Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Truth-in-Billing	)	CC Docket No. 98-170
and	)	
Billing Format	)	

FIRST REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: April 15, 1999 Released: May 11, 1999

Comment Date: 14 days from Federal Register publication for comments concerning standardized labels for charges relating to federal regulatory action; 30 days from Federal Register publication for comments concerning applicability of truth-in-billing principles and guidelines to Commercial Mobile Radio Service (CMRS) carriers
Reply Date: 21 days from Federal Register publication for comments concerning standardized labels for charges relating to federal regulatory action; 45 days from Federal Register publication for comments concerning applicability of truth-in-billing principles and guidelines to CMRS carriers

By the Commission: Commissioner Ness issuing a statement, Commissioner Powell concurring and issuing a statement, and Commissioner Furchtgott-Roth dissenting and issuing a statement.

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I. THE IMPORTANCE OF CLEAR AND INFORMATIVE BILLS IN COMPETITIVE TELECOMMUNICATIONS MARKETS

1. In this Order, we undertake common-sense steps to ensure that consumers are provided with basic information they need to make informed choices in a competitive telecommunications marketplace, while at the same time protecting themselves from

unscrupulous competitors. We believe that the "truth-in-billing" principles adopted herein will significantly further consumers' opportunity to reap fully the benefits envisioned by the Telecommunications Act of 1996 (1996 Act), which amended the Communications Act of 1934 (Act).[1]

2. By the 1996 Act, Congress intended to facilitate the introduction by private firms of new consumer services, service providers and technologies by promoting the development of competition and deregulation in all telecommunications markets.[2] The Act instructs the Commission and state public utility commissions to open telecommunications markets to competition and to reform universal service support mechanisms to ensure their consistency with competitive markets. The proper functioning of competitive markets, however, is predicated on consumers having access to accurate, meaningful information in a format that they can understand. Unless consumers are adequately informed about the service choices available to them and are able to differentiate among those choices, they are unlikely to be able fully to take advantage of the benefits of competitive forces.

3. Unfortunately, as a by-product of these changes, we also have seen growing consumer confusion concerning the provision of these services and an increase in the number of entities willing to take advantage of this confusion.[3] The most glaring manifestations of consumer confusion may be the dramatic growth in the number of slamming and cramming complaints received by the Commission and the states.[4] As we explained in the *Notice of*

[1] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

[2] The principal goal of the Act is to "provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition." *See* Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. Preamble (1996) (Joint Explanatory Statement).

[3] *See, e.g.,* NCL comments at 2-3 (noting that unscrupulous companies take advantage of consumer confusion over phone bills, and that fraud is increasing).

[4] Slamming occurs when a company changes a subscriber's carrier selection without that subscriber's knowledge or explicit authorization. Cramming refers to the practice of causing unauthorized, misleading, or deceptive charges to be placed on consumers' telephone bills. *Notice*, 13 FCC Rcd at 18177-78. In 1998, our Common Carrier Bureau Enforcement Division processed 20,154 complaints of slamming and 4,558 complaints of cramming. We received 8,761 slamming complaints in 1995, 12,795 in 1996, and 20,475 in 1997. Prior to 1998, the Commission did not track cramming complaints. Consumer Complaints and Inquiries, Consumer Protection Branch, Enforcement Division, Common Carrier Bureau, Federal Communications Commission (Oct. 31, 1998). The Federal Trade Commission (FTC) states it received 9,000 cramming complaints in the 12 month period prior to filing its comments in this proceeding. FTC comments at 5. State commissions also have received thousands of complaints. *See, e.g.,* Vermont comments at 8.

Proposed Rulemaking (*Notice*) in this proceeding,[5] our review of the complaints received by this Commission plainly demonstrates that the difficulty consumers experience in trying to understand their bills for telecommunications service has been a significant, contributing factor in the growth of these fraudulent activities. The comments in this proceeding reinforce this conclusion.[6] Beyond these frauds, however, we have seen a substantial rise in the number of complaints generally arising out of consumers' confusion concerning charges on their telephone bills.[7] Since, for most consumers, the monthly telephone bill is their primary source of information and point of contact with respect to their telecommunications services providers, these complaints are strong evidence that consumers are not getting necessary information in a format that allows them to make informed choices in this market.[8] Indeed, it is apparent from our review of consumer complaints that, while the nature and variety of the services charged on consumers' telephone bills have changed dramatically in recent years, the format of the bills themselves have remained largely unchanged since the court ordered divestiture of the Bell System in 1983.[9]

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[5] *Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, CC Docket No. 98-170, 13 FCC Rcd 18176 (1998).

[6] *See, e.g.*, Missouri Commission comments at 5 (statistics of National Fraud Information Center show use phone bill is a "preferred" method for "con artists" seeking to defraud consumers). *See also* TCA comments at 2 (telecommunications fraud "a growth industry" in Texas); Georgia comments at 2 (complaints of slamming and cramming far outnumber all other types of telecommunications complaints Georgia receives); NYCPB comments at 5 (companies engaged in cramming rely on consumer confusion over bills to encourage consumers to pay for services that they have not authorized); FTC comments at 3, 6 (unclear telephone bills have led to a proliferation of cramming, and LEC anti-cramming voluntary guidelines do not obviate the need for additional consumer safeguards); CompTel comments at 3 (confusing and unclear local telephone bills create opportunity for unscrupulous carriers to take advantage of consumers).

[7] *See, e.g.*, Vermont Commission comments at 8 (state and federal regulators have received "literally thousands" of complaints and inquiries suggesting many consumers are confused about the nature of charges contained on their telephone bills); TOPC comments at 3 (sixty percent of the calls that agency receives involve complaints about telephone billing); Bills Project comments at 1 (due to the "complexity and inscrutability of consumers' bills" many billing errors brought to Bills Project's attention went undetected for significant periods of time before consumers noticed them and complained).

[8] NASUCA notes that, when fraud is discovered, consumers remain greatly disadvantaged when disputing unauthorized charges because bills often lack vital information, such as the name, address, and telephone number of the service provider. NASUCA comments at 9.

[9] *See, e.g.*, USTA comments at 5; Qwest comments at 6-7 (discussing "legacy" billing systems). "Legacy" system refers to a non-standard or proprietary, typically older, computer system that cannot easily be upgraded and is incompatible with other computer systems. The breakup of the Bell System is described in *United States v. Western Elec. Co.*, 569 F. Supp. 1057 (D.D.C. 1983), *aff'd sub nom. California v. United States*, 464 U.S. 1013 (1983).

4. Nor are we alone in this concern. Virtually every state and consumer advocacy group that commented in this proceeding urges us to take action to address the growing problem of consumer confusion with their telephone bills.[10] Similarly, our colleagues at the Federal Trade Commission assert that intervention on our part is necessary to help consumers avoid "falling prey" to unscrupulous service providers who hide or mislabel unauthorized charges on consumers' telephone bills.[11] Several members of Congress also have identified consumer confusion with their telephone bills as a growing concern that should be addressed by this Commission.[12]

5. Accordingly, in this Order, we adopt generally the "truth-in-billing" principles proposed in the *Notice* in order to ensure that consumers receive thorough, accurate, and understandable bills from their telecommunications carriers. Specifically, we will require:

> First, that consumer telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers;
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> Second, that bills contain full and non-misleading descriptions of charges that appear therein; and,
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> Third, that bills contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges, on the bill.

Additionally, we adopt minimal, basic guidelines that explicate carriers' binding obligations pursuant to these broad principles. These principles and guidelines are designed to prevent the types of consumer fraud and confusion evidenced in the tens of thousands of complaints

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[10] *See, e.g.,* Small Business comments at 1-2; NCL comments at 2; NAAG comments at 3; Bills Project comments at 1-2; West Virginia Commission comments at 1; Vermont Commission comments at 3-4; Washington Commission Staff comments at 2; California Commission comments at 2; Maine Commission comments at 2; Minnesota OAG comments at 4; TCA comments at 2 (absent billing and formatting reforms, consumers will remain unable to discern legitimate services and charges from fraudulent cramming and slamming); UCAN comments at 1-3; NASUCA comments at 7-8. *See also* NYCPB comments at 3, 6 (favoring non-binding guidelines); Missouri Commission comments at 2 (same); Florida Commission comments at 4 (Commission should act as national forum and adopt model procedures which states can use to develop their own truth-in-billing rules).

[11] FTC comments at 3.

[12] *See, e.g., Cramming: An Emerging Telephone Billing Fraud, Hearing Before the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs*, S. Hrg. 105-646, 105th Cong., 2d. Sess. (1998) (opening statements).

we have received.[13] Moreover, we believe that they represent fundamental principles of fairness to consumers and just and reasonable practices by carriers.[14]

6. In taking action today, we recognize that, at this time, competitive pressures alone do not ensure that consumers receive clear, informative and consumer-friendly telephone bills from certain carriers. We acknowledge, for example, that most consumers continue to have both their local and long distance service billed together by their local exchange company (and, indeed, consumers have generally expressed a preference for a single bill), and most consumers do not yet have significant choice in who they select as a provider of local service.[15] We certainly hope that, as competition develops for the provision of local telephone service, all carriers, including those upon which we impose requirements here will seek to distinguish their services by providing clear, informative, and accessible bills to their customers. Moreover, by implementing these principles through broad, binding guidelines as described more fully below, we allow carriers considerable discretion to satisfy their obligations in a manner that best suits their needs and those of their customers. Thus, carriers that wish to distinguish themselves through creative and consumer-friendly billing formats have wide latitude to compete in this manner (*i.e.*, by producing bills on 8½ x 11 inch paper).[16]

7. Even in competitive markets, however, disclosure rules are needed to protect consumers.[17] Indeed, our adoption of these truth-in-billing principles is in large part designed to bring to consumers some of the protections to which they would be entitled if these

[13] State commissions and the FTC also have received thousands of complaints. *See, e.g.,* FTC comments at 5; Vermont Commission comments at 8. *See also* NASUCA reply at 2 (complaints received by FCC represent "tip of the iceberg").

[14] 47 U.S.C. § 201(b) (common carrier practices and charges must be "just and reasonable").

[15] *See, e.g., Local Competition*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission (Dec. 1998) at 9.

[16] Our principles and guidelines are broad enough to allow carriers to continue to differentiate themselves from their competitors based on their billing practices, and accordingly, we disagree with GTE and ALTS, who argue that truth-in-billing requirements could take away the competitive edge of carriers who already possess consumer-friendly bills. *See, e.g.,* GTE comments at 9; ALTS comments at 5.

[17] TOPC reply at 3. Because mature markets also require disclosure rules, we disagree with ALTS' argument that any confusion over billing formats that exists today is merely the result of the transition to fully competitive telecommunications markets. *See* ALTS comments at 3.

services were billed in the same manner as other credit purchases.[18] For example, the Truth in Lending Act (TILA) and implementing rules require credit card issuers to provide information concerning the amount and date of each transaction appearing on a bill, the seller's name, and the location where the transaction took place.[19] These requirements are intended to "protect the consumer against inaccurate and unfair billing and credit card practices."[20] In a similar manner, our principles and guidelines will protect consumers from misleading and inaccurate billing practices.

8. In sum, we take this action in furtherance of the pro-competitive goals of the 1996 Act and our responsibility to ensure that *all* consumers have a fair opportunity to share in the benefits of competitive telecommunications markets. Certainly, in a competitive marketplace, consumers should investigate the choices available to them and decide which services best fit their needs. They also have a responsibility to be vigilant in protecting themselves from perpetrators of fraud. In this item, we seek to provide consumers with the basic tools they need to participate meaningfully in a competitive telecommunications marketplace.

II. TRUTH-IN-BILLING PRINCIPLES

A. Adoption of Guidelines

9. Through this Order, we adopt broad, binding principles to promote truth-in-billing, rather than mandate detailed rules that would rigidly govern the details or format of carrier billing practices. The majority of commenters in this proceeding support such a

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[18] We note that, to some degree, it is significantly *easier* to bill fraudulent charges on telephone bills than on credit card bills. While credit card charges require access to a customer account number that consumers understand should be treated confidentially, all that is often required to get a charge billed on a local telephone bill is the consumer's telephone number. This number is not only expected to be widely distributed, but can easily be "captured" by an entity even when the consumer has not authorized charges or made a purchase. *See Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996*, Order and Notice of Proposed Rulemaking, CC Docket No. 96-146, 11 FCC Rcd 14738, 14741 (1996) (noting that automatic number identification has been used to charge telephone subscribers for calls to toll-free numbers).

[19] *See, e.g.*, TILA, 15 U.S.C. 1601, *et seq.*, 12 C.F.R. § 226. Congress passed TILA to ensure that consumers are given meaningful information about credit transactions and to create important protections for consumers using credit card billing and collections systems. FTC comments at 4-5.

[20] 15 U.S.C. § 1601.

flexible approach.[21] We use the terms principles and guidelines in this Order to distinguish our approach from a more detailed regulatory approach urged by some commenters. That is, we envision that carriers may satisfy these obligations in widely divergent manners that best fit their own specific needs and those of their customers. We incorporate these principles and guidelines into the Commission's rules, because we intend for these obligations to be enforceable to the same degree as other rules. Thus, while we provide carriers flexibility in their compliance, we fully expect them to meet their obligation to provide consumers with the accurate and meaningful information contemplated by these principles.

10. Our decision to adopt broad, binding principles, rather than detailed, comprehensive rules, reflects a recognition that there are typically many ways to convey important information to consumers in a clear and accurate manner. For this reason, we disagree with those commenters who assert that more prescriptive rules are necessary to combat consumer fraud through the use of misleading telephone bills.[22] Instead, our principles provide carriers flexibility in the manner in which they satisfy their truth-in-billing obligations. Accordingly, this approach responds to the concerns of many carriers that detailed regulations could increase their costs,[23] and that rigid rules might prevent competing carriers from differentiating themselves on the basis of the clarity of their bills.[24]

11. Conversely, we disagree with commenters who suggest that purely voluntary guidelines would be sufficient to combat misleading bills that facilitate slamming and cramming.[25] The extent of the current problem shows that voluntary action alone is

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21 States and consumer groups are generally supportive of our efforts. *See, e.g.,* Small Business comments at 1-2; Bills Project comments at 1-2; NCL comments at 2; West Virginia Commission comments at 1; Vermont Commission comments at 1-2; Washington Commission Staff comments at 2; NAAG comments at 3; California Commission comments at 2; Maine Commission comments at 2; Minnesota OAG comments at 4; TCA comments at 2. *See also* NYCPB comments at 3, 6 (supporting voluntary guidelines); Missouri Commission comments at 2 (same); Florida Commission comments at 4 (urging this Commission to issue model rules for states to enact). Most carriers oppose rules, but state that, if the Commission determines to act, we should do so in the form of broad guidelines that carriers may comply with in a number of different ways. *See, e.g.,* USTA comments at 3, 8; TRA comments at 3; U S West comments at 5.

22 *See, e.g.,* NASUCA comments at 21.

23 ALTS comments at 7; MCI comments at 4.

24 *See, e.g.,* GTE comments at 9; ALTS comments at 5. We also find that this flexibility addresses the concerns expressed by CompTel that adoption of rules could make bills longer and more complex. CompTel comments at 6. Concise bills are more likely, not less likely, to comport with our principles that bills be clear and understandable because excessively long bills may confuse consumers.

25 NYCPB comments at 7 n. 3.

inadequate for many carriers. Failure to codify these principles and implementing guidelines might result in carriers ignoring our requirements, to the detriment of consumers. Our Order permits carriers to render bills using the format of their choice, so long as the bills comply with the implementing guidelines that we adopt today. We consider our principles and guidelines to be flexible enough that carriers will be able to comply with them without incurring unnecessary expense. In fact, we note that many carriers commented that their current practices already comport with proposals we outlined in the *Notice*.[26] Although complying with these principles certainly may require expenditures by some carriers whose bills currently do not meet these standards, we conclude that such costs do not outweigh the benefits consumers will reap from better understanding their service charges. Particularly in light of the flexibility we provide carriers to satisfy these guidelines, we find that the comments do not provide any detailed information by which we could make such a finding.[27] Accordingly, we conclude that the approach we adopt today appropriately balances the rights of consumers and the concerns of carriers, in furtherance of the deregulatory thrust of the 1996 Act, and we decline to accept the assertions of some rural and other carriers that compliance will be too costly for such carriers.[28]

12. As we conclude in section II.B., *infra*, the ability of consumers to read and understand their bills is crucial to their ability to protect themselves against slamming. We note, however, that some consumers with disabilities may, due to the nature of their disability, be unable to read and understand their telephone bills if they do not have the ability to receive their bills in accessible formats. Persons with disabilities, therefore, due to barriers in standard billing formats, may not be able to determine whether their interexchange carrier has been changed without their authorization. In this Order, we are not setting forth requirements that carriers provide their bills in accessible formats for persons with disabilities. We note,

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26 *See, e.g.,* Ameritech comments at 13; BellSouth comments at 4; SBC comments at 4 (all noting that their bills already segregate charges by service provider).

27 Several wireless industry commenters provided specific cost estimates, but only for implementation of proposals mentioned in the *Notice*, such as requiring separate status pages, that we do not adopt. *See e.g.,* GTE comments at 11 (cost of mailing an additional page of wireless bill would add $9.6 million per year); BellSouth comments at 15 (one additional page on wireless bill would cost between $500,000 and $1 million for programming costs, resulting in 7 cent per customer per month charge); Bell Atlantic Mobile reply at 8 ($5 million in systems development work to add separate page to highlight any changes form prior billing period and to provide a visual separation of difference services organized by provider.)

28 In fact, according to telecommunications consulting firm Detecon, although telephone bill format rules might cause carrier costs to increase in the short term, our rules ultimately may reduce carriers' costs. Detecon contends that costs incurred by carriers to implement our rules ultimately will be offset by cost savings resulting from quicker collection of revenues, because bills issued pursuant to rules requiring clear telephone bill formats are less likely to be disputed. This will reduce the amount of calls to customer service representatives, resulting in lower staffing costs. Detecon comments at 2.

however, that the issue of access to telecommunications service bills will be addressed in the pending rulemaking underway to implement section 255 of the Act. Section 255 states that providers of telecommunications services and manufacturers of telecommunications equipment must make their services and equipment "accessible to and usable by" persons with disabilities if readily achievable. Billing would appear to be included in the usability requirements of section 255. We believe that the section 255 proceeding is a more appropriate place to address the issue of accessibility to telecommunications service bills. In the meantime, however, we strongly encourage carriers to provide billing information in accessible formats for their customers with disabilities upon request, so that those customers may effectively understand their bills and protect themselves against unauthorized carrier changes. Of course, carriers also are expected to comply with any existing state requirements regarding accessibility of telecommunications services and related bills.

13. Commercial Mobile Radio Service (CMRS) Carriers. We believe that the broad principles we adopt to promote truth-in-billing should apply to all telecommunications carriers, both wireline and wireless. The principles we adopt today represent fundamental statements of fair and reasonable practices. Like wireline carriers, wireless carriers also should be fair, clear, and truthful in their billing practices. Consumers deserve no less.

14. We therefore reject the threshold arguments that certain classes of carriers should be wholly exempted from complying with the guidelines that we announce today solely because competition exists in the markets in which they operate.[29] We emphasize that one of the fundamental goals of our truth-in-billing principles is to provide consumers with clear, well-organized, and non-misleading information so that they may be able to reap the advantages of competitive markets. We anticipate that, as competition evolves and convergence occurs, wireless carriers will increasingly compete for wireline customers. In a world of bundled packages and multiple service providers, clear and truthful bills are paramount.

15. As we stated above, however, we reject the detailed regulatory approach urged by some commenters, because we envision that carriers may satisfy these obligations in widely divergent manners that best fit their own specific needs and those of their customers. Nonetheless, in the wireline context, we incorporated these principles and guidelines into Commission rules for enforcement purposes. We have adopted these rules after considering an extensive record on both the nature and volume of customer complaints, as well as substantial information about wireline billing practices.

16. The record does not, however, reflect the same high volume of customer

[29] *See, e.g.,* C&W comments at 3; AT&T comments at 4-5; TRA comments at 5; MCI comments at 5 (rules should apply only to bills rendered by LECs and not to IXC direct billing).

complaints in the CMRS[30] context, nor does the record indicate that CMRS billing practices fail to provide consumers with the clear and non-misleading information they need to make informed choices. If current CMRS billing practices are clear and non-misleading to consumers, then it might be appropriate either to forbear from specific wireline rules or not to apply them in the first instance. Furthermore, in some instances, the rules we have adopted might simply be inapplicable in the wireless context. For example, because CMRS carriers are excluded from equal access obligations,[31] it appears that CMRS carriers will seldom need to indicate a new long distance service provider on the bill.

17. Despite the fact that some rules may be inapplicable or unnecessary in the CMRS context, there are two rules that we think are so fundamental that they should apply to all telecommunications common carriers: (1) that the name of the service provider associated with each charge be clearly identified on the bill; and (2) that each bill should prominently display a telephone number that customers may call free-of-charge in order to inquire or dispute any charge contained on the bill. As a practical matter, we believe that most CMRS bills already contain the name of the service provider and a contact number. Thus, complying with these obligations should be neither onerous nor costly. But, in the unlikely event that a CMRS bill does not contain the name of the service provider or a contact number, we believe that, at a minimum, consumers expect and should receive this basic information.

18. We also intend to require CMRS carriers to comply with standardized labels for charges resulting from Federal regulatory action, if and when such requirements are adopted. As a practical matter, this rule will not apply until we issue an order that adopts the standard labels for federal line-item charges. We expect to apply the same rule to both wireline and CMRS carriers, however, because we believe that labels assigned to charges related to federal regulatory action should be consistent, understandable, and should not confuse or mislead customers. Uniform labels will also enable customers to compare such charges among all providers.

19. Furthermore, notwithstanding our decision at this time not to apply these several guidelines to CMRS providers, we note that such providers remain subject to the reasonableness and nondiscrimination requirements of sections 201 and 202 of the Act, and our decision here in no way diminishes such obligations as they may relate to the billing

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[30] *See* 47 C.F.R. § 20.9 (enumerating classes of CMRS providers). Requirements established for CMRS in this order apply similarly to providers of mobile services, as defined in Section 20.7 of the Commission's rules, that are regulated as telecommunications common carriers.

[31] *See Implementation of the Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-129, FCC 98-334 at ¶ 85 (Dec. 23, 1998) (*1998 Slamming Order and Further Notice*).

practices of CMRS carriers.[32]

B. Legal Authority

20. We conclude that it is critical to the effective operation of a competitive telecommunications marketplace to ensure that telephone bills provide consumers with the information they need to make informed telecommunications choices, as well as the tools to protect themselves against telecommunications-related fraud. As explained in the *Notice*, the telephone bill is an integral part of the relationship between a carrier and its customer.[33] As such, the manner in which charges and providers are identified on the telephone bill is essential to consumers' understanding of the services that have been rendered, the charges imposed for those services, and the entities that have provided such services.

21. Most commenters agree that we possess, at minimum, concurrent jurisdiction with states to address these problems.[34] We find that our authority to enact the truth-in-billing guidelines set forth herein stems from both section 201(b) and section 258 of the Act.[35] Section 201(b) requires that all carrier charges, practices, classifications, and regulations "for and in connection with" interstate communications service be just and reasonable, and gives the Commission jurisdiction to enact rules to implement that requirement.[36] Section 258 of the Act further authorizes the Commission to adopt verification requirements to deter slamming in *both* the interstate and the intrastate markets. The Supreme Court has ruled that

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[32] *See* 47 U.S.C. §§201(b), 202. *Also* 47 U.S.C. § 332(c)(1)(A). In our recent Order declining to forbear from applying sections 201and 202 of the Act to wireless providers, we emphasized that these sections "codif[y]the bedrock consumer protection obligations of common carriers . . ." *Wireless Forbearance Order*, 11 FCC Rcd 16857, 16865. We also noted that their importance would increase "as customers begin to rely on CMRS as a partial or complete substitute for wireline service . . ." *Id.* at 16870.

[33] *Notice*, 13 FCC Rcd at 18182.

[34] *See, e.g.*, GTC comments at 10-13 (Commission possesses jurisdiction under both under Title I and Title II of the Act); ACTA comments at 3-4 (same); BellSouth comments at 2 (Commission possesses jurisdiction under both under Title I and Title II of the Act, states possess concurrent jurisdiction); Minnesota OAG comments at 3 (billing constitutes "practices in connection with communication service" under 201(b), although Commission jurisdiction extends primarily to interstate toll charges); Billing Coalition comments at 8-10; MCI comments at 21 n. 15 (Commission possesses jurisdiction under Section 201(b) to enforce "consumer protection obligations of common carriers"); ELNC comments at 2-3 (same); ECA comments at 3-5; NASUCA comments at 12 (Commission possesses authority to issue directives to providers under Title II of Act concerning manner in which charges are described or disclosed to customers).

[35] *See* 47 U.S.C. §§ 201(b), 258. In addition, section 332 of the Act, 47 U.S.C. § 332, also provides us with jurisdiction to enact rules concerning CMRS carriers.

[36] 47 U.S.C. § 201(b).

section 201(b) provides the Commission with authority to implement all of the provisions of the Act, including those that apply to intrastate communications.[37] As explained in detail below, with the exception of the guideline discussed at section II(C)(2)(c) of this Order,[38] which involves standardized labels for charges relating to federal regulatory action, the truth-in-billing principles and guidelines adopted herein are justified as slamming verification requirements pursuant to section 258, and thus can be applied to both interstate and intrastate services. We therefore reject arguments by ALTS and other commenters that, as a threshold matter, authority to regulate local exchange carrier (LEC) billing practices resides solely with the states.[39] We recognize, however, that the standardized label guideline rests exclusively on our authority under section 201(b) and therefore is limited to interstate services.

22. Section 258 of the Act provides us with jurisdiction to regulate the billing practices of interstate, as well as intrastate, carriers to the extent that our regulations serve as a means of verifying carrier changes. Section 258(a) of the Act makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe."[40] The Commission has previously concluded that this provision encompasses both interstate and intrastate service providers.[41] The language of section 258 makes clear that Congress charged the Commission with the responsibility to promulgate verification rules to prevent slamming in both the interstate and intrastate markets. Pursuant to the mandates of section 258, in the *1998 Slamming Order and Notice* we adopted verification procedures and liability rules, as well as

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[37] *AT&T Corp. v. Iowa Utils. Bd.*, 119 S.Ct. 721 (1999).

[38] *See infra* Section II(C)(2)(c).

[39] *See, e.g.,* ALTS comments at 2 n. 2 (stating that the Commission has no jurisdiction to adopt rules relating to billing of intrastate services); Ameritech comments at 4 (stating that the Commission does not have jurisdiction over intrastate bills except for pay-per-call services); AT&T comments at 11 n. 8 (stating that the Commission's jurisdiction likely only extends to billing of interstate telecommunications services); Bell Atlantic comments at Attachment, "Answers to Specific Questions," at 2 (stating that the Commission lacks jurisdiction over charges for intrastate telecommunications services or over how those charges are billed); NYCPB comments at 7 n. 3 (stating that the authority to address the format and content of bills rendered by local telephone companies resides with the states).

[40] 47 U.S.C. § 258(a).

[41] *1998 Slamming Order and Further Notice* at ¶ 86.

rules regarding the administration of preferred carrier freezes,[42] in order to deter the incidence of slamming by both interstate and intrastate carriers.[43] Importantly, in the *1998 Slamming Order and Notice* we also stated that our slamming rules are intended to establish a new comprehensive framework, in accordance with the provisions of section 258, to combat aggressively and deter slamming in the future.[44]

23. The truth-in-billing guidelines we adopt in this Order are intended to function as a critical component of the Commission's verification procedures. Many commenters have indicated that unclear bills prevent customers from realizing that their carrier of choice has been switched.[45] A clear indication on the bill of who is providing service and whether the service provider has changed since the last bill provides a necessary final step in the verification process by allowing customers readily to detect unauthorized changes. Thus, our first principle, requiring telephone bills to indicate when a consumer's presubscribed interstate or intrastate carrier has been changed, is adopted as a verification requirement. Our second principle, requiring bills to provide full and non-misleading descriptions of services, will also serve a verification function, by helping consumers to detect slamming by ensuring that consumers do not confuse the name of any carrier with the service it provides.[46] Finally, our third principle, requiring telephone bills to contain clear and conspicuous disclosure of consumer inquiry information,[47] will enable consumers to report slamming and begin the process of returning to their authorized carriers. Therefore, these truth-in-billing principles serve as the final step in verifying service provider changes, and such rules are authorized by section 258 of the Act.

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[42] A preferred carrier freeze prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was obtained his or her express written or oral consent. *See 1998 Slamming Order and Further Notice* at ¶ 112, n. 348.

[43] *Id.* at ¶ 5.

[44] *Id.* at ¶ 4.

[45] *See, e.g.*, NCL comments at 2 (stating that fraudulent companies take advantage of consumer confusion over phone bills); NYCPB comments at 5 (stating that consumers often complain that telephone bills do not facilitate the detection of slamming); Texas Commission comments at 6 (stating that focus group found it difficult to find changes in services unless they were specifically anticipating and looking for one).

[46] For example, if a carrier is named "Phone Calls," the name of such carrier on a telephone bill could be confused with telephone service, and the consumer may not realize that he or she has been switched to an unauthorized carrier. *See infra*, Section II(C)(2). We note the standardized label guideline provides an important consumer protection, as discussed *infra* Section II(C)(2)(c), but is not, however, related to deterring slamming. *See supra* ¶ 21.

[47] *See infra*, Section II(C)(3).

24. Our truth-in-billing principles and guidelines also will deter carriers from engaging in unjust and unreasonable practices in violation of section 201(b). Under section 201(b), carrier practices must be just and reasonable. As we stated above, the Commission has authority to promulgate rules implementing that requirement as to the provision of interstate services. Thus, section 201(b) provides further authority for the guidelines adopted herein. We emphasize that a carrier's provision of misleading or deceptive billing information is an unjust and unreasonable practice in violation of section 201(b) of the Act.[48] The principles and guidelines established in this Order are intended to define more specifically what would constitute a violation of section 201 in the billing context for the covered carriers. Moreover, the implementation of the general principles and guidelines set forth in this Order, such as requiring clear descriptions of services for which charges appear on the bill, will facilitate consumer detection of fraud, and thereby deter unscrupulous carriers from engaging in unreasonable practices such as cramming. In this regard, we note that the record supports our finding in the *Notice* that consumer difficulty in identifying unauthorized charges in telephone bills is a significant factor in the ability of unscrupulous entities to engage successfully in cramming.[49]

25. Some commenters contend that our jurisdiction to adopt rules concerning carrier billing, if it exists at all, exists only pursuant to our ancillary jurisdiction under Title I of the Act.[50] The Commission has previously stated that it has jurisdiction under Title II to regulate the manner in which a carrier bills and collects for its own interstate offerings, because such billing is an integral part of that carrier's communications service.[51] The guidelines adopted here apply to the carrier providing service to customers, not to those carriers' billing agents. Thus, for example, even where an interexchange carrier (or other carrier) uses the billing and collection services of a LEC or other third-party billing agent, the

[48] For example, the Commission has previously warned a carrier that failure to correct misleading information it provided in connection with issuance of a calling card could constitute a violation of section 201(b) and result in enforcement action, including show cause or forfeiture proceedings. *See, e.g.*, *Robert E. Allen*, Letter, 7 FCC Rcd 7529, 7530 (1992) (information provided by carrier in connection with issuance of calling cards "may have persuaded many consumers to unnecessarily destroy or discard otherwise valid calling cards").

[49] *See, e.g.*, NYCPB comments at 5; FTC comments at 3, 6.

[50] *See, e.g.*, ALTS comments at 2; AT&T comments at 11 n. 8; Time Warner comments at 7.

[51] *See Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, Report and Order and Request for Supplemental Comment, CC Docket No. 91-115, 7 FCC Rcd 3528, 3530-3533 (1992), *clarified on reconsideration*, 12 FCC Rcd 1632, 1643-1645 (1997); *Public Service Commission of Maryland*, Memorandum Opinion and Order, 4 FCC Rcd 4000, 4004-4006 (1989), *aff'd Public Service Commission of Maryland v. FCC*, 909 F.2d 1510 (D.C. Cir. 1990); *Detariffing of Billing and Collection Services*, Report and Order, CC Docket No. 85-88, 102 F.C.C.2d 1150, 1169-71 (1986) (*Detariffing Order*).

interexchange carrier still bears the responsibility of ensuring that such charges appear on the bill remitted to the consumer in a manner that complies with the principles set forth in this Order. The Commission's *Detariffing Order* specifically stated that a carrier's billing and collection for its own service, as opposed to billing services provided to other carriers, *is* subject to the Commission's Title II jurisdiction.[52] Billing, like all other practices for and in connection with interstate service, must be just and reasonable.[53] Therefore we find that we possess Title II jurisdiction to adopt the principles and guidelines set forth herein, and no reliance on our ancillary jurisdiction is necessary.

26. Notwithstanding the requirement of our *1998 Slamming Order and Further Notice* that states must accept the same verification procedures as prescribed by the Commission,[54] states will be free to continue to enact and enforce additional regulation consistent with the general guidelines and principles set forth in this Order, including rules that are more specific than the general guidelines we adopt today.[55] In addition to whatever powers they may have to enforce their rules under state law, states also have express authority under section 258 to enforce the Commission's verification procedure rules, including the principles and guidelines adopted here, with respect to intrastate services.[56] We are aware of several states that have existing regulations that are consistent with the truth-in-billing guidelines we adopt here. For example, Pennsylvania has previously adopted "regulations to impose fair and equitable standards governing billing and customer complaint procedures."[57] Michigan prohibits the provision of misleading information in local exchange telephone bills,

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[52] The *Detariffing Order* states that:

> Although carrier billing and collection for a communication service that it offers individually or as a joint offering with other carriers is an incidental part of a communications service, we believe that carrier billing or collection for the offering of another unaffiliated carrier is not a communication service for purposes of Title II of the Communications Act.

Detariffing Order 59 Rad. Reg. 2d (P & F) 1007, ¶ 31.

[53] *See* 47 U.S.C. § 201(b).

[54] *1998 Slamming Order and Further Notice* at ¶ 87.

[55] *1998 Slamming Order and Further Notice* at ¶¶ 86-90; see, *e.g.*, California Commission comments at 2 (stating that the Commission should set minimum standards, but not prevent states from applying stricter standards); Maine Commission comments at 2 (same); Minnesota OAG comments at 4 (same).

[56] *1998 Slamming Order and Further Notice* at ¶ 90.

[57] Pennsylvania Commission comments at 4.

and requires notification of new services or changes in existing service.[58] We support these efforts. Additionally, we note that the National Association of Regulatory Utilities Commissions (NARUC) has published a White Paper giving guidance to states on how to provide consumer protection in the area of telephone service, including proposals to increase the clarity of telephone bills.[59] In setting forth its proposals, NARUC highlighted the need for "clear billing that customers can easily read and understand" and noted that "[i]n many cases, this is not true of current telecommunications company bills, particularly those that come from the local exchange company."[60] Many of the principles and guidelines adopted in this Order are consistent with NARUC's proposals. We look upon this Order as another phase of our partnership with the states to promote competition and to combat telecommunications-related fraud.[61] Through information sharing and dialogue, we intend to work together with the states towards the common objective of truth-in-billing.

27. Finally, we note that we possess complementary but distinct jurisdiction with the Federal Trade Commission (FTC) to ensure that consumers are treated fairly with regard to their telephone bills. The FTC does not have jurisdiction over activities of common carriers subject to Title II of the Communications Act.[62] Congress has, however, in limited circumstances, granted the FTC concurrent authority to establish rules relating to certain areas of telephone billing and collection. For example, the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) requires both the FCC and the FTC to adopt separate, complementary rules to promote legitimate pay-per-call services and protect telephone subscribers from fraudulent and abusive practices from both carriers and non-carrier entities, respectively.[63] We have enacted regulations pursuant to section 228 that, *inter alia*, require carriers to show, in a portion of the bill separate from ordinary telephone charges, the amount of pay-per-call charges, the type of services for which the consumer is being charged, and the date, time, and duration of pay-per-call calls.[64] We also require such segregation for interstate

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[58] Mich. Admin. Code MCL 484.322(a), 484.337 (1996).

[59] NARUC, *White Paper on Resolution Urging Support of Principles Promoting Consumer Awareness and Protection by Policy Makers Involved with Telecommunications Regulation*, at 1 (NARUC White Paper).

[60] *Id.*

[61] *See, e.g.*, *1998 Slamming Order and Further Notice* at ¶ 87.

[62] *See* 15 U.S.C. § 45(a)(2) (stating that the Federal Trade Commission does not have jurisdiction over "common carriers subject to the Acts to regulate commerce, air carriers, and foreign air carriers . . . ."); *see also* FTC Comments at 7 n.10.

[63] Pub. L. No. 102-556, 106 Stat. 4181 (1992) (codified at 15 U.S.C. § 1507 *et seq.* and 47 U.S.C. § 228).

[64] 47 C.F.R. §§ 64.1510(a)(2)(ii), (iii).

information charges assessed pursuant to a presubscription or comparable agreement.[65] The FTC is working currently to extend its pay-per-call authority to enact billing dispute rights akin to those available under the Fair Credit Reporting Act.[66] Our truth-in-billing guidelines will compel subject carriers to provide consumers with clear and necessary information in order to make informed choices and safeguard themselves against fraud. The FTC states that the goals of this truth-in-billing proceeding dovetail with the objectives of its own pay-per-call rulemaking, and that "[c]learer bills that provide non-deceptive information will enhance the ability of consumers to take advantage of the improved billing dispute rights for telephone-billed purchases contemplated in the FTC's proposed Rule revisions."[67] We agree and shall continue to work closely with the FTC on ways to exercise our respective jurisdictions to ensure that all consumers receive the benefit of clear and understandable telephone bills.

C. Specific Truth-in-Billing Guidelines

1. Clear Organization and Highlighting New Service Provider Information

28. We adopt the threshold principle set forth in the *Notice* that telephone bills must be clearly organized and highlight new service provider information.[68] We conclude that such a basic principle is essential to facilitate consumers' understanding of services for which they are being charged, and thereby discourage consumer fraud such as slamming. The goal of these requirements is to deter slamming, as well as cramming, and accordingly, we possess jurisdiction to impose these requirements under sections 201(b) and 258 of the Act.[69] Based on our review of the record and experience handling consumer complaints of fraudulent carrier practices, we further conclude that implementation of this principle translates into three broad, binding guidelines on which we sought comment in the *Notice*: (1) the name of the service provider associated with each charge must be clearly identified; (2) charges must be separated by service provider; and (3) clear and conspicuous notification of any change in service provider must be made manifest.[70] Through ensuring that the billed information

[65] *Id.* at § 64.1510(b).

[66] FTC comments at 7, *citing* Proposed Rules, Federal Trade Commission, 16 C.F.R. Part 308, Pay-Per-Call Rule, 63 Fed. Reg. 58,524 (1998).

[67] FTC comments at 8.

[68] *Notice,* 13 FCC Rcd at 18185-86.

[69] 47 U.S.C. §§ 201(b), 258.

[70] *Notice*, 13 FCC Rcd at 18185-18188.

concerning service providers is clear and conspicuous, these guidelines enhance consumers' ability to review individual charges contained in their telephone bills and detect unwarranted charges or unauthorized changes in their service arrangements.

29. In our view, as well as that of virtually all commenters who addressed this issue,[71] a clear description of the name of the service provider is both rudimentary to any reasonable billing practice and essential to combat unfair carrier practices, including slamming and cramming. Consumers will be able to detect whether or when they have been slammed, crammed, or even overcharged only if they can readily identify their current service providers. Clear identification of service providers is also an essential predicate for consumers to be able to communicate complaints and dispute billed charges.[72] Indeed, our complaint experience suggests that consumers are both confused and potentially hampered in obtaining information about billed charges or lodging complaints when the only entity name associated with a charge is, for example, that of a "billing aggregator."[73] Regardless of whether the billing aggregator can handle the consumer inquiry or complaint on behalf of the service provider,[74]

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[71] *See, e.g.,* Minnesota OAG comments at 13-15; NYDPS comments at 1; NYCPB comments at 12-13; USP&C comments at 5-6; NCL comments at 8-9; Commonwealth comments at 4; Century comments at 5-6; West Virginia Commission comments at 2-3; Small Business comments at 8; SBC comments at 13-14; Sprint comments at 13-14; TCA comments at 5-6; Americatel comments at 1-6; Billing Coalition comments at 16; AT&T comments at 14-15; Ameritech comments at 17; FTC comments at 14-15; Maine Commission comments at 5-6; Ohio Commission comments at 8; Wisconsin Commission comments at 4; Missouri Commission comments at 3-4; Florida Commission comments at 6; Washington Commission Staff comments at 6; AFT comments at 1; NAAG comments at 5; BellSouth comments at 7; Bills Project comments at 6; UCAN comments at 9; Georgia comments at 3; Kansas Commission comments at 5; NACAA comments at 2; Pennsylvania Commission comments at 7; QCI comments at 5.

[72] SBC comments at 13-14 (this information will aid the consumer in identifying the carrier responsible for the charge, and most LECs already follow this practice); Sprint comments at 13-14 (identifying carrier levying the charge is particularly important where a reseller uses the carrier identification code (CIC) of the underlying facilities provider, and arguing that LECs should be required to use the Switchless Reseller Indicator in their service order systems); FTC comments at 14-15 (suggesting carriers list name of service provider and, where applicable, name and number of billing aggregator or clearinghouse with authority to resolve a consumer complaint).

[73] *See, e.g.,* Informal Complaint of WIS Sheet Metal Inc., IC No. 99-00232 (submitted Jan. 13, 1999); Informal Complaint of Roberts & Roberts, IC No. 99-04707 (submitted Feb. 5, 1999); *see also* NASUCA comments at 15 (stating that billing aggregators often are unable to provide consumers information about charges). Billing aggregators or clearinghouses consolidate charges from multiple providers of telephone services and contract with LECs for those charges to appear on consumers' telephone bills. Billing Coalition comments at 1.

[74] *See* Section II(E), *infra* (requiring that bills must display a toll-free number for an entity authorized to resolve consumer complaints).

we believe that identification of the service provider is essential to enable consumers to monitor their service arrangements and judge the accuracy of the charges levied.

30. We agree with NAAG that it is both unreasonable and unfair to expect consumers to undertake extensive investigations on their own simply to discover the identity of the service provider who placed a charge on their bill.[75] Accordingly, we find that, consistent with most carriers' existing practices,[76] our truth-in-billing guidelines require that the name of the service provider must be clearly listed on the bill in connection with that entity's charges to the consumer.[77]

31. We conclude that, where telephone bills include charges from more than one service provider, the charges should be displayed according to service provider with clear visual separation -- although not necessarily separate pages -- to distinguish the different providers. In our view, this provider-based means of presenting charges establishes a logical, unambiguous framework to associate charges with a particular service provider, which in turn promotes clarity in billed charges and reduces customer confusion that gives rise to fraudulent carrier practices. In response to our query in the *Notice*,[78] commenters generally favor as most effective and economical a provider-based bill format over grouping charges exclusively by service category.[79] We agree that listing charges by service provider should produce bills that can be reviewed by consumers more easily than those that would list charges by service type, and facilitate the prompt detection of unreasonable and fraudulent carrier practices. For instance, if a consumer were slammed, a bill segregated by provider would show, in a distinct portion of the bill, all the charges billed on behalf of the unauthorized carrier. A bill segregated by service type, on the other hand, could list together long distance charges from the unauthorized carrier, the authorized carrier, and any carrier that was used to place dial-

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75 *See* NAAG comments at 5. NAAG further asserts that providers that do not wish to disclose their identity should not be permitted access to the billing process. *Id.*

76 *See, e.g.,* Ameritech comments at 17; SBC comments at 13-14; BellSouth comments at 7.

77 We note that this guideline does not require wireless carriers to identify all entities with which they have roaming arrangements. We agree that listing each such entity would be both unnecessary and potentially confusing to consumers. *See e.g.* Primeco comments at 9; Bell Atlantic Mobile comments at 12-13; Airtouch comments at 6-7; CenturyTel comments at 5; BellSouth reply at 7; Bell Atlantic Mobile reply at 9.

78 Specifically, we asked whether telephone bills might be improved by listing all charges by service type (*e.g.*, local, long distance, and miscellaneous services) in clearly separate sections of the bill or, alternatively, by grouping charges according to service provider. *Notice*, 13 FCC Rcd at 18185.

79 *See, e.g.*, Florida Commission comments at 4-5; NCL comments at 7, Maine Commission comments at 2-3; Ohio Commission comments at 6; Ameritech comments at 13; BellSouth comments at 4; SBC comments at 4-5.

around calls. This intermingling of authorized and unauthorized charges could make it more difficult for a consumer to realize that he or she has been slammed.

32. It appears that listing charges by service provider presently is the industry standard.[80] Several carriers that are currently engaged in, or recently have completed, billing improvement projects report favorable customer reaction to bills that segregate charges by service provider.[81] Some commenters also note that listing charges by service provider rather than by service type avoids the confusion that might ensue if each component of a bundled service package were required to be listed and priced separately.[82] In particular, we agree with the observations of several commenters that consumers understand the bundled offerings they purchase in terms of the single overall price of the services provided by carrier, and would be confused if the bundled offering were broken apart and the component parts priced separately solely for billing purposes.[83]

33. As a final corollary to our guidelines concerning providers, we conclude that new service providers must be clearly and conspicuously identified on the bill. We contemplate that such clear and conspicuous identification would involve all service providers that did not bill for services on the previous billing statement, and would describe, where applicable, any new presubscribed or continuing relationship with the customer.[84] Clear identification of new service providers will improve consumers' ability to detect slamming.[85] Currently, telephone bills do not always clearly show when there has been a change in

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[80] *See, e.g.*, Ameritech comments at 13; BellSouth comments at 4; SBC comments at 4. *See also* California Commission comments at 4 (stating that California law requires separate sections for each billing entity).

[81] *See, e.g.*, Ameritech comments at 2, 13; Bell Atlantic comments at Attachment, "Answers to Specific Questions," at 3-4.

[82] *See, e.g.*, Bell Atlantic comments at Attachment, "Answers to Specific Questions," at 4-5; Sprint comments at 4; GTE comments at 10; Time Warner comments at 10-11; CTIA comments at 5; U S West comments at 17; SBC comments at 7; PCIA comments at 8; NCL comments at 7 (also stating that each service included in bundled offering should be itemized and described clearly).

[83] *See, e.g.*, Sprint comments at 4-5; BellSouth comments at 4.

[84] That is, if a new provider has become the customer's new presubscribed intra or interLATA toll carrier, the bill must make this information apparent to the customer.

[85] Small Business comments at 8 (arguing that merely listing name of billing aggregator or clearinghouse is insufficient, and that identifying the reseller instead of the underlying facilities-based carrier will assist consumers in detecting if they have been slammed by a reseller where the underlying facilities-based carrier remains the same).

presubscribed carriers. Telephone subscribers may realize that their presubscribed interexchange carrier has been changed only if they notice a carrier change charge on their bill.[86] Moreover, as noted in our *Notice*, the difficulty in detecting a change in carriers may be compounded by carriers that use potentially misleading names so that consumers may believe that a carrier's name refers to a service offering, rather than being the name of a carrier.[87] As noted previously, our recently enacted anti-slamming regulations can be fully effective only if consumers are able to detect promptly that a slam has occurred. Because our new slamming rules absolve consumers of liability for unpaid charges by unauthorized carriers for a period of 30 days after a slam has occurred, the efficacy of such rules hinge on consumers being able reasonably to discover a slam on the first bill that they receive after the unauthorized change in service occurs.[88] In the *1998 Slamming Order and Further Notice*, we recognized the importance of the telephone bill in providing notice of a carrier change.[89]

34. Clear identification of new providers also will improve consumers' ability to detect cramming. We find that consumers' discovery of fraudulent charges would be prompted by noticing that an unfamiliar service provider has charges appearing on the bill. Indeed, because cramming complaints most commonly emanate from charges levied by service providers that do not have a pre-existing business relationship with the consumer,[90] highlighting the name of a new service provider should prompt a subscriber to examine closely the particular charges billed by that provider and facilitate detection of cramming. Moreover, although many LECs now participate in voluntary anti-cramming guidelines that enable LECs to remove cramming charges from the bill,[91] such measures do not protect consumers who pay their bills without realizing that they have been crammed. TCA cites results of a recent survey involving over 400 randomly selected Texas consumers who filed cramming complaints with the Texas Commission. Forty-four percent of the survey

[86] A carrier change charge is a charge typically imposed by a local exchange carrier on a subscriber who has requested a change in presubscribed interexchange carrier.

[87] *Notice*, 13 FCC Rcd at 18185.

[88] *See* 47 C.F.R. § 64.1100(d).

[89] We emphasized that this "absolution" rule would encourage telephone subscribers to examine their telephone bills early and carefully and observed that "a waiver of the 30-day limit might be appropriate if the subscriber's telephone bill failed to provide reasonable notice to the subscriber of a carrier change." *1998 Slamming Order and Further Notice* at ¶¶ 20, 24.

[90] *See, e.g.*, U S West comments at 11 (stating that most consumer billing complaints involve "third-party toll charges").

[91] *FCC and Industry Announce Best Practice Guidelines to Protect Consumers from Cramming*, FCC Press Release (July 22, 1998).

respondents claimed to have paid unauthorized charges totalling between $11 and $50. Another 25 percent paid unauthorized charges between $51 and $100, and 21 percent paid charges exceeding $100.[92] Our complaint records also indicate that consumers often pay unauthorized recurring charges for several months before they realize the questionable nature of the charges.[93] In our view, clear identification of new service providers will appropriately signal to consumers the need to scrutinize their bills to make sure that they are being billed only for authorized services. Moreover, some crammed charges may involve "telephone-billed purchases"[94] which trigger a range of consumer rights and protections under the TDDRA[95] and the Federal Trade Commission's implementing regulations. Our provider identification guidelines, which facilitate consumers' detection of crammed charges, appropriately protect consumers' opportunity to assert those rights.

35. In adopting these provider-based identification guidelines, we have considered the substantial implementation concerns raised by carriers in response to the *Notice* proposal that telephone bills explain any new types of charges appearing on the bill for the first time.[96]

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[92] TCA comments at 2-5.

[93] *See, e.g.*, Informal Complaint of Sarah Krank, IC No. 98-29550.

[94] Under the TDDRA, a telephone-billed purchase is defined as:

> any purchase that is completed solely as a consequence of the completion of the call or a subsequent dialing, touch tone entry, or comparable action of the caller. Such term does not include --
> (A) a purchase by a caller pursuant to a preexisting agreement with the vendor;
> (B) local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines, by rule --
> (i) is closely related to the provision of local exchange telephone services or interexchange telephone services; and
> (ii) is subject to billing dispute resolution procedures required by Federal or State statute or regulation; or
> (C) the purchase of goods or services which is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.

15 U.S.C. § 5724(1).

[95] Public Law 102-556, 106 Stat. 4181, approved Oct. 28, 1992.

[96] *Notice*, 13 FCC Rcd at 18185.

Virtually all carriers assert that their current billing systems cannot conduct a month-to-month comparison of all charges as would be necessary to identify and explain all new services being billed for the first time, and that the modifications necessary to perform this function would be prohibitively expensive.[97] In contrast, highlighting each new service provider, as opposed to each new service, will be considerably more economical to implement.[98] Opponents also question the ultimate value of highlighting new charges to elucidate fraud.[99] Highlighting charges for new types of service probably would involve a larger number of items than highlighting new service providers. This could significantly lengthen bills and confuse consumers by repeating a significant amount of information that is shown elsewhere in the bill. Given the more economical alternative of provider-based identification which effectively communicates changes in service to the consumer, we believe that highlighting those service providers that did not charge for service on the previous bill is the better choice to advance consumer education and our anti-cramming and slamming goals.

36. Carriers have discretion to determine the best means to highlight the required information; we do not require that separate bill pages be used to show the charges billed by each service provider. Again, we are cognizant of commenters' concerns that any rigid formatting rule that required separate pages, or produced "dead space" on the bill, may frustrate consumers[100] and substantially, or even prohibitively, increase carriers' billing expenses.[101] Accordingly, we do not mandate any particular means of complying with the guidelines set forth herein, but rather permit and contemplate that carriers will employ a variety of practices that would be consistent with this Order. For example, following suggestions by the FTC and NCL, colored ink or different fonts or type sizes, along with explanatory notes, could be used to highlight, within the body of the bill or on an existing

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[97] *See, e.g.*, Ameritech comments at 11-12; Sprint comments at 7-8; RCA comments at 4; Bell Atlantic comments at Attachment, "Answers to Specific Questions," at 6 (identifying new service charges each month would require comparing approximately 40 million billing lines against previous month's entries); MCI comments at 34-35; U S West comments at 5, 20 (would require substantial and costly modification of three principal billing systems and approximately 30 interacting databases that are used to produce 12.2 million bills per month); PCIA comments at 9.

[98] Month-to-month comparison of service providers would involve far less data than comparison of all billed charges.

[99] *See, e.g.*, PCIA comments at 7-8; Ameritech comments at 10-11; BellSouth Reply comments at 5; Billing Coalition comments at 15-16.

[100] *See, e.g.*, Bell Atlantic comments at Attachment, "Answers to Specific Questions," at 5 (consumers already complain about too many pages); FTC comments at 10-11.

[101] *See, e.g.*, Sprint comments at 6; USTA comments at 5 (reporting that small USTA member estimates that adding additional page to bill would increase mailing costs by $600,000 per year).

summary page, the names of new presubscribed carriers and service providers.[102] In adopting a provider-based guideline and affording wide latitude to determine the most efficient way to convey the service provider information, we have balanced consumers' need for clear, logical, and easily understood charges against concerns that rigid formatting and disclosure requirements would inhibit innovation and greatly increase carrier costs.

2. Full and Non-Misleading Billed Charges

37. We adopt the second core principle set forth in the *Notice* that bills should contain full and non-misleading descriptions of the service charges that appear therein. In our view, providing clear communication and disclosure of the nature of the service for which payment is expected is fundamental to a carrier's obligation of reasonable charges and practices. Indeed, we find it difficult to imagine any scenario where payment could be lawfully demanded on the basis of inaccurate, incomplete, or misleading information.[103] Moreover, to permit such practices in the context of telecommunications services is particularly troublesome in light of the rapid technological and market developments, and associated new terminology, that can confuse even the most informed and savvy telecommunications consumer. Accordingly, as discussed below, we adopt three guidelines that implement this core disclosure principle.

a. Billing Descriptions

38. We conclude that services included on the telephone bill must be accompanied by a brief, clear, plain language description of the services rendered.[104] The description of the charge must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform

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[102] FTC comments at 10-11; NCL comments at 7.

[103] We agree with U S West that "no reputable business can be against the ideas associated with 'truth-in-billing' anymore than comparable ideas reflected in other 'truth-in-xxx' initiatives, such as truth-in-lending or truth-in-advertising." U S West comments at 1. *See also Thompson Medical Co. Inc., v. Federal Trade Commission*, 791 F.2d 189, 195 (D.C. Cir. 1986) (a company has "no right to stay in business if the only way it can do so is to engage in false and misleading advertising").

[104] We agree with Sprint that a customer should be able to determine what service a carrier has provided based on the service description presented in his or her telephone bill. *See* Sprint comments at 11-13; *see also* TCA comments at 5-6 (language and format of the bill must be sufficiently clear in presentation and specific enough in content that customers can accurately assess that the services for which they are billed correspond to those they have requested and received, and that the costs assessed for those services conform to their understanding of their price).

to their understanding of the price charged. Requiring clear descriptions of billed charges will assist consumers in understanding their bills, and thereby, deter slamming, as well as cramming.

39. In the *Notice*, we observed that telephone bills often contain vague or inaccurate descriptions of the services for which the customer is being charged. For example, many complaints we have received involve charges identified on local telephone bills simply as "monthly fee" or "basic access," without further explanation.[105] The record in this proceeding persuades us that unclear or cryptic telephone bills exacerbate consumer confusion, as well as the problems of cramming and slamming.[106] Indeed, a common theme voiced in the consumer complaints we receive is that telephone bills contain insufficient information to enable consumers to determine the nature of the service for which they are being billed. In our view, clear billing descriptions of the services rendered will reduce these problems. Clear and easily understood service descriptions will enable consumers to verify the services they have ordered, thus facilitating the detection of slamming and cramming. Although the requirement of clear identification of service providers, discussed earlier, will solve a large portion of the problem, it does not eliminate the potential for fraudulent carrier practices. For example, the record indicates that some carriers choose corporate names that sound like telecommunications services, *e.g.*, "Phone Calls," to confuse consumers and facilitate cramming, while others use corporate names such as "I Don't Know," "Whatever," and "Anyone is OK," as a device to trick consumers into unwittingly selecting the deceiver as their long-distance service provider.[107] Requiring descriptions of services, in combination with the clear identification of service providers, assists in the detection of slamming by enabling consumers to distinguish between the names of services ordered and the names of carriers. Accordingly, our jurisdiction to impose this requirement stems from section 258 and its goal of deterring slamming.[108]

40. We contemplate that sufficient descriptions will convey enough information to enable a customer reasonably to identify and to understand the service for which the customer

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[105] *Notice*, 13 FCC Rcd at 18177.

[106] *See supra* Section II(A) (Adoption of Guidelines) and Section II(C) (Specific Truth-in-Billing Guidelines).

[107] *See* Small Business comments at 7-9 (highlighting the problem of misleading carrier company names). By using a corporate name such as "I Don't Know," an unscrupulous carrier can trick unwitting consumers into selecting it as their preferred carrier. For example, the telemarketing representative for the carrier I Don't Know may ask a leading question such as, "Who would you like to be your long distance carrier?" The consumer who responds, "I don't know," may then have his phone service switched to the carrier I Don't Know.

[108] 47 U.S.C. § 258.