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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

July 30, 2018

The Honorable Joseph Simons
Chairman
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 22805

Dear Chairman Simons:

We write to request that the Federal Trade Commission (FTC) investigate Conduent State & Local Solutions (Conduent) for conduct that has financially harmed the driving public. Previously part of the Xerox Corporation (which separated from Conduent in January 2017), the company contracts with state departments of transportation (DOTs) to administer and maintain their electronic tolling systems. In so doing, Conduent has billed consumers with wrongful toll charges, late fees and penalties, oftentimes imposing considerable financial harm. According to press accounts, consumers in numerous states, including Florida, Michigan, California, Texas, New Hampshire and Maryland, have experienced problems with Conduent's customer service and its administration of their electronic toll systems. Just recently, the Florida Department of Transportation suspended contractual payments to Conduent for significant problems with its customer service and payment systems, including its failure to process millions of customer transactions thereby causing consumer harm.

Conduent's pattern of mismanaging cashless toll systems is deeply troubling and warrants further scrutiny. If drivers are being hurt financially, the FTC should hold the company accountable and prevent it from doing further harm.

We recognize that Conduent is a third-party vendor that conducts work on behalf of state DOTs pursuant to contractual obligations and, as such, those state DOTs are responsible for addressing harm to their citizens. However, we also believe there is a role for the FTC given Conduent's practices have directly burdened consumers with onerous toll charges and, consequently, directly and negatively impacted their financial well-being.

In particular, it appears that Conduent's mismanagement could be considered "unfair" under the FTC Act, which prohibits conduct that (1) causes or is likely to cause substantial harm, (2) is not reasonably avoidable by consumers, and (3) is not outweighed by any countervailing benefits to consumers or to competition. In the past, the FTC has held third-parties accountable for unfair practices, including in the areas of mobile telephone cramming¹ and payment processing². We believe that the commission should similarly explore whether Conduent's conduct is unlawful under section 5 of the FTC Act.

Thank you for your attention to this matter.

Sincerely,



BILL NELSON
Ranking Member
Senate Committee on Commerce,
Science and Transportation



GARY PETERS
Ranking Member
Subcommittee on Surface
Transportation and Merchant Marine
Infrastructure, Safety and Security

¹ See, e.g., FTC v American eVoice, LTD; FTC v Tatto, Inc.

² See, e.g., FTC v. Electronic Payment Systems of America; FTC v CardFlex Payment Solutions; FTC v Process America.