

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Steven)	
Carp,)	
)	
Complainant,)	
)	
v.)	Case No. 07-91-TP-CSS
)	
AT&T Ohio,)	
)	
Respondent.)	

ENTRY

The Commission finds:

- (1) On January 29, 2007, Steven Carp (Dr. Carp or complainant) filed a complaint against AT&T Ohio (AT&T). In his complaint, Dr. Carp alleges that AT&T has double billed for Yellow Page advertising. The complaint alleges that Dr. Carp is the owner of Carp Cosmetic Surgery Center (Carp) and that his wife, Barbara Carp, is the owner of "The Green Room." According to the complaint, Carp and The Green Room signed separate contracts for Yellow Page advertising. Dr. Carp alleges that on January 22, 2007, AT&T issued three billing statements to The Green Room for Yellow Page advertising. Notwithstanding separate contracts, and a request for separate billing, the complaint states that AT&T billed Carp and The Green Room jointly.

AT&T's January 22, 2007, billing initiated the events that gave rise to the complaint. Carp and The Green Room questioned the amount of the billings issued by AT&T. At one point, The Green Room received a statement in the amount of \$35,383.24. After reviewing accounts with AT&T account representatives, Dr. Carp concluded that AT&T had consistently double billed the company.

- (2) On February 20, 2007, AT&T filed an Answer and a Motion to Dismiss. AT&T moved to dismiss the complaint, asserting that the Commission lacks subject matter jurisdiction. Specifically, AT&T asserts that the Commission lacks jurisdiction over

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Yellow Page advertising. Relying upon *Richard A. Berjian, D.O., Inc. v. Ohio Bell Telephone Company*, 54 Ohio St. 2d 147 (1978) (*Berjian*), AT&T declares that Yellow Page advertising is not a public utility service that a telephone company is obligated to provide. From this, AT&T argues that Yellow Page advertising is not a "telephone service" over which the Commission has regulatory authority. Accordingly, AT&T moves that the Commission dismiss and strike those portions of the complaint relating to Yellow Page advertising.

- (3) AT&T's motion is well-taken and should be granted. Yellow Page advertising is not a matter that is subject to the Commission's jurisdiction. AT&T properly relies upon *Berjian* for the principle that "the service of providing advertising is a matter of private endeavor only" (*Berjian* 54 Ohio St. 2d at 155). Accordingly, any issues relating to improper billing for Yellow Page advertising should be stricken. Such issues must be decided in another forum.
- (4) The complainant should clarify whether there are other issues that may be subject to the Commission's jurisdiction. If so, the complainant should specify, within 20 days of this Entry, if there are claims that are not related to Yellow Page advertising. If the complainant does not respond within 20 days, the Commission shall assume that the complaint relates entirely to Yellow Page advertising. In the absence of any clarifying statement, the Commission will dismiss the complaint in its entirety.

It is, therefore,

ORDERED, That AT&T's motion to dismiss issues relating to Yellow Page advertising is granted. It is, further

ORDERED, That the complainant file within 20 days of this Entry a statement clarifying whether any claims in the complaint relate to matters other than Yellow Page advertising. If the complainant does not file a statement within 20 days, the Commission shall dismiss the complaint in its entirety. It is, further,

ORDERED, That a copy of this Entry be served upon all parties, their respective counsel, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



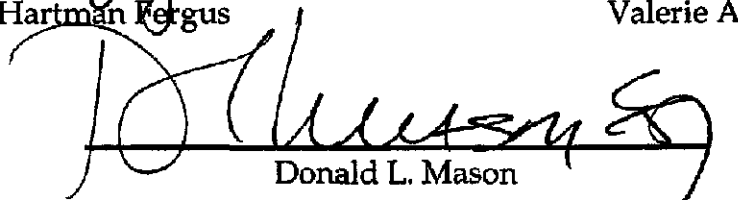
Alan R. Schriber, Chairman



Ronda Hartman Fergus



Valerie A. Lemmie

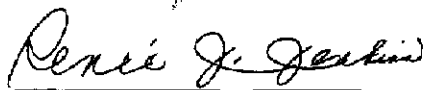


Donald L. Mason

LDJ/vrm

Entered in the Journal

APR 04 2007



Renee J. Jenkins
Secretary