

**STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LEGAL AFFAIRS**

**IN THE INVESTIGATION OF
AOL LLC**

**AG Case Nos.
L05-3-1138/L06-3-1092**

ASSURANCE OF VOLUNTARY COMPLIANCE

The Office of the Attorney General, Department of Legal Affairs, State of Florida (“the Attorney General”), investigated the business practices of AOL LLC (“AOL”) pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Florida Statutes.

This Assurance of Voluntary Compliance, (hereinafter referred to as the “AVC”), is solely intended to resolve the investigation into whether AOL engaged in any unlawful and deceptive trade practices.

The Attorney General, by the signature of his Deputy Attorney General, affixed hereto, does in this matter accept this AVC in termination of this investigation, pursuant to Section 501.207(6), Florida Statutes, and by virtue of the authority in the Office of the Attorney General by said statute.

AOL makes no admission of wrong doing and the Attorney General acknowledges AOL’s good faith and cooperation during the course of this inquiry.

BACKGROUND

1. AOL, a Delaware limited liability company with its principal place of business in Dulles, Virginia, has provided Internet-related services for more than 20 years. AOL currently has more than 14 million paying Members nationwide, approximately a million of whom reside in Florida.

2. Historically, AOL's primary service has been dial-up Internet access, typically offered through a "free trial" offer that enables consumers to register as an AOL Member and thereby access the AOL Internet service for a free trial period, requiring that the Member cancel the account prior to the end of the free trial period to avoid a monthly Internet service charge to the payment method (checking, debit card, credit card or phone bill) provided by the Member during registration.

3. The AOL-related consumer complaints that the Attorney General has received tend to involve one of four issues: cancellation, reactivation of a previously cancelled account, spin-off sub-accounts, and the phone bill payment method.

Cancellation

4. Since 1998, AOL has provided Members three methods of cancellation: phone, facsimile, and mail. Most cancellation requests are made by phone, which results in the Member being directed to AOL Member Services consultants who are trained to assess whether the Member has an issue that can be resolved short of cancellation. A Member who subsequently decides not to cancel his or her account is considered "saved" by AOL, which has historically provided incentives to consultants for "saving" Members in the form of bonus compensation that, until 2005, depended on the consultant retaining a minimum threshold percentage of calls handled. During the 2003-2006 time period, the

majority of these calls were handled by retention or “save” consultants in AOL’s Florida call centers.¹

5. AOL, both on its own and in response to various regulatory inquiries, has developed and implemented a series of safeguards against consultants failing to properly process Member cancel requests.

6. For example, if a Member who has expressed cancel intent agrees to continue a paid Membership, the Member’s account history is automatically notated with a “Saved Account” code that triggers a Full Disclosure Save script (dynamically populated with data from the Member’s account history). The Full Disclosure Save script repeats the Member’s agreement to continue the account and the terms of any new price plan or promotion offered to and accepted by the Member, and informs the Member that they will receive a Saves Confirmation Notice via US mail. The Notice is mailed to the Master Account holder and contains a cancellation form that the Member can return by fax or mail if the Member subsequently determines to cancel the account, as well as a toll-free Member Services number.

7. If a Member requests cancellation by phone after receiving a Saves Confirmation Notice, AOL guidelines instruct consultants to take the following steps: “(1) Check usage. (2) Consultants MUST NOT make a save attempt. (3) Per FTC credit guidelines, issue credit for the subsequent billed month that occurred since the last “Member Save” event, up to a maximum of 1 month. (4) Consultants should process an immediate account cancellation.” Consultants are trained to place an immediate cancel

¹ AOL operated internal call centers in Orlando and Jacksonville until those sites closed in 2005 and 2006, as well as sites in Lakeland and Ft. Pierce. AOL continues to have an active outsourced call center operation in Tampa, Florida. During the 2003-2006 time period, the Jacksonville, Florida call center was AOL’s largest saves queue.

code on an account where a Member claims that he or she had previously cancelled the account and is still being billed. To qualify, there must be a "Member Save" noted in the account history in the last four months and less than 30 minutes of client usage data following the date of the Member Save.

8. If a Member elects to cancel, the consultant reads a Full Disclosure cancellation script (dynamically populated with data from the Member's account history file) that informs the Member of (a) the last billing date; (b) the ability to make continued use of the account through the service period covered by the last Billing Cycle (a "pending cancel"); (c) any financial consequence of cancellation (*e.g.*, an early cancellation fee that the Member agreed to pay under a commitment plan); (d) a cancellation confirmation number; and (e) that the Member will receive written confirmation of cancellation via US Mail. AOL is obligated to provide this written confirmation and cancellation confirmation number under its 1998 Assurance of Voluntary Compliance with the Attorney General of 44 States (including the Attorney General of Florida).²

9. AOL conducts statistical outlier analysis of its consultants and monitors their calls to ensure that they properly handle cancellation requests.

10. Notwithstanding these safeguards, the Florida Attorney General's Office has received consumer complaints in which consumers have claimed that their cancellation requests were not honored and they were subsequently billed for online access service after canceling their accounts. These complaints allege that certain AOL

² Cancellation requests made by phone typically default to a "pending cancellation." If a Member requests immediate cancellation or if the request for cancellation falls within 24 hours of the next Billing Cycle, an "immediate cancellation" code is placed on the account. Under a "pending cancellation" code, the Member can continue to use the account until the end of the billing cycle, at which point the account will automatically close.

consultants (a) misled the AOL Member on cancellation or credit procedures to generate a Member Save; (b) did not cancel the account although the consultant represented that the account would be cancelled; (c) did not ask for enough information to verify the consumer's identity; or (d) transferred the call unnecessarily without canceling the account. The Attorney General further alleges that such conduct, if it occurred, would violate the Florida Deceptive and Unfair Trade Practices Act.

11. AOL began developing and testing a third-party verification (“TPV”) process in 2004 and it agreed in August 2005, as part of the resolution of a subsequent investigation by the New York Attorney General, to implement TPV for saves involving New York Members by July 2006. AOL voluntarily extended this safeguard to all saves calls, including those with Florida members. And, in 2005, AOL eliminated saves rates from its incentive compensation metrics and now restricts saves-related bonus compensation to third-party verified, long-term saves.

12. In August 2006, AOL announced a new business model that enables Members, either by calling AOL or through self-service areas at www.aol.com and various AOL Keywords, to cancel and convert their Paid Member Accounts to Free Member Accounts and thereby continue using AOL’s software, e-mail accounts, and security features – free of charge – over an Internet connection purchased from another Internet service provider.

Reactivation

13. Historically, former AOL Members could reactivate previously cancelled accounts by using the AOL software to complete the Basic Online Reactivation (“BOR”) process or by calling AOL.

14. AOL has implemented safeguards around the BOR process, including restricting the ability to reactivate accounts to the Master Account holder; requiring the Master Account holder to authorize reactivation of the account subject to the Terms of Service and renewed billing to the Master Account holder's payment method on file; and confirming reactivation of the account by means of a splash screen.³

15. Notwithstanding these safeguards, the Florida Attorney General's Office has received consumer complaints in which former Members claim to have been charged for accounts that were reactivated through BOR without their authorization. This, in turn, has led the Attorney General to question whether the BOR process is likely to confuse or mislead consumers into inadvertently reauthorizing billing.

16. Since August 2006, AOL has limited BOR such that reactivated accounts now default to Free Member Account status. To switch to a Paid Member Account, BOR-reactivated Members must now separately re-register and provide new payment method information.

Spin-Off Sub-Accounts

17. AOL has always permitted Members to maintain multiple screen names (also known as sub-accounts, each with a unique e-mail address) on one AOL account for free, as opposed to most other ISPs which have charged for additional screen names. Historically, however, technical issues prevented multiple sub-accounts from logging-on simultaneously.

³ AOL has likewise implemented safeguards around phone-based reactivations of previously cancelled accounts, including restricting the ability to reactivate accounts to the designated Master Account holder; requiring the Master Account holder to authorize reactivation of the account subject to the Terms of Service and renewed billing to the Master Account holder's payment method on file; and recording and retaining phone-based reactivations.

18. In the late 1990s, AOL developed the ability for Members to create or “spin off” sub-accounts to create new, fully functional AOL accounts. This enabled sub-accounts to be logged-on simultaneously, as well as the separation of a sub-account from a Master Account to accommodate changes in family status (*e.g.*, divorce or emancipated child). AOL primarily offered this “spin off a sub-account” process through pop-up advertisements.

19. AOL implemented several safeguards around this process, including restricting the offer to Master Account holders who had created multiple sub-accounts using dial-up access; preventing “Parentally Controlled” sub-accounts from being spun-off; requiring the Master Account holder to select the sub-account to be spun-off; providing billing disclosures regarding the sub-account to be spun-off; providing splash screen, e-mail, and mail confirmations; removing the spun-off sub-account from the Master Account; and billing the spun-off account separately.

20. Notwithstanding these safeguards, the Florida Attorney General’s Office has received consumer complaints in which Members claim not to have understood the implications of having created a spin-off account and, therefore, despite canceling a Master Account, continued to be billed for spin-off accounts previously created during their AOL membership. This, in turn, has led the Attorney General to question whether the online process by which Members create a new account from an existing screen name is likely to confuse or mislead consumers into inadvertently creating new, paying accounts and whether additional cancellation disclosures are warranted to clarify whether a Member’s cancellation intent extends to spin-off accounts.

21. Given the diminished utility of the “spin off a sub-account” process due to subsequent technical solutions enabling multiple simultaneous log-on, AOL no longer markets this process, which is now available only through phone-based transactions, which are recorded.

Phone Bill Payment Method

22. Historically, AOL’s registration process has enabled payment through various methods, including aggregation of AOL Membership charges on Members’ phone bills.

23. AOL and its third-party payment aggregator have implemented a series of safeguards to ensure proper authorization of phone billing, including registration path disclosures, an ANI-match to the line subscriber’s number, an authorization screen electronic equivalent of a letter of agency, and US mail confirmation of the phone billing authorization. In addition, AOL records and retains phone-based registrations during which consumers authorize billing to their phone bill.

24. Notwithstanding these safeguards, the Office of the Florida Attorney General has received complaints from consumers claiming that they have been mistakenly billed for AOL service on their phone bill.

25. Phone bill complaints tend to involve one of two circumstances: (1) circumstances in which an AOL Member – contrary to their contractual obligation to keep their billing information current with AOL – moves and fails to update his or her payment method and the phone carrier subsequently “recycles” the number to another consumer before making its required updates to the database upon which AOL’s third-party payment aggregator relies or (2) circumstances in which someone with access to the

consumer's phone line fraudulently registers an account using the phone bill payment option. The first circumstance is within the control of phone carriers and not capable of resolution by means of changes to AOL's registration procedures.

26. Since August 2006, AOL has limited offers for phone bill payment method to phone-based registrations, which are recorded.

STIPULATIONS

27. The parties hereby agree and stipulate that:

A. the Attorney General of Florida has jurisdiction in this matter under the Florida Unfair and Deceptive Trade Practice Act;

B. the venue of this cause is proper;

C. AOL waives receipt of a formal notice required of the alleged unlawful trade practices and the relief to be sought;

D. AOL understands and agrees that this AVC applies to AOL, AOL's principals, officers, directors, agents, employees, representatives, successors or subsidiaries — including, but not limited to those successors or subsidiaries empowered to control AOL or created through the merging with, or through the acquiring of AOL — and assigns, or any person or entity acting on behalf of AOL; and

E. This AVC is being entered into by AOL for the sole purpose of compromising disputed claims without the necessity for protracted and expensive litigation, and this AVC does not constitute an admission by AOL of any violation of any law or regulation.

28. For purposes of this AVC, the following definitions shall apply:

A. A “**Paid Member Account**” means an AOL Internet service account for which the Member pays a fee pursuant to a Paid Membership Plan.

B. A “**Free Member Account**” means an AOL Internet service account for which the Member does not pay a fee pursuant to a Paid Membership Plan.

C. A “**Member**” means an individual, partnership, corporation, association, or other group, however organized, who has a Paid or Free Member Account.

D. A “**Billing Cycle**” means a repeated, periodic amount of time used to bill or charge for a Paid Member Account or a Premium Service on a recurring basis.

E. To “**Cancel**” means to terminate an account or service such that the consumer will no longer be billed for or have access to the account features or services subject to such cancellation.

F. A “**Member Save**” means the process by which a person contacts AOL to Cancel or convert his or her Paid Member Account to a Free Member Account but then agrees to continue on a Paid Membership Plan.

G. A “**Master Account**” means the primary screen name and password associated with an AOL Member Account, which is used to identify and bill for AOL services.

H. A “**Premium Service**” means an AOL Internet-related service for which a consumer is charged either apart from the services which are provided free of charge to Free Member Accounts or in addition to the fee paid under a Paid Membership Plan.

I. A “**Sub-Account**” means any additional account for AOL services created as part of a preexisting Master Account that is not charged any additional amounts or billed in addition to that Master Account.

J. A **“Spin-off Account”** means a former Sub-Account, which is independently billed and incurs separate charges from and in addition to the Master Account from which it was initially created.

K. The **“Effective Date”** is the date the AVC is signed by the Deputy Attorney General.

L. **“Clearly and Conspicuously”** means that the required disclosure is in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, and understandable. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, it must be presented in close proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. Further:

1. For print communications, the message shall be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, and in print that contrasts with the background against which it appears.

2. In communications disseminated orally, the message shall be delivered in a volume and cadence sufficient for a consumer to comprehend it.

3. In communications made through an electronic medium (such as television, video, and interactive media such as the Internet, online services, and software) in which both audio and visual means of communications are utilized for any portion of the message, the message shall be presented simultaneously in both the audio and visual portions of the communication. Notwithstanding the preceding sentence, in any communication presented solely through visual or audio means, the message may be

made solely through the same means by which the communication is presented. Any audio message shall be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it. Any visual message shall be of a size and shade, with a degree of contrast to the background against which it appears, and shall appear on the screen for a duration and in a location sufficiently noticeable for a consumer to read and comprehend it. The message shall be in an understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the message shall be used in any communication.

INJUNCTIVE TERMS

29. This AVC shall apply to AOL in its transactions with Florida residents, whether acting through its principals, directors, officers, agents, servants, employees, successors, and assigns as well as any other person whose acts, practices or policies are directed, formulated or controlled by AOL.

30. AOL and its principals, directors, officers, agents, servants, employees, successors, and assigns as well as any other person whose acts, practices or policies are directed, formulated or controlled by AOL shall have actual knowledge of and comply with the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes.

31. Any future violations of this AVC by AOL that occur within four (4) years of the Effective Date are by statute *prima facie* evidence of a violation of the Florida Deceptive and Unfair Trade Practices Act and shall subject AOL to any and all civil penalties and sanctions provided by the law, including attorneys' fees and costs.

Cancellation and Conversion of Paid Member Accounts to Free Member Accounts

32. AOL shall enable Members to Cancel and convert their Paid Member Accounts to Free Member Accounts via telephone, facsimile, U.S. Mail, or on-line. For purposes of this section, any on-line method must be Clear and Conspicuous and completely electronic which shall include a concise form for the user to complete and submit using only a computer and Internet connection and shall not be reliant upon the Member's use of AOL software, provided, however, that a web page or URL option (e.g., www.aol.com, <http://free.aol.com/thenewaol>) may require the Member to enter the master screen name and password to verify the Member and account. AOL shall Clearly and Conspicuously disclose to consumers a valid and accessible telephone number, facsimile number, mailing address, and Internet address (which may include a webpage/URL, and/or an electronic mail address where applicable, and which is not reliant on the Member's use of AOL software), for Cancellations and Conversions of Paid Member Accounts to Free Member Accounts. Such disclosures shall, at a minimum, be made via the AOL Keywords or the following AOL search terms: "Bill," "Billing," "Cancel," "Change Plan," "Cancellation," "Customer Service," "Free Plan," and "Free Service."

33. AOL shall not continue to bill any Member who contacts AOL by a method pursuant to Paragraph [32] and expresses a desire to Cancel a Paid Member Account or Convert a Paid Member Account to a Free Member Account unless AOL complies with the procedures in Paragraphs [34]-[41]. Provided however, AOL shall not be out of compliance with this section in the limited situation where a Member contacts AOL via the telephone to Cancel or convert a Paid Member Account to a Free Member

Account, but verification cannot be completed due to technical problems outside of the control of AOL resulting in the termination of the call, if the following also occurs:

- A. The Member expresses a clear desire to retain his or her account and prior to call termination does not further express a desire to Cancel;
- B. Within five (5) days following the dropped call, AOL sends the consumer, via electronic and U.S. Mail, the notice required by Paragraph [40];
- C. AOL provides no commission or bonus compensation for that particular Member Save to the representative who processed the Member Save request; and
- D. AOL records the complete telephone communication regarding Cancellation or conversion of a Paid Member Account to a Free Member Account and saves such recording for a minimum of three (3) years.

34. If a Member expresses intent to Cancel a Paid Member Account or convert a Paid Member Account to a Free Member Account, AOL shall not make any attempt to retain the Member as a customer or offer additional services, until AOL has verified the identity of the specific Member subject to the Cancellation or conversion request. Such verification shall consist of AOL requesting from the Member the minimal uniquely identifying information (*e.g.*, Master Account name, account security question, etc.) sufficient to identify and confirm the specific Member and Member Account. Such verification shall not be overly burdensome on a Member and shall permit a Member to provide alternative identifying information in the event that he or she has forgotten their Master Account information. Further, prior to making any attempt to retain the Member

as a customer or offer additional services, and after verifying the specific Paid Member Account, AOL shall confirm the Member's intentions and process the call accordingly.

35. In addition to and consistent with the requirements imposed by previous Assurances of Voluntary Compliance,⁴ when a Paid Member Account is Canceled or converted to a Free Member Account, AOL shall:

A. Clearly and Conspicuously disclose, immediately following an on-line or telephone request, or within (2) weeks of receipt of a request made by facsimile or mail, the following:

- 1) Any associated fees or penalties;
- 2) A confirmation number for the cancellation or conversion;
- 3) The effective date of the cancellation or conversion;
- 4) The fact, if true, that the Member is entitled to continue to use his or her Member Account under the then existing terms at no additional charge, until the end of the current Billing Cycle and the date of the end of the billing cycle;
- 5) Any Premium Services for which the Member has registered and the fact that charges will continue to be assessed on such accounts; and
- 6) The existence of any existing Spin-off Accounts, and the fact that charges will continue to be assessed on such accounts.

⁴ AOL shall mail a written acknowledgment of Cancellations of Paid Member Accounts that do not result in the conversion of the Paid Member Accounts to Free Member Accounts within (2) weeks of receipt of the cancellation request, as detailed by Paragraph 49 of the Assurance of Voluntary Compliance entered into between the States and AOL, styled *In the Matter of America Online, Inc.*, signed by AOL on May 28, 1998, and include each of the disclosures in Paragraph [35].

B. In addition to the disclosures within the preceding sub-paragraph, AOL shall, within nine months of the Effective Date, also Clearly and Conspicuously disclose at the time the request is made:

- 1) Any outstanding debt owed by the Member at the time of the request;
- 2) The specific amount of charges that will continue to be assessed for any Premium Services for which the Member has registered; and
- 3) The specific amount of charges that will continue to be assessed for any existing Spin-Off Accounts.

C. When a Paid Member Account is converted to a Free Member Account, AOL shall send acknowledgment of the account conversion, either by mail or electronic mail, within (2) weeks of receipt of the notice of account conversion and include each of the disclosures in Paragraph [35.A-B].

36. When a Paid Member Account is Canceled, AOL shall contemporaneously Cancel all existing Paid Sub-Accounts associated with that Member Account. When a Paid Member Account is converted to a Free Member Account, AOL shall contemporaneously convert all existing Paid Sub-Accounts associated with that Member Account to Free Sub-Accounts.

Member Saves

37. Prior to processing a Member's express consent to process a Member Save, AOL shall:

- A. Clearly and Conspicuously disclose:

- 1) The Member's current pricing plan for the Member Account, including a free trial membership, if any;
- 2) A save confirmation number; and
- 3) The remaining amount of time in the Member's current Billing Cycle, including a free trial membership, if any.

B. In addition to the disclosures in the preceding Sub-Paragraph, AOL shall, within nine months of the Effective Date, also Clearly and Conspicuously disclose at the time the request is made:

- 1) Any outstanding debt owed by the Member;
- 2) The specific amount of charges that will continue to be assessed for any Premium Services for which the Member has registered; and
- 3) The specific amount of charges that will continue to be assessed for any existing Spin-Off Accounts.

38. Prior to processing a Member Save, AOL shall obtain a Member's express consent to each of the following:

- A. The exact cost the Member will incur during each Billing Cycle, including any early termination fees;
- B. Any minimum amount of time a Member must maintain the Internet related services if such a minimum is imposed;
- C. If the offer is a free trial membership, the exact date the Member will begin to incur charges and the amount of charges the Member will incur after the lapse of the free trial terms; and

D. The terms and conditions of any other incentives offered to and accepted by the Member as part of the Member Save process.

39. To complete a Member Save, AOL must verify the Member's express consent to begin, continue, or resume the Paid Member Account in accordance with Paragraphs [37]-[40]. A Member Save shall be considered verified only if it is in writing by the Member or recorded by an independent Third-Party Verifier ("TPV") in accordance with Paragraph [41], and such writing or recording Clearly and Conspicuously:

A. Discloses each of the terms set forth in Paragraph [37]; and

B. Demonstrates the Member's express consent to each of the terms set forth in Paragraph [38].

40. Within five (5) business days of completing a Member Save, AOL shall send to the Paid Member Account holder, via electronic mail or first class U.S. mail, a Member Save confirmation notice, which shall include a Clear and Conspicuous disclosure of both the Member's save confirmation number and the information in Paragraphs [37] and [38]. If the confirmation notice is sent electronically it shall contain a Clear and Conspicuous hyperlink to cancel on-line, consistent with Paragraph [32]. If the confirmation notice is sent by mail, the envelope containing the notice will either Clearly and Conspicuously include the words "Notice of Continuation of Paid AOL Member Account" or words to a similar effect, and the confirmation notice shall disclose the address, telephone number, facsimile number, Internet address, and AOL Keywords that can be used to cancel.

Third-Party Verification System

41. If AOL chooses to verify through TPV, the TPV agent must:
 - A. Be an independent party, and not an employee of AOL; provided, however, that AOL will not be in violation of this section if for the limited purpose of providing TPV for the hearing-impaired, AOL uses the same third-party to both conduct the call and complete the verification;
 - B. Be compensated in a manner that does not include any bonuses or commissions based on any rate or percentage of Member Saves;
 - C. Record the complete telephone conversation between the consumer and the TPV;
 - D. Retain a copy of the complete recording for a minimum of three (3) years; and
 - E. Convey to the Member that the Member's Paid Member Account shall be canceled or converted to a Free Member Account, if the Member does not expressly consent to each required term pursuant to Paragraph [38].

Policies and Procedures

42. AOL shall adopt and enforce policies and procedures that:
 - A. Prohibit compensation to any call center personnel or entities acting on behalf of AOL that is contingent upon their obtaining a minimum amount or quota of Member Saves; and
 - B. Prohibit all AOL employees from any other unethical, deceptive, or misleading behavior as alleged in this Assurance.

43. As part of these policies and procedures, AOL shall, within nine (9) months of the Effective Date, separate and apart from the TPV recording described above, record all telephone communications in which a Member selects the Cancellation or conversion of Paid Member Account to Free Member Account option in the Interactive Voice Recording menu. For any such recorded calls which result in a Member continuing to be billed or charged by Respondent, AOL shall save such recordings for a minimum of three (3) years, and shall upon request, provide such recordings. Furthermore, AOL shall monitor and review a statistically significant percentage of all communications for compliance with the Florida law and this AVC.

Account Reactivation

44. In order to resume billing or collecting any payment from any Member for a Paid Member Account that has previously canceled or converted to a Free Member Account, AOL shall:

- A. Clearly and Conspicuously disclose to the Member the terms and conditions and any applicable privacy policies relating to the Paid Member Account;
- B. Require the Member to resubmit any payment information, even where the payment method is the same as was previously used by the Member; and,
- C. Within five (5) days, send the Member a “Chromed” or “Priority” e-mail⁵ which Clearly and Conspicuously discloses:
 - 1) The exact cost the Member will incur during each Billing Cycle, including any early termination fees;

⁵ “Chromed” or “Priority” e-mail is an AOL term of art for an official electronic message distinct in color and in branding, such that the Member can distinguish it from other types of e-mail messages received.

- 2) Any minimum amount of time a Member must maintain the Internet related services if such a minimum is imposed;
- 3) If the offer is a free trial membership, the exact date the Member will begin to incur charges and the amount of charges the Member will incur after the lapse of the free trial terms;
- 4) The terms and conditions of any other incentives offered to and accepted by the Member as part of the Reactivation process; and
- 5) A hyperlink to cancel on-line, consistent with Paragraph [32].

For reactivations made via telephone, AOL shall record the entire telephone communication establishing the reactivation and shall save a copy of the recording for a minimum of (3) years. AOL shall upon request, provide the Attorney General with such recordings.

Spin-Off Sub-Accounts

45. AOL shall enable Members to create Spin-off Accounts only via a telephone transaction. Prior to creating the Spin-off Account, AOL shall Clearly and Conspicuously disclose to the Master Account holder:

- A. The exact additional cost associated with the Spin-off Account, including any additional early termination fee;
- B. Any minimum amount of time a Member must maintain his or her Spin-off Account, if such a minimum is imposed by Respondent;
- C. If the offer is a free trial membership, the exact date the Spin-off Account will begin to incur charges and the amount of charges to be assessed after the lapse of the free trial terms;

D. That in order to create a Spin-off Account the Spin-off Account holder must have the authority to create such an account and be at least eighteen years of age; and

E. The available methods of canceling a Spin-off Account.

46. AOL shall record the entire telephone communication establishing the Spin-off Account, and shall save a copy of the recording for a minimum of three (3) years. AOL shall upon request, provide the Attorney General with such a recording from a Florida Member.

Unauthorized Telephone Billing

47. Prior to billing a consumer through the consumer's telephone service bill, AOL shall Clearly and Conspicuously disclose to, obtain from, and verify with the consumer each of the following:

A. The telephone number through which AOL will bill for its services;

B. The fact that the consumer is the line subscriber for that telephone number and is authorized to incur charges;

C. The exact charge that AOL will place on the Member's monthly telephone service bill; and

D. If the offer is a free trial membership, the exact date the Member will begin to incur charges and the amount of charges the Member will begin to incur after the lapse of the free trial terms.

In verifying the fact that the consumer is the authorized line subscriber for the telephone number, AOL shall, within nine (9) months of the Effective Date of this AVC, require the consumer to provide a unique identifying number, which is not the person's entire social

security number, and which AOL will use to take reasonable steps to verify the consumer's identity, including using a third party to confirm that the telephone number through which AOL intends to bill the consumer belongs to the consumer.

48. Within five (5) days of registration of a Paid Member Account in which the Member has authorized telephone billing, AOL shall send the Member a Chromed or Priority e-mail which Clearly and Conspicuously discloses:

- 1) The exact cost the Member will incur during each Billing Cycle, including any early termination fees;
- 2) Any minimum amount of time a Member must maintain the Internet related services if such a minimum is imposed;
- 3) If the offer is a free trial membership, the exact date the Member will begin to incur charges and the amount of charges the Member will incur after the lapse of the free trial terms;
- 4) The terms and conditions of any other incentives offered to and accepted by the Member as part of the Reactivation process; and
- 5) A hyperlink to cancel on-line, consistent with Paragraph [32].

AOL shall record the entirety of any telephone communication authorizing telephone billing, and shall save a copy of the recording for a minimum of three (3) years. AOL shall upon request, provide the Attorney General with such recordings.

49. AOL shall, upon receipt of a complaint for unauthorized telephone charges for a Member Account, verify that the Member whose account was billed through that telephone number matches the current line subscriber, otherwise AOL shall provide a full refund to the person making the complaint.

Free Member Accounts

50. When a Member converts a Paid Member Account to a Free Member Account, AOL shall, with regard to the remaining membership time previously paid by the Member:

- A. Allow the Member to continue to use the Member Account in the same manner as was previously provided, until the expiration of such membership time, or
- B. Provide a pro-rata refund of the remaining membership time.

MONETARY TERMS

51. AOL agrees to pay consumer restitution or to otherwise forgive outstanding balances to consumers identified during the course of this investigation as having been potentially affected by consultant misconduct as well as consumers who have filed complaints with the Florida Attorney General's Office prior to or during the investigation.

52. In addition to the consumer restitution identified in preceding paragraph, AOL shall resolve within forty-five (45) days of receipt consumer complaints forwarded by the Florida Attorney General's Office or sent directly to AOL at the following address:

AOL LLC
Attn: Heidi Jongquist, Program Director
Regulatory Order Compliance
PO Box 65771
Sterling, VA 20165-8806

Provided however, that for complaints involving alleged unauthorized charges, AOL may request additional information and/or an affidavit from the consumer and will resolve

such complaints within fifteen (15) days of the receipt of such information and/or affidavit. AOL will provide a full refund and/or clear any outstanding balances for such charges unless AOL confirms that the consumer has already resolved, settled or otherwise received full compensation for that specific charge; confirms that the consumer did not have an account or payment method on file with AOL at the time of the disputed claim; or produces Clear and Conspicuous evidence of the consumer's intent to incur such charges. Such Clear and Conspicuous evidence may be demonstrated through the recordings, verifications, and confirmations made pursuant to this AVC or account usage data that belies the consumer's claim. If AOL no longer maintains adequate data and/or information to assess a complaint received from the Attorney General, such complaint shall be resolved at the discretion of the Attorney General.

53. AOL shall prepare a report containing the name, address, and phone number of all Florida consumers provided restitution pursuant to Paragraph [52] and the date and amount refunded to the consumers. The report will be presented to the Florida Attorney General's Office within one hundred and eighty (180) days after the Effective Date of this AVC. The report shall designate any claims that AOL has rejected and include the evidence supporting such rejections.

54. AOL shall maintain all consumer complaints and all responses thereto, for a period of three (3) years after receipt of such complaints. Upon request, AOL shall also provide to the Attorney General a quarterly report in the format of an electronic spreadsheet, detailing each complaint received either directly by AOL or forwarded by the Attorney General. The report shall include:

- A. The consumer's contact information including name, address, e-mail address, and telephone number;
 - B. Any save, cancellation, or Free Member Account conversion confirmation number assigned to the Member Account;
 - C. The name of the employee associated with the complaint;
 - D. The date the complaint was received;
 - E. The date of the associated Member Save, cancellation, or Free Member Account conversion, if any; and
 - F. The disposition of the complaint, including the amount of reimbursement.
- The report shall also include those past complaints resolved pursuant to Paragraph [52] that have not been previously reported.

55. Undeliverable checks for Florida consumers will be aggregated and delivered, with a list of consumers and the amount attributable to each, to the Florida Bureau of Unclaimed Property, per the requirements of Chapter 717, Florida Statutes.

56. AOL shall pay the State of Florida the sum of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) through a check made payable to the Legal Affairs Revolving Trust Fund, for use pursuant to Section 501.2101, Florida Statutes, for investigative and attorney's fees and costs of this matter and for fees and costs associated with the claims administration process, compliance review, monitoring, and inspection during the effective period of the AVC, and the fees and costs associated with ongoing and future enforcement initiatives pursuant to Chapter 501, Part II, Florida Statutes. Payment will be made within ten (10) days following the execution of the AVC.

COMPLIANCE MONITORING

57. AOL, its successors, assigns, officers, agents, servants, and employees, whether acting directly or through any corporation, subsidiary, division, or other device, for the purpose of monitoring and investigating compliance with any provision of this AVC, shall provide written reports sworn under penalty of perjury to the Attorney General (a) ninety (90) and (b) two hundred and seventy (270) days after the date of Effective Date of this AVC setting forth in detail the manner and form in which AOL has complied and is complying with this AVC.

RECORD-KEEPING PROVISIONS AND RIGHT TO INSPECT

58. The Florida Attorney General's Office shall have the right to inspect and review the records and documents listed below, upon reasonable notice to AOL, in order to monitor compliance with this AVC and compliance with Florida and federal laws. AOL, their successors, assigns, officers, agents, servants, and employees, whether acting directly or through any corporation, subsidiary, division, or other device, for a period of four (4) years from the Effective Date of this AVC, while engaging in conduct related to the subject matter of this AVC, shall retain the following records:

A. Recordings of the verification process conducted by the TPV agent for consumers routed to retention queues in the Florida call centers.

B. Reports of invalid Member Saves prepared by or sent to the TPV system; AOL's Performance Enhancement Team; AOL's Escalation Team; AOL's Fraud Team; AOL's HQ Site Program managers (SPM); General Managers (GM); Sales Managers (SSM); and AOL's Site Leadership for retention queues in the Florida call centers.

C. Investigations conducted by AOL's Fraud Team, Florida Call Center Coaches, or the Florida Call Center Quality Monitoring Teams regarding complaints by Florida consumers about invalid Member Saves or refusals to honor cancellation requests for consumers routed through retention queues in the Florida call centers.

D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any response to those complaints or requests for consumers routed through retention queues in the Florida call centers.

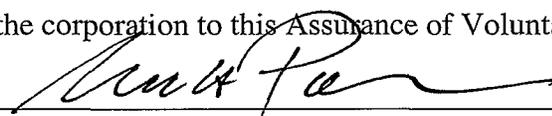
E. Copies of sale scripts, training materials, advertisements, website printouts, or other marketing materials used in retention queues in the Florida call centers.

F. Records and documents necessary to demonstrate full compliance with each provision of this AVC.

FOR AOL LLC:

IN WITNESS WHEREOF, AOL LLC has caused this Assurance of Voluntary Compliance to be executed by Ira Parker as EVP & General Counsel of AOL LLC, as a true act and deed in Loudoun County, Virginia, this 7th day of December 2006.

BY MY SIGNATURE, I hereby affirm that I am acting in my capacity and within my authority as EVP & General Counsel of AOL LLC, and that by my signature I am binding the corporation to this Assurance of Voluntary Compliance.

(Signature): 

COMMONWEALTH OF VIRGINIA

COUNTY OF LOUDOUN

County/City of Loudoun
Commonwealth/State of Virginia
The foregoing instrument was acknowledged before me this 7th day of December 2006, by Ira Parker (name of person seeking acknowledgment)
Barbara Ann Stoker
Notary Public
My commission expires: 1/31/09

FOR THE OFFICE OF THE ATTORNEY GENERAL

Accepted this 11 day of December 2006.



DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL

The Capitol, PL-01
Tallahassee, Florida
32399-1050
(850) ~~487-1963~~
245-0140