee for its foresight and
recognition that this is the decade of the '90s which has
produced an electronic marketing dilemma which, if not
regulated, will quickly part consumers from their money just as
fast as the flim-flams of other eras.

I would like, at this point, to introduce Mr. and Mrs.
Milton Ehrlich, if they would come forward. I would like them
to tell you a little something about what happened in
Burlington County through the use of their telephone. Mr. and
Mrs. Ehrlich are retired. They live at home alone. They
thought they were protected when using their phones. Why don't
you sit down, Mrs. Ehrlich, Mr. Ehrlich? Before I go on, I
would like you to listen to what they have to say.

ASSEMBLYMAN KRONICK: Please give your name and spell
it.

C L A I R E E H R L I C H: My name is Claire Ehrlich --
C-L-A-I-R-E E-H-R-L-I-C-H. When we had the telephone strike,
I got a telephone bill of 800-and-some-odd dollars from AT&T
for calling 900 numbers. From 1989 until 1990, I called the
telephone company. They have come over, looked around,
searched for wires, dug up wires. They said nothing was wrong
with my telephone.

My husband took sick and had a heart attack because
every time I had a telephone bill, it was close to \$1000. I
owed AT&T about \$8000 or \$9000. My husband and I live alone,
and our kids come over on weekends to visit us. There is no
way I have been making these calls.

Then we tried to get in touch with AT&T and the Bell Telephone Company, and they told me that they cannot put a block in, in New Jersey. They are trying to get one. I said to them that I wasn't going to pay the AT&T bills, because they were soap operas; they were all kinds of -- I have the bills with me -- and the National Bank for a credit card. I called up and they told me that my credit was bad. I could show you a lot of credit cards, and I have good credit. They told me if I wanted a credit card, they would send me one. I called them back and I told them I didn't need their credit card, and, "I do not have any problem with my credit."

Then I had a Mr. Petrie come in and put a machine in my house. Every time someone called, it registered on a tape. Mr. Petrie accused me of stopping the machine, when I never did stop the machine -- at the Bell Telephone office.

ASSEMBLYMAN KRONICK: Excuse me. Mr. Petrie, is it? He is from where?

MS. EHRLICH: He's from AT&T. Now, he came into my house. He took the machine off, and he was very nasty. He told me that I was in trouble and that they were going to do something about it. I don't know what; maybe put a lien on my house.

I then told him I didn't care what it would cost me-- No, I then told him to try to stop the 900 numbers. He said, "Don't stop them. I just want to see what is going to happen." Well anyway, he came in. He was very nasty, and he said to me, "We are going to do something about it." So I said to him, "Well, call up the--" At that time, they had a 900 block, and I said, "I'll pay the \$21," because the telephone company had turned my number about five or six times, but it was still on the same line. But one telephone guy I know who works for Bell Telephone said, "Someone with a CT line hookup could pull into your line." Then I put the block, which was \$8000. I always told them, "If you want to take the telephone

out because I owe this money--" They said, "No, we are not going to take your telephone out. Just pay what you owe." So I did.

Then finally, about three months ago, they gave me credit for all the 900 numbers because of my block. Then they gave me a three-month bonus for the suffering of these 900 numbers. Now I don't have a problem, because I paid the \$21, which I should not have paid. They should have blocked it themselves because of all this trouble. Since 1989, I had all this problem. When my husband got sick, he got sick because of all these telephone calls. They said I made the calls from my house. There is no one in my house all day. When I come home, I don't call those numbers. I don't need soap operas and all that.

ASSEMBLYMAN KRONICK: May I ask you, was it a variety of different 900 numbers?

MS. EHRLICH: Yes, a variety of soap operas -- I don't recall. I have that information with me.

ASSEMBLYMAN KRONICK: And out of the \$8000, you only paid -- \$2100 was it?

MS. EHRLICH: I paid what I was supposed to pay, and the rest-- It piled up to about \$8000.

ASSEMBLYMAN KRONICK: Oh, so \$2100 worth of calls you did make on 900?

MS. EHRLICH: I made nothing.

ASSEMBLYMAN KRONICK: But you paid \$2100?

MS. EHRLICH: I paid what I was supposed to. I never paid--

ASSEMBLYMAN KRONICK: Oh, your regular phone bill.

MS. EHRLICH: My regular phone bill. I never paid for the 900 numbers, because I didn't make them.

ASSEMBLYMAN KRONICK: I see. Have any credit agencies come after you for the moneys due?

MS. EHRLICH: No. I kept calling Bell Telephone -- 772-9950 -- and I kept telling them I was not paying 900 numbers because I didn't make the calls, and there was no way I was going to pay for them. I had this for two years -- this aggravation -- seeing the telephone bills climb and climb and climb.

ASSEMBLYMAN KRONICK: But no collection agency ever knocked at your door or harassed you in any way?

MS. EHRLICH: No.

ASSEMBLYMAN KRONICK: Well, you certainly have experienced, I guess, the horror story of the evening. That's for sure.

MS. EHRLICH: It was horror for two-and-a-half years. I kept trying to tell them. In fact, the telephone company repair said, "Next time you call, you are going to be charged." I said, "I am not going to pay you."

ASSEMBLYMAN KRONICK: So, you maintained the block and you paid that--

MS. EHRLICH: I paid that \$21. I was glad and relieved to pay the \$21 so I wouldn't have every month-- Every month, it kept rolling up. It was over \$8500. I just kept paying, you know, New York calls, those kinds of calls. But 900 numbers-- I never called soap operas; I never heard of soap operas. You know, me, I am a senior citizen. My husband and I stay together and we go out together, and there is nobody in the house. They kept telling me that I was making these calls, which I never did.

ASSEMBLYMAN KRONICK: Your testimony certainly attests to the fact that there is a need for Assemblywoman Mullen's legislation, I'd say.

MS. EHRLICH: Certainly.

ASSEMBLYMAN KRONICK: Perhaps I could address this to you, Ms. Borstad: Do you know, if you were able to find out, where the originator -- where this was coming from?

MS. BORSTAD: A lot of these calls were Sprint. What basically happened was, Mr. and Mrs. Ehrlich came to our office on June 6, 1990. Mrs. Ehrlich was in total tears. She provided us with her phone bills. I will show you. These are the copies of the phone bills. (holds up copies) Okay? There are four on a page. There are some calls that appear to the same number just minutes after one another, just continually. Some were premium -- Tell a Guy, Dateline. We sent these up to the Board of Public Utilities. The blocking system had not been approved by the Board at the time.

Then a call came in called National Bank. National Bank was pushing for a low-interest credit card. By the time we got finished, between the Board of Public Utilities and my office and the Ehrlichs, the Ehrlichs agreed to the phone block. By agreeing to the phone block, New Jersey Bell said they would not pursue anything. However, they could not say the same for the information provider, which was Sprint.

We then contacted Sprint and there was a formal complaint filed with the FCC, which is still an ongoing matter. The Ehrlichs have not been billed. They have had no more problems with their phones. The interesting thing is, we never could find out exactly what had happened here. There are external areas which we are not too clear about. Even when the consumers were not home, their telephone had 900 numbers. But they live in a home that has an exterior access to their telephone lines.

We have other consumers, it is interesting-- There is a game on television called "Wheel of Fortune." That game offers a free pizza, or a coupon for Pizza Hut if you call up and you have the right answer to the question. We have a gentleman in Willingboro who made a phone call on two shows, two different evenings. The cost was \$4 a show. There is New Jersey sales tax and there is the excise tax from the Federal

government. The gentleman never got his coupons for his free pizza. It was supposed to be free pizza and a drink.

We are working very closely with the State Division of Consumer Affairs. We sent that up to Lou Jonas, who is the investigator at the State looking at 900 numbers.

I have loads of postcards that I have shared with postal authorities and with the State of New Jersey. People are offered a 1991 Lincoln, a his and her diamond watch, a variety of other things, on a "National Promotional Award." They call the number and they are placed on hold. After a period of time, they end up with a phone bill of \$19.95. Now, these people, of course, have made contact with New Jersey Bell. New Jersey Bell has made contact with the carriers, and they have not been charged for those numbers.

But we operate at Consumer Affairs -- and Mr. McGoldrick and Mr. Moreno can tell you -- under the iceberg theory, the iceberg theory being that whatever you can see on the top, 10 times that is underneath the water. So for every consumer where we have one complaint, there are 10 consumers we don't know about. Basically, although the Ehrlich case is conditioned upon calls made by unknown persons, there is still a lack of disclosure in New Jersey to provide consumers with sufficient disclosure for consumer choice.

New Jersey is a disclosure State by virtue of the New Jersey Consumer Fraud Act. I am glad to hear that Assemblywoman Mullen has taken that into consideration for her bill, and places this back where it belongs, in Consumer Fraud. We need to be very interested for our consumers. Money is hard to come by, and it is easy to spend. We need to bolster consumer protection and mandate certain prohibitions in this State, so we can salvage some peace and quiet for people like the Ehrlichs, who have literally been drained from the emotional status of being charged enormous telephone bills for calls they never even had the benefit of making.

For that I thank you, and I trust you will be successful with your legislation, because as the Federal government goes, we shouldn't wait in New Jersey. It may take too long, and New Jersey has come up with a good Consumer Fraud Act. I bless you for thinking of that.

ASSEMBLYMAN KRONICK: Thank you very much.

ASSEMBLYWOMAN MULLEN: Thank you so much, and thank you for coming all the way from Burlington County. We certainly do appreciate it.

MS. BORSTAD: It was a little drive.

ASSEMBLYMAN KRONICK: I'm sure it was.

MS. EHRLICH: And we thank you.

ASSEMBLYMAN KRONICK: Thank you very much, Mr. and Mrs. Ehrlich. I'm glad your troubles are over.

MS. EHRLICH: Yes.

ASSEMBLYMAN KRONICK: Mr. McDevitt, may I ask you a question related to what we just heard here? I don't want to put you on the spot. Is it possible, conceivable, that with this age of electronics there could be such a peculiar incident happening where, for no rhyme or reason-- Could that occur? Have you ever heard of that?

MR. McDEVITT: The potential, I guess, always exists. I have not had a technical job with a telephone company since I took money out of pay phones 30 years ago. I am not up to speed on the technology. I see areas where problems could arise. Remember, for that particular carrier we accept billing tapes from them. That is the detail which we then apply to their portion of our bill. So, there could be problems in the billing mechanism. The potential exists for there having been problems in their information gathering, or there could be a technical problem.

Periodically, I have run into some unusual circumstances, a crossed wire on a pole, or something of that sort. It sounds, from their testimony, that we went through a

number of actions trying to identify if there was a cross. So, after that long prologue, I don't know.

ASSEMBLYMAN KRONICK: Okay. Well, thank you anyway. I do appreciate it.

ASSEMBLYWOMAN MULLEN: Mr. Chairman, I might add, I remember a few years back, any time I would pick up the phone I, unfortunately, would hear conversations between other folks. I called and complained about it. It went on for such a long period, the telephone company said that unless I could really identify who they were, at the time they couldn't fix it. Finally, I overheard something very embarrassing and recognized it as a neighbor who has long since moved away, and I was able to identify the call. I felt very uncomfortable that, you know, I overheard someone's personal business, but I did recognize them and it was finally fixed.

So, I can imagine that could very well have happened. You know, strange things do happen.

MS. BORSTAD: We have that happening with our own telephone. I have a neighbor in the area with a portable phone. She is confined to a wheelchair. If she is outside with her phone, it comes through on ours. So, you know, I have told her about it. We only hear one side of it, but there is nothing we can do.

ASSEMBLYMAN KRONICK: You have to be careful when you use a portable phone. You better watch what you are saying. It could be overheard.

MR. McDEVITT: Everyone assumes that the portable telephone gives them private communication. You have to understand, it is a radio device. We have had circumstances where people will ride down the street with their phone and suddenly activate someone else's dial tone. I guess I shouldn't say that on the record, or in public, but that is a problem that used to exist. The manufacturers of those radio/telephone transmitters have supposedly fixed that.

ASSEMBLYMAN KRONICK: We don't have to worry then. Thank you very much, Mr. McDevitt, for the additional information.

Our next speaker will be Mr. James Curren (phonetic spelling). Mr. Curren is no longer here? (no response) I guess he had a long trip, too. Rita Hoffman Lewis, from Laurel Springs?

ASSEMBLYWOMAN MULLEN: Mr. Chairman, before Ms. Lewis comes up here, as you know -- and please do come up, Ms. Lewis -- I believe she is here tonight to talk about another bill we have in Committee.

ASSEMBLYMAN KRONICK: Yes.

ASSEMBLYWOMAN MULLEN: I have a telemarketing bill that would prohibit these phone calls from coming in after 9:00 -- from 9:00 p.m. to 9:00 a.m., the next morning. Folks knew that was going to be heard tonight also. As I said to Ms. Lewis before, if I had my way, I would love to see them stop at the dinner hour and not start up again until 9:00 the next day. But I realize it is a business and people are trying to reach folks at home. So at least this might help a little bit.

ASSEMBLYMAN KRONICK: Sure. Thank you, and there is no problem with this bill. Ms. Lewis, for the record, would you please give your name and spell it?

(NOTE: At this point, Committee takes testimony on Assembly Bill No. 4630: "Makes telemarketing between the hours of 9 p.m. - 9 a.m. an unlawful business practice")

R I T A H O F F M A N L E W I S: My name is Rita Hoffman Lewis -- H-O-F-F-M-A-N L-E-W-I-S -- no hyphen. I am a Gloucester Township resident and business owner.

I would like to thank you for affording me the opportunity to give testimony in support of Assemblywoman Mullen's bill -- A-4630. As one who has been at the receiving end of more than my fair share of unsolicited, interruptive, cold-canvas telemarketing calls, I applaud Assemblywoman

Mullen's bill as one that is fair to both the solicitor and the receiver.

While I will attempt to keep the text of my testimony relating to the reasons it is necessary to set time restrictions for those conducting business by telephone, I do wish to address further concerns regarding the issue of telemarketing.

I concur that telemarketing has become big business in recent years, particularly in the State of New Jersey. But it seems to be an industry in which, even with imposed regulations, enforcement can be difficult. Case in point: A major newspaper sets forth guidelines for solicitors for home delivery. The solicitor has not made her quota of sales for the day. She is determined. My phone rings at 10:45 p.m. The caller asks if I would like home delivery of a newspaper I already receive.

I can appreciate the dilemma of telemarketers. With the growing number of single-parent homes and two-income families, the time in which they are able to make contact has been shortened. But it is ludicrous to think anyone is going to be receptive to Herbie the computer selling insurance at 6:00 in the morning. I have received both such calls.

For me, calls late at night or early in the morning at one time signified one thing: a family or business emergency. No one called at ungodly hours unless there was sheer necessity; that is, until the eve of telemarketing. There is a need for constraint. For me, the call is a nuisance, but for someone with an elderly parent or a child who is sick in the hospital or a teen who is out in the family car for the third time who is 15 minutes late, that call represents a skipped heartbeat at 11:00 at night.

On the average, between my business and home phones, I receive some 30 to 50 unsolicited telemarketing and survey calls per week. Some are local businesses; some are national

advertisers. Some know the product they are selling; some read from a script. Excepting stockbrokers -- and I hold them in a class all of their own -- all are sincere and courteous.

The calls are from window and siding installers, insurance agents, newspapers, window cleaners, lawn services, dinner tours, magazines, bond brokers, roofers, financial advisors, and Police Athletic Leagues from as far away as Newark, New Jersey. The list goes on.

Then there are solicitations for contributions, people wanting to know how I'm going to vote, and lengthy surveys. Even AT&T has gone the way of telemarketing. It must work. There must be a return. But for me, the frustration goes on.

It never ceased to amaze me that within a week of bringing my newborn home from the hospital, every diaper service in South Jersey called. After five years, I now get Weekly Reader solicitors calling, and they know my daughter's name.

In an attempt to resolve how to handle what I personally consider an intrusion on my time, I have incurred expense. My answering machine was not purchased to assure that I didn't miss an important call. It sorts the calls I do not want.

My portable phone ensures I don't jump out of the shower or run in from the garden only to have a caller soliciting me for a service or item that I already have or do not need.

Personally, I wish there was a way to be obliterated from every telemarketing list on the market. But I also recognize telemarketing is a valued service for others.

What continues to concern me is that we sometimes lose sight of the fact that the caller is a total stranger, and in the context of his interrogation valuable insight is rendered: The harmless question posed to a young child, "Is your daddy

home?" when there is no daddy, or the innocent question to a sitter, "When will Ms. Lewis be home?"

And then the phone surveys, which after one particularly frightening experience I refuse to ever participate in again. Ordinary questions -- your age, how many in your household, marital status, pets, how many phones, your occupation, even your income; do you own a VCR, a camcorder? How many TVs? Ordinary questions? Think again. Every question I related gives pertinent information -- to a total stranger. Are you willing to risk your well-being and that of your property in the event of even one chance in a thousand you put that information into the wrong hands?

I relate this from an experience some 15 years ago. I bought the line, at that time, that my answers were important. Then some four minutes into the survey, the caller, in the same dead-serious tone, asked, "Do you sleep naked?" Panic; sheer unadulterated panic, not for a week, not for a month, but I carry this with me 15 years later. Each time a caller says he has a few questions to ask, it strikes a nerve.

Picture for a moment a senior citizen being cold-canvassed by a financial advisor relating his worth to a total stranger. Picture an elderly widow admitting someone into her home that has told her, should the proposal be acceptable, she will need a \$300 cash deposit. In candid fairness, do I believe these scenarios paint a picture of telemarketers? Positively not! Telephone solicitors are no different than you or I. Their job is to make a sale or at least connect with an interested party in the hope of a future sale.

One doesn't have to catch "60 Minutes" on a regular basis to note this is an industry easily peppered by the con artist and burgler. Perhaps it is my personal way of justifying my skepticism and abruptness, for which I apologize

to honest solicitors who are attempting to sell me a good product.

Granted, there are safeguards for the consumer -- the Chamber of Commerce, the Better Business Bureau, even your local police department. The honest solicitor will even suggest you contact these agencies, but how many of us really do, until we have a problem? The balance then must be in constraints, not only State and Federal regulations, but self-imposed limits wherein the telemarketer and his firm communicate with the public in a responsible, professional manner.

Assemblywoman Mullen's bill addresses a fundamental problem. There is a need for restraint. Setting limits on the times at which telemarketers can conduct business will at least assure me that when I receive a call at 6:00 a.m. or 11:00 p.m., I can be reasonably certain the interruption is necessary and not an invasion.

I thank you for the time afforded me to express my experiences and concerns as related to telemarketing, and I again applaud your bill as significant not only in consumer protection, but in bringing telemarketing to greater heights of professionalism.

ASSEMBLYMAN KRONICK: Thank you very much, Ms. Lewis.

MS. LEWIS: I would be glad to expound on anything, if you would like.

ASSEMBLYMAN KRONICK: I think we have the basis for a script here. The way this is written, it is remarkable; excellent.

MS. LEWIS: We do these at 3:00 a.m.

ASSEMBLYMAN KRONICK: Thank you very much.

ASSEMBLYWOMAN MULLEN: Thank you so much. I would just like to add, I certainly appreciate what Ms. Lewis is saying, because many times, in my job as Mayor, I have been called off the podium by the ringing of the one line that is

open in the evening -- called from a Council meeting, from Planning Board meetings -- only to find, late at night, that it is a telemarketing call. It is really very frustrating. Many of them are recorded. Sometimes they are even more frustrating because you can't bark back at them.

ASSEMBLYMAN KRONICK: I think we have all had that experience in this day of electronics. I can tell you now what I do when I go into the shower. I take my portable phone, because I don't want to run out. Just the other day I got a call, a recording, you know, selling-- I didn't even listen for what they were selling. But it does reach a point where you can become pretty distraught and frustrated and upset.

I would like to ask another question of you, Mr. McDevitt, before the evening is over.

Our next speaker will be Kathy Haas. Thank you for being here, and you are our last speaker.

K A T H Y H A A S: Thank you for having me. My name is Kathy, with a "K" -- K-A-T-H-Y H-A-A-S. This is just a brief statement of my experience with a 900 number.

My son and his friend had a little sleep-over in December and they were watching television, with my consent, in his room. An ad came on for this trashy phone call on hot lines and they, being 11 years old and not understanding what the repercussions were, called the number. The person asked them their names, and they hung up. About a half an hour later, another ad came on and they called again and hung up again.

The phone company might cover its tracks by saying, "You have to be 18 years old and the call costs \$25 per minute," but my child is 11 years old and he isn't even at the age of accountability. I am not paying for these calls, but I am more upset that my child was exposed to this trash on regular television. It was not a cable station; it was a regular TV channel.

The phone companies and the TV networks have no sense of morals, or they would not solicit these ads. They are so driven by greed that they promote pornography. I feel this is a very sick and perverted world.

Thank you for your time.

ASSEMBLYMAN KRONICK: Thank you very much.

ASSEMBLYWOMAN MULLEN: Mr. Chairman, may I just comment? One of the things that really got me into this, watching the television, the few chances I do get to watch it-- To me, these 900 ads that come on every two or three minutes remind me of bringing the Admiral Wilson Boulevard right into your home. I mean, we read about the activities.

MS. HAAS: Well, I had no idea that these kinds of things went on. It was 11:00 to 11:30 at night that they were watching television. I said, "Bring me the 'TV Guide,' because I want to see what's on." There is really nothing on for children at that hour, but they were watching "Sanford and Son." I was right in the next room, but I didn't know.

ASSEMBLYWOMAN MULLEN: There are also services where children are enticed to call up and talk to a sports celebrity -- to find out about a sports celebrity. I have one here where for \$5 you can find out that Muggsy Bogue's favorite food is seafood -- five bucks. That certainly could entice a young boy involved in Little League to make this kind of a call.

MS. HAAS: Well, he did call the Teenage Mutant Ninja Turtles on the 900 number. I called the phone company on both of these charges. I said to them, "That is the mentality of an 11-year-old," the Ninja Turtles, not these sex calls for \$25 a minute, even one penny a minute. That kind of a charge just shouldn't be on television.

ASSEMBLYWOMAN MULLEN: I agree with you.

MS. HAAS: Okay, thank you.

ASSEMBLYMAN KRONICK: I guess with enjoying the marvels of electronics in the 20th -- approaching the 21st

century, there will be peddlers of smut and other things we don't want entering into our homes. But I think the bottom line is, the services provided, in general, by the companies which do provide them-- They provide a lot of good services we need and use, the weather, etc. What we want to do, with Assemblywoman Mullen's legislation, is clean it up and perhaps be able to eliminate or reduce those companies that are not the legitimate companies providing the kinds of services we want. Then I think we will be on our way home free with the good services.

Mr. McDevitt, I would like to ask you one question. I don't know, again, it is more of a technical question, and you have been removed from that for a few years now. But, is there any way the phone company can somehow remove the phone solicitations? I mean, when you pick up your phone, there is either a recording, or whatever. Is there somehow that could be cut off? Is that a possibility?

MR. McDEVITT: None that I know of, other than to make it illegal and pursue it in that fashion.

ASSEMBLYMAN KRONICK: Right.

MR. McDEVITT: We don't really close in on the content of a telephone call. We provide a transmission medium. The only time we will get involved is if a complaint is lodged, or registered. Again, it is not the company's intention to go after the First Amendment or to censor. Rather, what we do is respond to complaints.

ASSEMBLYMAN KRONICK: Well, maybe electronics will reach that point sometime in the future, but obviously at this time the state of the art isn't there. We will just have to monitor it with legislation, I guess.

MR. McDEVITT: I'll give you an example, Mr. Chairman: I might initiate a telephone call to my house for the sole purpose of activating my answering machine from a distant location to find out what messages might have been sent

to my house. I put in a few digits, and the rest of that telephone dialogue, if you will, would be a recording of people who have been trying to reach me. Again, I don't know how I would determine what is unsolicited and what would be tape that I would want to hear.

ASSEMBLYWOMAN MULLEN: Well, Mr. Chairman, I know it certainly is not our intent to censor, or whatever. Consenting adults can do anything or listen to anything they want. But I feel it is important that we protect the children and, in some way, not allow this to happen to them. I am just really disgusted about this.

I have to agree with Ms. Lewis. My parents -- and I am very fortunate to have my parents, who are in their late 70s-- If my phone rings late at night, I just panic because I am afraid--

ASSEMBLYMAN KRONICK: You think the worst.

ASSEMBLYWOMAN MULLEN: Yes, you think the worst.

MR. McDEVITT: I ask my wife to answer the phone because my hands are usually shaking too badly after 10:00. I have been blessed with older family, but the downside of that blessing is that every time the phone rings you think it is terrible news.

ASSEMBLYMAN KRONICK: Are there any other speakers who didn't sign up who wish to speak?

ASSEMBLYWOMAN MULLEN: Mr. Chairman, may I take advantage for a moment? This letter was sent to us by a nearby resident, and I would like to add it to the record, if you don't mind. It is from a Ms. Imperatore from Williamstown, New Jersey. It says:

"Dear Sir/Madam: I write to you today in regard to numerous recorded telephone messages which I have received in my home. These messages have ranged from child abuse to AIDS to prize-winning type calls. I consider these calls a violent

invasion of my privacy and, in my opinion, they should be declared illegal.

"A recent call regarding AIDS information cost me a large sum of money, in that my daughter answered the message and dialed the 900 number to acquire more information. She indicated that the recorded message made no reference to a fee for the information, nor did it indicate that you must be 18 years old to call. My daughter is a junior high school student, and since AIDS is an issue within the school systems, she naturally felt as though she was doing a good thing to enhance her knowledge on the subject. We were appalled at the vast sum of money this call cost. However, I am not upset with my daughter. Rather, I am upset with whomever has allowed these types of calls to be placed. It is sad to think that these various agencies have no way to make money other than to generate these calls in the hopes of luring a return call by a child or someone who isn't cognizant of the cost. These calls are misleading and evasive and are costing hard-working people like myself money that, if I had it to spare, I would rather donate to a reputable charity.

"I implore you to please take action to see that this is stopped. I am aware that a device can be placed on my line so these calls cannot come through my home. However, the cost is astronomical. Further, I do not see why I have to pay to have my privacy protected in my own home.

"Anything you can do about this situation will be deeply appreciated."

ASSEMBLYMAN KRONICK: Thank you very much for the record. Having no further business, this Committee hearing is concluded. I want to thank each and every one of you for being here, and I want to thank the staff who have come a great distance to be with us. Thank you very much.

ASSEMBLYWOMAN MULLEN: Thank you.

ASSEMBLYMAN KRONICK: Ken, David, Barbara, thank you very much.

(HEARING CONCLUDED)

APPENDIX

**Board of Chosen Freeholders
Of The County of Burlington**

MOUNT HOLLY, NEW JERSEY
08060

Office of:
CONSUMER AFFAIRS
49 RANCOCAS ROAD
(609) 265-5054



ASSEMBLY CONSUMER AFFAIRS COMMITTEE

GLASSBORO STATE COLLEGE
20 MAY 1991

STATE REGULATION OF "900" NUMBERS

TO : Honorable Members of the Committee
FROM : Renee L. Borstad, Director -
Burlington County Office of Consumer Affairs

I would like to preface my introductions of two very important Burlington County senior consumers by thanking the committee for its foresight and recognition that the decade of the 90's has produced an electronic marketing dilemma which, if not regulated, will quickly part more consumers from their money just as fast as the flim-flams of other eras.

Introduction of Mr. & Mrs. Milton Ehrlich
218 Stratton Court
Mt. Laurel, NJ 08054

On 6 June 1990 Mr. & Mrs. Milton Ehrlich filed a complaint in the Burlington County Office of Consumer Affairs alleging that their telephone bills were inundated with 900 number calls from as far back as July 1989 and included a variety of 900 numbers for Premium, TeleGuy, Era II, DateLine, and National Bank for low interest credit card information. There were days when the same 900 number appeared four, or five times within minutes of each call. Fortunately New Jersey Bell and Sprint decided not to pursue any collection attempts and the consumers have received credit for over \$1,331 in telephone calls not made by them.

Although the Ehrlich case is conditioned upon calls made by unknown persons there is still a lack of disclosure to provide consumers with sufficient disclosure for consumer choice. As New Jersey is a disclosure State by virtue of the New Jersey Consumer Fraud Act (NJSA 56:8-1 et sequentia) it would further be in the interest of New Jersey consumers to legislate certain requirements to bolster consumer protection and mandate certain prohibitions to prevent any further injuries to New Jersey consumers.

Thank you.

**Board of Chosen Freeholders
Of The County of Burlington**

MOUNT HOLLY, NEW JERSEY
08060

Office of:
CONSUMER AFFAIRS
49 RANCOCAS ROAD
(609) 285-5054



24 September 1990

Janet D. Steiger, Chairman
Federal Trade Commission
Sixth & Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Ms. Steiger:

RE: IN THE MATTER OF 900 NUMBERS

Please advise what action, if any, is being contemplated with regard to the growing number of 900 number services.

Our marketplace is being inundated with national mail and postcard offer awards using the 900 number for telemarketing. Many of these mailers have generated mail and wire frauds for a number of years through the use of area numbers with consumers paying the normal phone charge as designated for that area. In the case of 900 numbers a third-party information provider, generally an out-of-state company, generates a fee which is applied to the consumer's phone bill. Unlike area code numbers there is no charge for the area called only the actual time the consumer spends on the telephone once the call is answered. The consumers are not aware that the charge continue each minute they are on the line either talking, listening, or on "hold."

I have no doubt that as this new marketing tool increases, so will the frauds. Already area consumers are providing me with their postcard and mail offers which in turn I am sending to Regional US Postal Chiefs.

In the meantime the New Jersey Board of Public Utilities has approved residential and commercial blocking for 700 or 900 numbers. It appears that a "700" code is also designated for similar telemarketing. Although there is no blocking charge, consumers will have to pay a standard one-time tariff charge of \$21 for each residential line, or \$26 for each commercial line. A case has already been filed in this office by a senior citizen couple who allege 900 number abuse which has penetrated their telephone although non-usage by the couple. In this case the consumers advise they are being charged for monthly telephone calls of over \$350; however approximately \$30 to \$35 are the

(continued)

actual charges made by the consumer.

Although New Jersey Bell is crediting the disputed numbers, New Jersey's Department of Taxation as well as the federal government is losing the tax revenue. Consequently consumers will be burdened to make up those losses. It is indeed unfortunate that consumers must pay for, and to prevent, such marketplaces abuses; especially fixed income consumers where the simple phone is considered a need as opposed to a luxury.

The 900 numbers have created an innovated business which will be costly to unsuspecting consumers by offering Prizes, Awards, Contests, Sweepstakes (PACS) while at the same time make money from the consumer's phone bill eventhough the consumer may not agree to anything. Thus a new avenue has been opened to the clever defrauder which will not only prove to be a headache for consumer protection offices, but also legitimate 900 number services.

Thank you in advance for your attention and response.

Sincerely,

Renee L. Borstad, Director

RLB/gar

cc: Robert H. King, Freeholder-In-Charge
Director Patricia A. Royer,
NJ Division of Consumer Affairs
Honorable Bill Bradley
Senator-New Jersey
Honorable Frank Lautenberg
Senator-New Jersey
1st Congressional District
Honorable William J. Hughes
2nd Congressional District
Honorable Frank Pallone, Jr.
3rd Congressional District
Honorable Christopher H. Smith
4th Congressional District
Honorable Marge Roukema
5th Congressional District
Honorable Bernard J. Dwyer
6th Congressional District
Honorable Matthew J. Rinaldo
7th Congressional District
Honorable Robert A. Roe
8th Congressional District
Honorable Robert G. Torricelli
9th Congressional District

(continued)

Janet Steiger, Chairman

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Honorable Donald M. Payne
10th Congressional District
Honorable Dean A. Gallo
11th Congressional District
Honorable James Courter
12th Congressional District
Honorable H. James Saxton
13th Congressional District
Honorable Frank J. Guarini
14th Congressional District
Honorable Gabriel M. Ambrosio-Senator
36th Legislative District
Honorable Louis C. Bassano-Senator
21st Legislative District
Honorable Leanna Brown-Senator
26th Legislative District
Honorable Joseph L. Bubba-Senator
34th Legislative District
Honorable Dr. Gerald Cardinale-Senator
39th Legislative District
Honorable Richard J. Codey-Senator
27th Legislative District
Honorable Leonard T. Connors, Jr.-Senator
9th Legislative District
Honorable Paul J. Contillo-Senator
38th Legislative District
Honorable Catherine A. Costa-Senator
7th Legislative District
Honorable Thomas F. Cowan-Senator
32nd Legislative District
Honorable Daniel J. Dalton-Senator
4th Legislative District
Honorable John D'Amico, Jr.-Senator
11th Legislative District
Honorable Donald T. DiFrancesco-Senator
22nd Legislative District
Honorable John H. Dorsey-Senator
25th Legislative District
Honorable Wayne Dumont, Jr.-Senator
24th Legislative District
Honorable John H. Ewing-Senator
16th Legislative District
Honorable Matthew Feldman-Senator
37th Legislative District
Honorable S. Thomas Gagliano-Senator
12th Legislative District
Honorable William L. Gormley-Senator
2nd Legislative District
Honorable Frank X. Graves, Jr.-Senator
35th Legislative District
Honorable C. William Haines-Senator
8th Legislative District

(continued)

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24 September 1990

Honorable James R. Hurley-Senator
1st Legislative District
Honorable Christopher J. Jackman-Senator
33rd Legislative District
Honorable Lee B. Laskin-Senator
6th Legislative District
Honorable Raymond J. Lesniak-Senator
20th Legislative District
Honorable Wynona M. Lipman-Senator
29th Legislative District
Honorable John A. Lynch-Senator
17th Legislative District
Honorable Francis J. McManimon-Senator
14th Legislative District
Honorable Henry P. McNamara-Senator
40th Legislative District
Honorable Edward T. O'Connor, Jr.-Senator
31st Legislative District
Honorable Carmen A. Orechio-Senator
30th Legislative District
Honorable Dr. Thomas H. Paterniti-Senator
18th Legislative District
Honorable Walter Rand-Senator
5th Legislative District
Honorable Ronald L. Rice-Senator
28th Legislative District
Honorable John F. Russo-Senator
10th Legislative District
Honorable Gerald R. Stockman-Senator
15th Legislative District
Honorable Richard Van Wagner-Senator
13th Legislative District
Honorable Lawrence S. Weiss-Senator
19th Legislative District
Honorable Raymond J. Zane-Senator
3rd Legislative District
Honorable Richard A. Zimmer-Senator
23rd Legislative District
Honorable Michael F. Adubato-Assemblyman
28th Legislative District
Honorable Arthur R. Albohn-Assemblyman
25th Legislative District
Honorable Byron M. Baer-Assemblyman
37th Legislative District
Honorable John O. Bennett-Assemblyman
12th Legislative District
Honorable Willie B. Brown-Assemblyman
29th Legislative District
Honorable Wayne R. Bryant-Assemblyman
5th Legislative District

(continued)

Honorable Stephanie R. Bush-Assemblywoman
27th Legislative District
Honorable Joseph Charles, Jr.-Assemblyman
31st Legislative District
Honorable Anthony J. Cimino-Assemblyman
14th Legislative District
Honorable Dr. Harold L. Colburn-Assemblyman
8th Legislative District
Honorable Jack Collins-Assemblyman
3rd Legislative District
Honorable Dolores G. Cooper-Assemblywoman
2nd Legislative District
Honorable Marion Crecco-Assemblywoman
30th Legislative District
Honorable Alex DeCroce-Assemblyman
26th Legislative District
Honorable Thomas J. Deverin-Assemblyman
20th Legislative District
Honorable Joseph V. Doria, Jr.-Assemblyman
31st Legislative District
Honorable John Paul Doyle-Assemblyman
10th Legislative District
Honorable Thomas J. Duch-Assemblyman
36th Legislative District
Honorable Clare M. Farragher-Assemblywoman
12th Legislative District
Honorable Nicholas R. Felice-Assemblyman
40th Legislative District
Honorable Thomas P. Foy-Assemblyman
7th Legislative District
Honorable Robert D. Franks-Assemblyman
22nd Legislative District
Honorable Rodney P. Frelinghuysen-Assemblyman
25th Legislative District
Honorable Peter J. Genova-Assemblyman
21st Legislative District
Honorable Louis J. Gill-Assemblyman
36th Legislative District
Honorable John A. Girgenti-Assemblyman
35th Legislative District
Honorable Charles L. Hardwick-Assemblyman
21st Legislative District
Honorable Garabed Haytaian-Assemblyman
24th Legislative District
Honorable John T. Hendrickson-Assemblyman
9th Legislative District
Honorable George Hudak-Assemblyman
20th Legislative District
Honorable Anthony Imprevuto-Assemblyman
32nd Legislative District
Honorable Barbara F. Kalik-Assemblywoman
7th Legislative District

(continued)

cc: Honorable C. Richard Kamin-Assemblyman
23rd Legislative District
Honorable Alan J. Karcher-Assemblyman
19th Legislative District
Honorable Walter Kavanaugh-Assemblyman
16th Legislative District
Honorable John V. Kelly-Assemblyman
30th Legislative District
Honorable Bernard F. Kenny, Jr.-Assemblyman
33rd Legislative District
Honorable Walter Kern, Jr., MD-Assemblyman
40th Legislative District
Honorable J. Edward Kline-Assemblyman
2nd Legislative District
Honorable David C. Kronick-Assemblyman
32nd Legislative District
Honorable Joseph M. Kyrillos, Jr.-Assemblyman
13th Legislative District
Honorable Robert E. Littell-Assemblyman
24th Legislative District
Honorable Frank A. LoBiondo-Assemblyman
1st Legislative District
Honorable Anthony S. Marsella-Assemblyman
4th Legislative District
Honorable Robert J. Martin-Assemblyman
26th Legislative District
Honorable Jackie R. Mattison-Assemblyman
29th Legislative District
Honorable D. Bennett Mazur-Assemblyman
37th Legislative District
Honorable Harry A. McEnroe-Assemblyman
27th Legislative District
Honorable Robert Menendez-Assemblyman
33rd Legislative District
Honorable Newton E. Miller-Assemblyman
34th Legislative District
Honorable Jeffrey W. Moran-Assemblyman
9th Legislative District
Honorable Gerard S. Naples-Assemblyman
15th Legislative District
Honorable Maureen Ogden-Assemblywoman
22nd Legislative District
Honorable George J. Otlowksi-Assemblyman
19th Legislative District
Honorable Joseph A. Palaia-Assemblyman
11th Legislative District
Honorable William J. Pascrell, Jr.-Assemblyman
35th Legislative District
Honorable Joseph D. Patero-Assemblyman
14th Legislative District

(continued)

Janet D. Steiger, Chairman

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24 September 1990

Honorable Frank M. Pelly-Assemblyman
18th Legislative District
Honorable John S. Penn-Assemblyman
16th Legislative District
Honorable Elizabeth Randall-Assemblywoman
39th Legislative District
Honorable Dennis L. Riley-Assemblyman
4th Legislative District
Honorable Joseph J. Roberts, Jr.-Assemblyman
5th Legislative District
Honorable John A. Rocco-Assemblyman
6th Legislative District
Honorable Patrick J. Roma-Assemblyman
38th Legislative District
Honorable John E. Rooney-Assemblyman
39th Legislative District
Honorable Edward H. Salmon-Assemblyman
1st Legislative District
Honorable William E. Schluter-Assemblyman
23rd Legislative District
Honorable William P. Schuber-Assemblyman
38th Legislative District
Honorable David C. Schwartz-Assemblyman
17th Legislative District
Honorable Robert C. Shinn, Jr.-Assemblyman
8th Legislative District
Honorable Thomas J. Shusted-Assemblyman
6th Legislative District
Honorable Robert W. Singer-Assemblyman
10th Legislative District
Honorable Joann H. Smith-Assemblyman
13th Legislative District
Honorable Robert G. Smith-Assemblyman
17th Legislative District
Honorable George A. Spadaro-Assemblyman
18th Legislative District
Honorable Gary W. Stuhltrager-Assemblyman
3rd Legislative District
Honorable John A. Villapiano-Assemblyman
11th Legislative District
Honorable John S. Watson-Assemblyman
15th Legislative District
Honorable James Zangari-Assemblyman
28th Legislative District
Honorable Gerald H. Zecker-Assemblyman
34th Legislative District

**Board of Chosen Freeholders
Of The County of Burlington**

MOUNT HOLLY, NEW JERSEY
08060



Office of:
CONSUMER AFFAIRS
49 RANCOCAS ROAD
(609) 265-5054

28 September 1990

TO : CAMCA
FROM : Renee L. Borstad, Director
Burlington County Office of Consumer Affairs
SUBJECT : DISC SWEEPSTAKES, LIMITED

I received word from Investigator Debra A. Moores, Department of Justice, Consumer Protection Division, Des Moines, Iowa confirming the US Attorney's lawsuit against the subject. Also that the court ordered Disc Sweepstakes to cease doing business.

Consumers requesting a refund should contact:

Disc Sweepstakes, Ltd.
PO Box 65483
Des Moines, IA 50265

or call: 1-800-722-2906

The United States Attorney's office and the United States Postal Service filed a lawsuit against Disc Sweepstakes, Ltd. and its principal officer, Terry Christensen on 16 August 1990. Violations were cited for postal false representation and lottery statute, 39 U.S.C. section 3007 and the mail and wire fraud civil injunction statute, 18 U.S.C. section 1345. The court has ordered Disc Sweepstakes to cease doing business.

The US Attorney believes this is the first case in the country filed to stop the use of a 900 number service. There is very little regulation locally or federally regarding 900 number services. They are becoming multi-million dollar businesses for those who misrepresent prizes or solicitations to consumers.

RLB/gar

cc: Mrs. Wayne Borstad
Robert H. King, Freeholder-In-Charge
Investigators Peifer, Hart & Greene
Researcher McDyre
Inspector D. Fast, US Postal Authorities
Philadelphia, PA
Jerome Miller, President
Better Business Bureau of South Jersey
Director Patricia A. Royer
NJ Department of Consumer Affairs
Viola Gentile, Acting Chief
NJ Office of Consumer Protection

