



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
OFISINAN I MAGA'LAHE
AGANA, GUAM 96910 U.S.A.

MAY 14 1990



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The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 595, which I have signed into law this date as

Public Law No. 20-167.

Sincerely,

Joseph F. Ada
JOSEPH F. ADA
Governor

200901

Attachment



Commonwealth Now!

COPIED AT GOVERNMENT EXPENSE

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 595 (COR), "AN ACT TO ADD §§70.40.1 AND 70.40.2 TO TITLE 9, GUAM CODE ANNOTATED, TO PROHIBIT "DIAL-A-PORN" SERVICES AND OTHER OBSCENE TELEPHONE COMMUNICATIONS," was on the 1st day of May, 1990, duly and regularly passed.



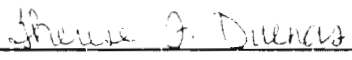
JOE T. SAN AGUSTIN
Speaker

Attested:



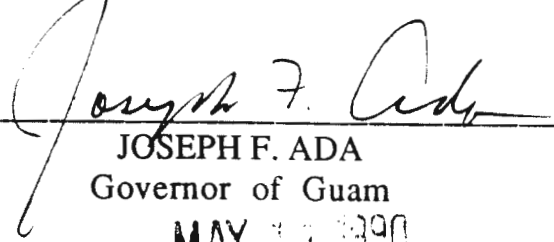
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 14th day of May,
1990, at 4:38 o'clock P.m.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam
Date: MAY 11 1990

Public Law No. 20-167

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 595 (COR)

As substituted by the Committee
on Energy, Utilities and Consumer
Protection and as further substituted
by the Committee on Rules

Introduced by:

M. Z. Bordallo
J. P. Aguon
E. P. Arriola
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
G. Mailloux
T. S. Nelson
D. Parkinson
F. J. A. Quitugua
E. D. Reyes
J. T. San Agustin
F. R. Santos
J. G. Bamba
D. F. Brooks
E. R. Duenas
E. M. Espaldon
M. D. A. Manibusan
M. C. Ruth
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO ADD §§70.40.1 AND 70.40.2 TO TITLE 9,
GUAM CODE ANNOTATED, TO PROHIBIT "DIAL-A-PORN"
SERVICES AND OTHER OBSCENE TELEPHONE
COMMUNICATIONS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. §70.40.1 is hereby added to Title 9, Guam Code Annotated,
3 to read:

1 "§70.40.1. Obscene telephone service prohibited; penalty. (a) It
2 is unlawful for any telephone subscriber to sell, offer for sale, or
3 transmit over telephone lines any obscene material or message.

4 (b) Any person in violation of this section is guilty of a
5 misdemeanor."

6 Section 2. §70.40.2 is hereby added to Title 9, Guam Code Annotated,
7 to read:

8 "§70.40.2. Certain obscene telephone communications prohibited;
9 penalty. (a) For purposes of this section and of §70.40.1 of this Title 9,
10 the term "obscene" shall mean that:

11 (1) The average person, applying contemporary
12 community standards would find that the communication, taken
13 as a whole, appeals to the prurient interest; and

14 (2) The communication depicts or describes, in a patently
15 offensive way, any act or conduct which constitutes sexual
16 conduct as defined by Chapter 25 of this Title 9; and

17 (3) The communication, taken as a whole, lacks serious
18 literary, artistic, political, or scientific value.

19 (b) (1) A subscriber of telephone service who makes any obscene
20 communication by means of a telephone, in person, or through an
21 electronic recording device, in exchange for remuneration is guilty of a
22 misdemeanor, regardless of whether such subscriber placed, initiated or
23 received the telephone call.

24 (2) A subscriber of telephone service who knowingly permits the
25 use of a telephone or a telephone facility under such subscriber's
26 control to make or to receive, at the request of the subscriber, any
27 obscene communication prohibited under subsection (b)(1) of this
28 section, is guilty of a misdemeanor if the telephone or telephone facility
29 is connected to a local exchange telephone.

30 (c) For purposes of this subsection, each day of a violation shall
31 constitute a separate offense."

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

6, 5/1/90
early hr.
1990

ROLL CALL SHEET

Bill No. 595

Date: 5

Resolution No. _____

QUESTION: _____

	AYE	NAY	NOT VOTING	ABSENT
J. P. Aguon				✓
E. P. Arriola	✓			
J. G. Bamba	✓			
M. Z. Bordallo	✓			
D. F. Brooks	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon	✓			
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux	✓			
M. D. A. Manibusan	✓			
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka	✓			
A. R. Unpingco	✓			

20

1

SENATOR DON PARKINSON
20th GUAM LEGISLATURE
163 CHALAN SANTO PAPA STREET
AGANA, GUAM 96910

MAJORITY LEADER and CHAIRPERSON, COMMITTEE ON ENERGY, UTILITIES, AND CONSUMER PROTECTION

January 12, 1990

Honorable Joe T. San Agustin
Speaker, 20th Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Energy, Utilities and Consumer Protection wishes to report out its findings on Bill No. 595 (as substituted by the Committee on Energy Utilities and Consumer Protection): AN ACT TO PROHIBIT DIAL-A-PORN SERVICES.

TO PASS: _____ -12- _____
NOT TO PASS: _____ -0- _____
NOT VOTING: _____ -1- _____
REPORT OUT ONLY: _____ -0- _____
OFF-ISLAND: _____ -0- _____

A copy of the Committee Report and all pertinent documents are attached for your information.

Sincerely,



Senator Don Parkinson
Chairman, Committee on
Energy, Utilities and
Consumer Protection

**COMMITTEE ON ENERGY, UTILITIES AND
CONSUMER PROTECTION**

VOTING SHEET ON:

Bill No. 595 (as substituted by the Committee on Energy Utilities and Consumer Protection): AN ACT
TO PROHIBIT DIAL-A-PORN SERVICES..

<u>COMMITTEE MEMBERS:</u>	<u>INITIAL</u>	<u>TO PASS:</u>	<u>NOT TO PASS:</u>	<u>REPORT OUT:</u>
Sen. Don Parkinson	<i>D</i>	✓		
Sen. Herminia Dierking	<i>H</i>	✓		
Sen. George Bamba	<i>GB</i>	✓		
Sen. Madeleine Bordallo	<i>MB</i>	✓		
Sen. Doris Brooks	<i>DB</i>			
Sen. Gordon Mailloux	<i>GM</i>	✓		
Sen. Marilyn Manibusan	<i>MM</i>	✓ 1/11/90		
Sen. Ted Nelson	<i>TN</i>	✓		
Sen. Franklin Quitugua	<i>FQ</i>	✓		
Sen. Martha Ruth	<i>MR</i>	✓ 1/8/90		
Sen. Frank Santos	<i>FS</i>	✓		
Sen. Antonio Unpingco	<i>AU</i>	✓		
Spkr. Joe T. San Agustin	<i>JS</i>	✓		

jla(20-32/voting.doc)

* Pls incorporate other sponsors that introduced same bill
Ru

**REPORT OF THE COMMITTEE ON ENERGY,
UTILITIES AND CONSUMER PROTECTION ON**

**BILL NO. 595: AN ACT TO PROHIBIT
DIAL-A-PORN SERVICES.**

PREFACE

The Committee on Energy, Utilities and Consumer Protection conducted a public hearing on Wednesday, September 13, 1989 at 10:30 a.m. in the Legislative Session Hall on BILL NO. 595: AN ACT TO PROHIBIT DIAL-A-PORN SERVICES. Committee Members present at the public hearing were: Senator Don Parkinson, Chairman; Senator Ted Nelson, member; and Senator Gordon Mailloux, member.

TESTIMONY

Mr. Jesus A. Manibusan, P.E., Acting General Manager, Guam Telephone Authority, submitted written testimony during the public hearing. This testimony is labeled Exhibit "A." Mr. Manibusan states that GTA supports the intent of Bill No. 595. He says GTA recognizes the responsibility of providing telecommunication services to the people of Guam and protecting the people, especially the children of Guam, from the exposure of obscene material. However, Mr. Manibusan pointed out that opponents to bills such as Bill No. 595 are using the first amendment as a basis of argument in some states. He said that this should not deter or lessen Guam's efforts to continue to fight against proposals that will have an adverse effect on the children of Guam and the community as a whole. GTA remains firm in their commitment to favor legislation such as Bill 595, and recommends that legal advice be sought to ensure proper language be used to withstand challenges by those favoring such activities.

Miss Monique Y.P. Hudgens, sixth grade student, submitted written testimony in favor of Bill No. 595. This testimony is labeled Exhibit "B." She states that as a student, she is concerned about Guam. Miss Hudgens says that the island has enough problems to deal with and enough social problems that contribute to crime. She urges the Senators to pass Bill No. 595 for the sake of the children of Guam.

Mayors Frank Portusach, Agana Heights, and Greg Borja, Santa Rita, testified orally in favor of Bill No. 595.

Written testimony was submitted later by a group of concerned citizens of Guam. This is labeled Exhibit "D". The concerned citizens stated in support of the passage of

children will be affected in a very demoralizing way. Also stated is the mere fact that although pornography may not be harmless it does lead to a more moral decay in people.

COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee on Energy, Utilities and Consumer Protection of the 20th Guam Legislature finds that Guam needs to protect its citizens and especially the children from obscene material that will lead to the deterioration of moral values and principles. Bill 595 will therefore prohibit the transmission of obscene materials to minors or adults via facsimiles, whether it be solicited or not. This prohibition will ensure that Guam's children are protected in this aspect. Therefore, the Committee on Energy, Utilities and Consumer Protection of the 20th Guam Legislature recommends that Bill No. 595 be passed by the 20th Guam Legislature.

EXHIBITS

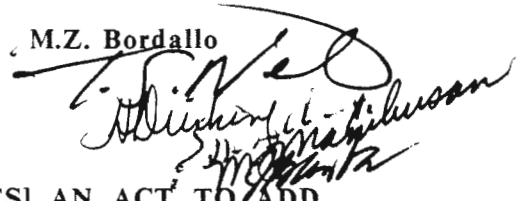
- Exhibit "A" Written testimony from Mr. Jesus A. Manibusan, P.E., Acting General Manager, Guam Telephone Authority
- Exhibit "B" Written testimony from Miss Monique Y.P. Hudgens, Sixth Grade Student.
- Exhibit "C" Witness Sign-In Sheet displayed during the public hearing.
- Exhibit "D" Petition submitted by Concerned Citizens of Guam.

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 595 (COR)
As substituted by the Committee on
Energy, Utilities and Consumer Protection

Introduced by:

M.Z. Bordallo



[AN ACT TO PROHIBIT DIAL-A-PORN SERVICES] AN ACT TO ADD
SECTION 70.40.1 AND 70.40.2 TO TITLE 9, GUAM CODE ANNOTATED,
TO PROHIBIT DIAL-A-PORN SERVICES AND OBSCENE TELEPHONE
COMMUNICATING.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 70.40.1 is hereby added to Title 9, Guam
Code Annotated, to read:

"Section 70.40.1. Obscene telephone service
prohibited; penalty.

(a) It is unlawful for any telephone subscriber
to sell, offer for sale, or transmit[,] over telephone
lines[,] any obscene material or message. [described
and promoted as "adult" and of a nature which is
commonly understood to be for the purposes of sexually
oriented entertainment.]

(b) Any person [who violates the provisions] in
violation of this section is guilty of a misdemeanor."

Section 2. Section 70.40.2 is hereby added to Title 9, Guam
Code Annotated, to read:

"Section 70.40.2. Certain obscene telephone
communications prohibited; penalty.

(a) For purposes of this section and of Section
70.40.1 of this Title 9, the term "obscene" [means that
status of a communication which] shall mean that:

(1) The average person, applying contemporary
community standards[,] would find[,] that the

communication, taken as a whole, appeals to the prurient interest[s]; and

(2) The communication depicts or describes, in a patently offensive way, any act or conduct which constitutes sexual [battery] conduct as defined by Chapter 25 of this Title 9; and

(3) The communication, taken as a whole, lacks serious literary, artistic, political, or scientific value.

[(2) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.]

(b) (1) A subscriber of [a] telephone service who makes any obscene [or indecent] communication by means of a telephone, in person, or through an electronic recording device[,] in exchange for remuneration is guilty of a misdemeanor, regardless of whether he placed, initiated or received the telephone call.

(2) A subscriber of telephone service who knowingly permits the use of a telephone or a telephone facility under his control to make any obscene [or indecent] communication prohibited under [paragraph] subsection (b)(1) of this section is guilty of a misdemeanor if the telephone or telephone facility is connected to a local exchange telephone.

(c) For purposes of this subsection, each day of a violation shall constitute[a] a separate offense."

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) REGULAR SESSION

Bill No. 595
As substituted by the Author

Introduced by:

M. Z. BORDALLO *MZB*
A.R. Arping

AN ACT TO PROHIBIT
DIAL-A-PORN SERVICES

1 Section 1. Obscene Telephone Service Prohibited, Penalty.

2 (A) It is unlawful for any telephone subscriber to sell,
3 offer for sale or transmit, over telephone lines, any obscene
4 material or message described and promoted as "adult" and of a nature
5 which is commonly understood to be for the purposes of sexually
6 oriented entertainment.

7 (B) Any person who violates the provisions of this section
8 is guilty of a misdemeanor.

9 Section 2. Certain Obscene Telephone Communications Prohibited;
10 Penalty.

11 (A) For purposes of this section, the term:

12 (1) "OBSCENE" means that status of a communication
13 which:

14 (a) the average person, applying contemporary
15 community standards, would find, taken as a whole, appeals to the
16 prurient interests and describes, in a patently offensive way.

17 (2) "SEXUAL EXCITEMENT" means the condition of the
18 human male or female genitals when in a state of sexual stimulation
19 or arousal.

1 (B) (1) A subscriber of a telephone service who makes any
2 obscene [or indecent] communication so as to arouse sexual excitement
3 by means of a telephone, in person or through an electronic recording
4 device, in exchange for remuneration is guilty of a misdemeanor,
5 regardless of whether he placed, initiated or received the telephone
6 call.

7 (2) A subscriber of telephone service who knowingly
8 permits the use of a telephone or a telephone facility under his
9 control to make any obscene [or indecent] communication so as to
10 arouse sexual excitement prohibited under paragraph (B)(1) is guilty
11 of a misdemeanor if the telephone or telephone facility is connected
12 to a local exchange telephone.

13 (C) For purposes of this subsection, each day of a violation
14 constitutes a separate offense.

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AN ACT TO PROHIBIT
DIAL-A-PORN SERVICES

1 Section 1. Obscene Telephone Service Prohibited, Penalty.

2 (A) It is unlawful for any telephone subscriber to sell,
3 offer for sale or transmit, over telephone lines, any obscene
4 material or message described and promoted as "adult" and of a nature
5 which is commonly understood to be for the purposes of sexually
6 oriented entertainment.

7 (B) Any person who violates the provisions of this section
8 is guilty of a misdemeanor.

9 Section 2. Certain Obscene Telephone Communications Prohibited;
10 Penalty.

11 (A) For purposes of this section, the term:

12 (1) "OBSCENE" means that status of a communication
13 which:

14 (a) the average person, applying contemporary
15 community standards, would find, taken as a whole, appeals to the
16 prurient interests; and

17 (b) describes, in a patently offensive way, any
18 act or conduct which constitutes sexual battery.

19 (2) "SEXUAL EXCITEMENT" means the condition of the
20 human male or female genitals when in a state of sexual stimulation
21 or arousal.

22 (B) (1) A subscriber of a telephone service who makes any
23 obscene or indecent communication by means of a telephone, in person
24 or through an electronic recording device, in exchange for
25 remuneration is guilty of a misdemeanor, regardless of whether he
26 placed, initiated or received the telephone call.

27 (2) A subscriber of telephone service who knowingly
28 permits the use of a telephone or a telephone facility under his
29 control to make any obscene or indecent communication prohibited
30 under paragraph (B)(1) is guilty of a misdemeanor if the telephone or
31 telephone facility is connected to a local exchange telephone.

32 (C) For purposes of this subsection, each day of a violation
33 constitutes a separate offense.



GUAM TELEPHONE AUTHORITY

POST OFFICE BOX 9008 • TAMUNING, GUAM 96911 • TEL: 646-1427 • FAX: 646-8249

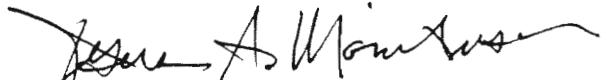
September 11, 1989

Senator Don Parkinson
Chairman, Committee on Energy,
Utilities and Consumer Protection
Twentieth Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

Dear Senator Parkinson:

Attached herewith is the Guam Telephone Authority's testimony which supports the intent of Bill 595. Provided for additional information regarding dial-a-porn laws is a copy of excerpts from United States Telephone Association's (USTA) Teletimes newsletter and a copy of Senator Dan Coats (R-IND) proposed Dial-A-Porn Bill (S. 1414). Please contact me or my staff if you need more information. Thank you.

Sincerely,


JESUS A. MANIBUSAN, P.E.
Acting General Manager

Attachments

cc: Joanne Brown, LRC

Exhibit "A"

Date/Time Recd	9/13 11:25
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Other action	Joanne - Attach or exhibit to Bill 5

GUAM TELEPHONE AUTHORITY FAVORS AND SUPPORTS THE INTENT OF BILL NO. 595: AN ACT TO PROHIBIT DIAL-A-PORN SERVICES. GTA RECOGNIZES THE INHERENT RESPONSIBILITY OF PROVIDING TELECOMMUNICATION SERVICES TO THE PEOPLE OF GUAM. GTA ALSO RECOGNIZES THE UNWRITTEN BASIC RESPONSIBILITY OF SUPPORTING MEASURES SUCH AS THE INTENT OF BILL 595 WHICH WILL PROTECT THE PEOPLE OF GUAM AND, MOST IMPORTANTLY, THE CHILDREN OF GUAM FROM THE EXPOSURE OF OBSCENE MATERIAL THAT WILL UNDOUBTEDLY LEAD TO THE DETERIORATION OF MORAL VALUES AND PRINCIPLES.

WE DO HOWEVER WISH TO POINT OUT THAT SIMILAR LEGISLATION ENACTED IN SOME STATES AND PROPOSED IN CONGRESS ARE NOW FACED WITH OPPONENTS UTILIZING THE FIRST AMENDMENT AS A BASIS OF ARGUMENT. IT IS CONCEIVABLE THAT THESE LAWS CAN GO AS FAR AS THE SUPREME COURT FOR REVIEW. THIS SHOULD NOT DETER OR LESSEN OUR EFFORTS TO CONTINUE TO FIGHT AGAINST PROPOSALS THAT WILL HAVE AN ADVERSE EFFECT ON THE CHILDREN OF GUAM AND THE COMMUNITY AS A WHOLE. WE REMAIN FIRM IN OUR COMMITMENT TO FAVOR LEGISLATION SUCH AS BILL 595, WITH THE RECOMMENDATION THAT LEGAL ADVICE BE SOUGHT TO ENSURE THE PROPER LANGUAGE TO WITHSTAND CHALLENGES BY THOSE FAVORING SUCH ACTIVITIES. BILL 595 SHOULD PROHIBIT TRANSMISSION OF OBSCENE MATERIALS TO MINORS, VIA FACSIMILES, WHETHER SOLICITED OR NOT. VIOLATION OF THIS PROVISION SHOULD BE A FELONY.

WE ARE PROVIDING COPIES OF EXCERPTS ON THE SUBJECT FROM USTA TELETIMES NEWSLETTER AND SENATOR DAN COATS (R-IND) PROPOSED DIAL-A-PORN BILL (S. 1414).



U.S. Supreme Court Rules in Favor of Illinois Tax; Set to Review Dial-A-Porn Law

The U.S. Supreme Court has affirmed a state ruling that a five-percent tax on interstate calls in Illinois does not violate the commerce clause of the Constitution.

The Illinois law, passed in 1985, provides a credit to taxpayers who prove that they have paid a tax to another state for the same call. It also requires the long-distance carrier to collect the tax. The law was appealed in two cases by consumer advocates and by GTE Sprint who alleged that the law violated the commerce clause of the Constitution. The court's January 10 decision in *Goldberg vs. Sweet* affirmed an Illinois Supreme Court ruling that the law does not violate the Constitution.

Justice Thurgood Marshall, writing for the Court, said that the tax was: 1) fairly apportioned since, if each state imposed an identical tax on interstate calls charged to an in-state address, only one state would tax each call; 2) nondiscriminatory since intrastate calls are taxed identically; and 3) "fairly related to services which the state provides to the benefit of taxpayers."

Although the judgment was unanimous, three justices—John Paul Stevens, Sandra Day O'Connor and Antonin Scalia—filed separate concurring opinions.

Law to be Reconsidered *

The Supreme Court has also agreed to hear a case against the recently enacted "dial-a-porn" law. Both the Justice Department and a number of House leaders predicted last April when the law was passed that it would eventually come before the Supreme Court.

Sable Communications, a Los Angeles dial-a-porn service, is challenging the law, which took effect in July 1988. The law makes it a crime to sell inter-

state dial-a-porn telephone services involving undefined "obscene or indecent" speech.

A federal district judge hearing the

Both the Justice Department and a number of House leaders predicted that the law would eventually come before the Supreme Court.

case agreed that the ban on indecent messages was "overbroad and unconstitutional" but upheld the ban on obscene messages on the ground that the First Amendment does not protect obscenity.

Both Sable and the Federal Communi-

cations Commission have appealed. Sable wants the Supreme Court to strike down the ban on "obscene" speech; the administration, in *FCC v. Sable Communications*, wants the ban on "indecent" messages restored. The court will hear the cases together.

Although the law does not define the terms, court rulings have generally defined "indecent" speech as offensive but lacking the explicit sexual content of "obscene" material.

Congress overwhelmingly passed the law as part of last year's education bill in an effort to protect children from easy access to dial-a-porn messages. However, it was widely acknowledged that the law was unlikely to withstand a First Amendment challenge.

FCC Reaffirms

Accounting Principles

The FCC in a Jan. 5, 1989 order denied two BellSouth requests to waive the commission's rules against amortization of the debt refinancing expense or income over a future accounting period.

In the order denying the waiver of section 32.4240, the FCC reaffirmed its position that the Generally Accepted Accounting Principles (GAAPs) contained in Part 32 accounting are appropriate for both ratepayers and stockholders.

The FCC believes that the GAAP is an appropriate accounting method because it assigns cost to the proper accounting period and does not move past expenses to a future accounting period.

Previously, FCC Part 31 rules permitted amortization associated with debt refinancing in future periods with prior commission approval. Part 32 does not contain this provision because it is inconsistent with generally accepted ac-

counting principles.

The accounting rules applying to debt refinancing transactions are incorporated in Accounting Principles Board Opinion No. 26. **Continuation of Cost Recovery Plan Urged**

In comments submitted to the FCC on Jan. 17, USTA urged the Federal-State Joint Board to proceed with the final steps in implementing the non-traffic-sensitive (NTS) cost recovery plan. Set to take effect April 1, 1989, these final steps would move the subscriber line charge to \$3.50, and allow an originating carrier common line charge of one cent.

The association's recommendation stems from increasing public benefits due to the cost recovery plan, which the FCC adopted in 1987. Furthermore, continued study of the plan's implications for the public and private sectors have failed to reveal any adverse effects, USTA stated.

101ST CONGRESS
1ST SESSION

S. 1414

To amend the Communications Act of 1934 relating to obscene communications.

IN THE SENATE OF THE UNITED STATES

JULY 27 (legislative day, JANUARY 3), 1989

Mr. COATS introduced the following bill, which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 relating to obscene communications.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. RESTORATION AND CORRECTION OF DIAL-A-PORN

4 SANCTIONS. ✓

5 (a) Section 223(b) of the Communications Act of 1934
6 (47 U.S.C. 223) is amended to read as follows:

7 "(b)(1) Whoever knowingly—

8 "(A) within the United States, by means of tele-
9 phone, makes (directly or by recording device) any ob-
10 scene communication for commercial purposes to any

1 person, regardless of whether the maker of such com-
2 munication placed the call; or

3 "(B) permits any telephone facility under such
4 person's control to be used for an activity prohibited by
5 subparagraph (A).

6 shall be fined in accordance with title 18, United States
7 Code, or imprisoned not more than 2 years, or both.

8 "(2) Whoever knowingly—

9 "(A) within the United States, by means of tele-
10 phone, makes (directly or by recording device) any in-
11 decent communication for commercial purposes to any
12 person under 18 years of age or to any other person
13 without that person's consent, regardless of whether
14 the maker of such communication placed the call; or

15 "(B) permits any telephone facility under such
16 person's control to be used for an activity prohibited by
17 subparagraph (A),

18 shall be fined not more than \$50,000 or imprisoned not more
19 than 6 months, or both.

20 "(3) It is a defense to a prosecution under paragraph (2)
21 of this subsection that the defendant restricted access to the
22 prohibited communication to persons 18 years of age or older
23 in accordance with subsection (c) of this section and with
24 such procedures as the Commission may prescribe by
25 regulation.

1 “(4) In addition to the penalties under paragraph (1),
2 whoever, within the United States, intentionally violates
3 paragraph (1) or (2) shall be subject to a fine of not more than
4 \$50,000 for each violation. For purposes of this paragraph,
5 each day of violation shall constitute a separate violation.

6 “(5)(A) In addition to the penalties under paragraphs
7 (1), (2), and (4) whoever, within the United States, violates
8 paragraph (1) or (2) shall be subject to a civil fine of not more
9 than \$50,000 for each violation. For purposes of this
10 paragraph, each day of violation shall constitute a separate
11 violation.

12 “(B) A fine under this paragraph may be assessed
13 either—

14 “(i) by a court, pursuant to a civil action by the
15 Commission or any attorney employed by the Commis-
16 sion who is designated by the Commission for such
17 purposes, or

18 “(ii) by the Commission after appropriate adminis-
19 trative proceedings.

20 “(6) The Attorney General may bring a suit in the ap-
21 propriate district court of the United States to enjoin any act
22 or practice which violates paragraph (1) or (2). An injunction
23 may be granted in accordance with the Federal Rules of Civil
24 Procedure.”.

1 (b) Section 223 of such Act (47 U.S.C. 223) is amended
2 by adding at the end thereof the following:

3 “(c)(1) A common carrier shall not, to the extent techni-
4 cally feasible, provide access to a communication specified in
5 subsection (b) from the telephone of any subscriber who has
6 not previously requested of the carrier access to such commu-
7 nication if the carrier collects from subscribers an identifiable
8 charge for such communication that the carrier remits, in
9 whole or in part, to the provider of such communication.

10 “(2) Except as provided in paragraph (3), no cause of
11 action may be brought in any court or administrative agency
12 against any common carrier, or any of its affiliates, including
13 their officers, directors, employees, agents, or authorized rep-
14 resentatives on account of—

15 “(A) any action which the carrier demonstrates
16 was taken in good faith to restrict access pursuant to
17 paragraph (1) of this subsection, or

18 “(B) any access permitted—

19 “(i) in good faith reliance upon the lack of
20 any representation by a provider of communica-
21 tions that communications provided by that pro-
22 vider are communications specified in subsection
23 (b), or

24 “(ii) because a specific representation by the
25 provider did not allow the carrier, acting in good

1 faith, a sufficient period to restrict access to com-
2 munications described in subsection (b).

3 “(3) Notwithstanding paragraph (2) of this subsection, a
4 provider of communications services to which subscribers are
5 denied access pursuant to paragraph (1) of this subsection
6 may bring an action for a declaratory judgment or similar
7 action in a court or before the Commission. Any such action
8 shall be limited to the question of whether the communica-
9 tions which the provider seeks to provide fall within the cate-
10 gory of communications to which the carrier will provide
11 access only to subscribers who have previously requested
12 such access.”

13 (c) Section 2(b) of the Communications Act of 1934 (47
14 U.S.C. 152(b)) is amended by deleting “section 224” and
15 inserting in lieu thereof “section 223 or 224”.

16 (d) The amendments made by this Act shall take effect
17 immediately upon the expiration of the 150-day period after
18 the date of the enactment of this Act.

○

September 12, 1989

The Honorable
Don Parkinson
Senator, 20th Guam Legislature
Chairman, Committee on Energy
and Public Utilities

Re: Testimony on Bill No. 595 - An Act to Prohibit Dial-A-Porn
Services (Public Hearing - 9-13-89 - 10:30 a.m.)

Dear Mr. Chairman and Committee Members:

I am writing this short letter to express my support of Bill No. 595, an act to prohibit Dial-A-Porn Services on Guam.

I learned about Bill No. 595 through the Pacific Daily News notice of public hearing. As a student, I am concerned about our island. Since I will be attending classes during the public hearing, I am unable to appear before your committee, so I would like to offer my written testimony in support of Bill No. 595.

Mr. Chairman and members of this committee, you know that we have enough problems to deal with on this island. There are enough social problems that contribute to crime. We don't need anymore!! Please, Mr. Chairman and Senators, I urge you, for the sake of the children and people of Guam, to vote in favor of Bill No. 595 - An act to prohibit Dial-A-Porn Services. Thank you! Si Yu'os Ma'ase!!

Sincerely,

Monique Y.P. Hudgens
MONIQUE Y.P. HUDGENS
Sixth Grade Student

MYPH/myph

Exhibit "B"

SENATOR DON PARKINSON
20th GUAM LEGISLATURE
163 CHALAN SANTO PAPA STREET
AGANA, GUAM 96910

MAJORITY LEADER and CHAIRPERSON, COMMITTEE ON ENERGY, UTILITIES, AND CONSUMER PROTECTION

WITNESS SIGN-IN SHEET

DATE: SEPT. 13, 1989

TIME: 10:30 A.M.

PLACE: SESSION HALL

RE: BILL NO. 595 AN ACT TO PROHIBIT DIAL-A-PORN SERVICES.

<u>NAME:</u>	<u>DEPT/AGENCY:</u>	<u>ORAL/WRITTEN:</u>	<u>FOR/AGAINST</u>
<u>FRANK M. PORTUSACH</u>	<u>MAYOR A/HES</u>	<u>✓</u>	<u>✓</u>
<u>GREG M. BORSA</u>	<u>MAYOR STA RITA</u>	<u>✓</u>	<u>✓</u>
<u>MORQUE V. HUDGENS</u>	<u>Student Agueda</u>	<u>✓</u>	<u>✓</u>
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____

Exhibit "C"

Oct. 9, 1989

From Concerned Citizens of Guam
P.O. Box DB
Agana, Guam 96910

Senator Don Parkinson
Chairman of Committee on Energy, Utilities and Consumer Protection
20th Guam Legislature
163 Chalon Santo Papa
Agana, Guam 96910

Dear Senator Don Parkinson,

We are writing in regards to Bill no # 595 introduced by Senator Madeleine Bordallo, which prohibits the selling or transmitting of obscene messages over telephone lines "commonly understood to be used for the purposes of sexually oriented entertainment." Violators will be guilty of a misdemeanor, the bill states. We, as citizens of Guam are very supportive of this bill passing because we feel strongly that if "Dial-a-Porn" is available to Guam, our children will be affected in a very demoralizing way. We do not wish to have anymore pornography become available on the island of Guam due to the problems in marriages, sexual abuse of children, rape, incest etc. It has been proven that pornography is not harmless but that it leads to more moral decay in people. We are very happy that our Guam senators are interested in keeping Guam morally clean!

Salome S. Blas
Clytie Nakihara
Judith R. Amelberg
Linnie B. Jackson
Xan C. Cruz
Michi S. Portin
Geraldine S. James
Michael C. Jan
James Walter King
Walter
W. B.
W. B.
Dustin Queen
Joseph A. Poon
James R. Dwyer

Milton C. Richards
Fred W. King
~~*Anthony Patton*~~
Patricia E. Fejevan
Gerald C. Fejevan
Joselyn M. Cruz
Justin Kruger
John Kruger
Daniel C. Meyer
Salome Edwards

Exhibit "D"

MAY 23 '89

Bill No. 595 (cor)

Introduced by:

M. Z. BORDALLO *MZB*

AN ACT TO PROHIBIT
DIAL-A-PORN SERVICES

1 Section 1. Obscene Telephone Service Prohibited, Penalty.

2 (A) It is unlawful for any telephone subscriber to sell,
3 offer for sale or transmit, over telephone lines, any obscene
4 material or message described and promoted as "adult" and of a nature
5 which is commonly understood to be for the purposes of sexually
6 oriented entertainment.

7 (B) Any person who violates the provisions of this section
8 is guilty of a misdemeanor.

9 Section 2. Certain Obscene Telephone Communications Prohibited;
10 Penalty.

11 (A) For purposes of this section, the term:

12 (1) "OBSCENE" means that status of a communication
13 which:

14 (a) the average person, applying contemporary
15 community standards, would find, taken as a whole, appeals to the
16 prurient interests; and

17 (b) describes, in a patently offensive way, any
18 act or conduct which constitutes sexual battery.

19 (2) "SEXUAL EXCITEMENT" means the condition of the
20 human male or female genitals when in a state of sexual stimulation
21 or arousal.

22 (B) (1) A subscriber of a telephone service who makes any
23 obscene or indecent communication by means of a telephone, in person
24 or through an electronic recording device, in exchange for
25 remuneration is guilty of a misdemeanor, regardless of whether he
26 placed, initiated or received the telephone call.

27 (2) A subscriber of telephone service who knowingly
28 permits the use of a telephone or a telephone facility under his
29 control to make any obscene or indecent communication prohibited
30 under paragraph (B)(1) is guilty of a misdemeanor if the telephone or
31 telephone facility is connected to a local exchange telephone.

32 (C) For purposes of this subsection, each day of a violation
33 constitutes a separate offense.