



Prepaid Phone Companies Dial a Wrong Number at the FCC

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Companies marketing prepaid phone cards should be on the lookout: the Federal Communications Commission is threatening more-severe penalties for deceptive advertising.

The prepaid phone card business is pretty profitable, with the industry raking in billions every year. Plastering phone cards with names like “Africa Magic” and “Hola Amigo,” prepaid calling card companies target immigrant populations, advertising thousands of minutes of talk time to immigrants’ native countries for just a few dollars.

The problem is that there are tons of hidden costs that erode the value of these cards before the card user can say “adios.” So while a card purchased for \$2 or \$5 may say in a big font that it will provide 1000 minutes of talk time, in a tiny font on the detachable “hanger” for the card are additional fees that may reduce the talk time by 45 percent or more.

The major discrepancies between the big-font value and the small-font reality of these prepaid calling cards have made the industry a popular target for state and federal regulators as well as plaintiffs’ attorneys. State attorneys general, the Federal Trade Commission, the FCC, and class action attorneys have pursued prepaid calling card companies for deceptive advertising.

Year after year there are announcements of companies paying out hefty multi-million dollar sums. But the marketing techniques continue. And many of these companies are repeat players. For instance, the company Epana Networks has been pursued in – and settled or been fined in – federal, state, and private actions.

Perhaps prepaid calling card companies have considered responding to legal actions for deceptive advertising as part of the cost of doing business. Getting people to buy their cards under misleading pretenses and paying a fine or settlement is a lot more lucrative than just being more up front about calling fees.

These companies may not be able to make the “cost-of-doing-business” decision for long, though. The FCC announced forfeitures by four different telecommunications companies earlier this month. Each of the companies was fined \$5 million. The notice for each forfeiture, in the form of a No Action Letter (NAL), was almost a mirror of the next. One thing that bears repeating is how the FCC could have calculated the fines



against these companies: \$150,000 for each violation AND each card purchased as a separate violation. The FCC opted not to calculate out these prospective sums and instead determined that a \$5 million fine would be sufficient to protect consumers and deter future bad behavior.

But, in each NAL, the FCC also noted that should the company continue to engage in “unjust and unreasonable practices” (deceptive advertising), the FCC would issue more NALs imposing substantially greater forfeitures and revoking each company’s operating authority. The takeaway here: current practices of hidden fees may be a thing of the past if prepaid calling card companies want to have a future.

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