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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10	<b>STATE OF ARIZONA, ex rel.</b>	)	
11	<b>TERRY GODDARD, Attorney General,</b>	)	<b>No. _____</b>
		)	
	<b>Plaintiff,</b>	)	
		)	
13	<b>v.</b>	)	<b>COMPLAINT</b>
		)	<b>(Non-classified Civil)</b>
14	<b>YP CORP, d/b/a/ YP.COM, YP.Net,</b>	)	
15	<b>And Yellow-Page.NET., a foreign</b>	)	
16	<b>Corporation, and TELCO BILLING,</b>	)	
	<b>INC., a foreign corporation,</b>	)	
		)	
	<b>Defendants.</b>	)	

18 **REQUEST FOR PERMANENT INJUNCTION,**  
19 **RESTITUTION AND OTHER RELIEF**

20 1. This action is brought pursuant to the Arizona Consumer Fraud Act, Arizona  
21 Revised Statutes (“A.R.S.”) §44-1521, et seq., to obtain injunctive relief to prevent the  
22 unlawful acts and practices alleged in this Complaint and other relief, including but not  
23 limited to restitution, costs of investigation and attorney’s fees.

24 **JURISDICTION**

25 2. The Superior Court has jurisdiction to enter appropriate orders both prior to  
26

1 and following a determination of liability pursuant to A.R.S. §§ 44-1528, 44-1531 and 44-  
2 1534.

3 VENUE

4 3. Venue is appropriate in Maricopa County, pursuant to A.R.S. § 12-401.

5 PARTIES

6 4. Plaintiff Terry Goddard is the Attorney General of Arizona, who is authorized  
7 to bring this action under the Arizona Consumer Fraud Act.

8 5. Defendant YP Corp. is a Nevada corporation doing business within the  
9 State of Arizona. YP Corp.'s principal place of business is at 4840 E. Jasmine Street, Suite  
10 105, Mesa, Arizona, 85205. The company's registered agent in Arizona is Randt  
11 Corporation Services, LLC, which may be served with process on its behalf at Camelback  
12 Esplanade, 2425 E. Camelback Rd., #850, Phoenix, Arizona 85016.

13 YP Corp. is a publicly traded company with the call letters of YPNT, and its business  
14 may be generally described as operating an Internet yellow pages website and selling  
15 Internet Advertising Packages which provide an enhanced listing on its yellow pages  
16 website. Defendant YP Corp. transacts business in the State of Arizona under the name  
17 YP.com, YP.net, Yellow-Pages.net, and through its wholly-owned subsidiary, Telco Billing,  
18 Inc.

19 6. Defendant Telco Billing, Inc., is a Nevada corporation and has its  
20 principal place of business at 101 Convention Center Drive, Suite 1002, Las Vegas, Nevada  
21 89109. Its registered agent is Gail Kyser who may be served with process on its behalf at  
22 101 Convention Center Drive, Suite 1002, Las Vegas, Nevada 89102. Defendant Telco  
23 Billing, Inc. is a wholly-owned subsidiary of Defendant YP Corp. Defendant Telco Billing,  
24 Inc. essentially carries out the marketing, sales, and collection of accounts payable generated  
25 through sales of Internet Advertising Packages for YP Corp., as described more fully below.

1 Defendant Telco Billing, Inc. also transacts business in the State of Arizona under the name  
2 YP.com, YP.net, and Yellow-Pages.net.

3 7. Any act of YP Corp., as alleged in this Complaint, includes the act of one  
4 or more of the defendants named herein, or of their agents, employees, representatives or  
5 others acting on their behalf and at their direction, including, but not limited to, directors of  
6 the corporate Defendants, independent contractors retained by the Defendants, or consultants  
7 retained by the Defendants.

### 8 DEFENDANTS' BUSINESS PRACTICES

#### 9 On-Line Yellow Pages

10 8. Defendant YP Corp. is a national Internet Yellow Pages publisher,  
11 headquartered in Mesa, Arizona. Through its wholly-owned subsidiary, Defendant Telco  
12 Billing, Inc., located in Las Vegas, Nevada, it publishes on the Internet its on-line yellow  
13 pages located at the following URL's: www.Yellow-Page.Net, www.YP.Net, and  
14 www.YP.Com.

15 9. The Defendants' on-line yellow pages consist of listings with the  
16 business or organization names, addresses and telephone numbers Defendants purchased or  
17 procured from various sources. In addition to those standard business listings, Defendants'  
18 on-line yellow pages contain enhanced listings which reflect the Defendants' Internet  
19 Advertising Packages or ("IAP's"). These enhanced listings purport to provide a "preferred  
20 status" for the listing and link that listing to a "Mini-WebPage" which may contain  
21 additional information about the business or organization. The IAP is YP Corp.'s principal  
22 product or service, and sales of IAP's constitute its principal source of revenue.

#### 23 The "Activation Check" Solicitation

24 10. Defendants' principal method of advertising IAP's is through direct  
25 mail, which method accounts for nearly 90% of the sales of IAP's and, thus, nearly 90% of  
26 Defendant YP Corp's revenues.

1           11. Defendants have adopted as their direct mail marketing program the use of  
2 an “activation check” which is a “live” or negotiable check made payable to the prospective  
3 customer that, upon being deposited by that prospective customer, activates the customer’s  
4 account and is treated as that customer’s agreement to purchase an IAP and related services  
5 from Defendants.

6           12. The solicitations mailed into the State of Arizona are substantially similar  
7 to that attached as Exhibit “A” hereto. The mailing consists of a window envelope with the  
8 “activation check” showing through. Lest there be any doubt, the envelope typically states  
9 “Check Enclosed.” The check is for a small amount, such as \$3.25 or \$3.50, and is made  
10 payable to the prospective customer. Nowhere on its face does the check indicate that  
11 deposit by the prospective customer will be construed by Defendants as a binding contract  
12 for the future payment for the Defendants’ IAP services

13           13. On the back of the check is a pre-printed endorsement statement which reveals  
14 that by depositing the check, the prospective customer agrees to pay a monthly fee to YP  
15 Corp. and that this fee will likely be collected through the customer’s local telephone bill or  
16 the bank account into which the “activation check” was deposited. Also contained within the  
17 solicitation envelope, folded behind the “activation check,” are one or two flyers which  
18 advertise the IAP and provide the “terms of service” if a prospective customer were to order  
19 the services.

20           14. Defendants have used this solicitation method and practice since at least  
21 January 1, 2003, and, to Plaintiff’s best knowledge and belief, utilized similar solicitation  
22 methods and practices for several years preceding that date.

23           15. Defendants mail millions of their “activation checks” each year to businesses  
24 and organizations of every size and nature, including non-profit organizations, schools and  
25 universities, and churches across the country, including within the State of Arizona.

26           16. Some businesses, churches and other organizations within the State of

1 Arizona have been unaware of the fact they deposited an “activation check” sent to them by  
2 Defendants and that, by that deposit, entered into any obligation regarding Defendants.  
3 These entities have thus deposited Defendants’ “activation checks” by mistake or error and  
4 in the absence of any deliberate decision to purchase any of Defendants’ advertising services.

5 17. Some recipients of the Defendants’ solicitation that have deposited the  
6 “activation check” have not noticed, and therefore were not aware of, the content of the  
7 statement placed on the back of the “activation check” or the other information enclosed in  
8 the mailing. Some recipients have assumed the “activation check” related to some other  
9 business, such as an existing advertising purchase with a local yellow pages publisher.

10 18. Based on the foregoing allegations, the State of Arizona contends that  
11 businesses, churches, and other organizations that deposited “activation checks” sent to them  
12 by Defendants were likely to have done so by mistake and without reaching any agreement  
13 to purchase Defendants’ advertising services, and were unaware that their deposit would  
14 subject them to monthly billings by Defendants.

#### 15 Unorthodox Billing Channels

16 19. Following the Defendants’ determination that an “activation check” has  
17 been deposited, they post an enhanced listing (the IAP) in their on-line yellow pages by  
18 creating a Mini-WebPage for the business, church or other organization and begin the billing  
19 process for collecting monthly charges for their IAP advertising services, using several  
20 billing channels.

21 20. The monthly IAP charges billed by Defendants currently range from around  
22 \$27.50 to \$39.95.

23 21. Defendants have, for several years, billed for monthly charges primarily  
24 through Local Exchange Carriers, or the customer’s local telephone company’s bill, also  
25 referred to as “LEC” billing. This billing channel now accounts for approximately 42% of  
26 the Defendants’ current billings nationwide. The Defendants’ charges appear in various

1 formats in the customer's telephone bill, reflecting an additional miscellaneous charge on  
2 their bill. After the customer pays their telephone bill to the LEC, the billed amount is then  
3 remitted by the LEC to a billing aggregator and then to YP Corp., subject to various fees,  
4 reserves, and hold-backs.

5         22. More recently, Defendants have been using a second billing channel  
6 which presents their monthly charges directly to the customer's bank account (the account  
7 into which the customer had originally deposited the "activation check"). Working through  
8 automated clearing houses, Defendants present recurring direct bank account withdrawals to  
9 those bank accounts, also referred to as the "ACH" billing channel. The ACH billing  
10 channel now accounts for about 52% of YP Corp.'s current billings nationwide. Defendants'  
11 charges appear in various formats on the customer's bank account's statements, reflecting  
12 the customer's bank having paid the monthly fee which was presented to that account by the  
13 third party ACH processor. The ACH processor receives payment from the customer's bank  
14 and then remits the payment to YP Corp. subject to various fees, reserves, and hold-backs.

15         23. Some of above-referenced businesses, churches and other organizations  
16 that deposited Defendants' "activation checks" without knowing or intending to purchase  
17 Defendants' IAP services, paid monthly charges to YP Corp. through LEC or ACH billing  
18 channels unaware of the inclusion of those charges in their local telephone bill or the  
19 debiting of those charges from their bank accounts. Thus, some businesses, churches and  
20 organizations have paid Defendants for IAP services without their knowledge for varying  
21 periods of time due to the billing methods employed by Defendants.

22         24. Based on the foregoing allegations, the State contends that as a result of the  
23 Defendants' use of unorthodox billing channels for the collection of monthly charges,  
24 businesses, churches and other organizations within the State of Arizona have likely been  
25 unaware of any agreement to purchase Defendants' IAP services or the fact that they have  
26 paid or are paying for Defendants' IAP services.



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Activation Check, or any agent thereof who is likely to receive and take any action with respect to the Activation Check.

REQUEST FOR RELIEF

WHEREFORE, the State of Arizona, by its Attorney General, respectfully requests this Court grant the following relief:

A. Enjoin Defendants permanently from engaging in the course of conduct alleged herein as a violation of A.R.S. § 44-1521 et seq.;

B. Order that Defendants restore to all persons any money or property, real or personal, which was acquired by means of any practice alleged herein to be in violation of A.R.S. § 44-1521 et seq. in such amounts as may be deemed proper by the Court pursuant to A.R.S. § 44-1528(A)(2);

C. Order Defendants to reimburse the Attorney General for the costs of its investigation and its reasonable attorney's fees pursuant to A.R.S. § 44-1534; and

D. Order such other and further relief as the Court deems proper.

RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

TERRY GODDARD, Attorney General

\_\_\_\_\_  
Cherie L. Howe  
Assistant Attorney General  
Attorneys for Plaintiff