

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of Consumer Information and Disclosure Truth-in-Billing and Billing Format IP-Enabled Services	CG Docket No. 09-158 CC Docket No. 98-170 WC DOCKET No. 04-36
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**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit these Comments to the Federal Communications Commission (FCC or Commission) in response to the FCC's Notice of Inquiry (NOI) released August 28, 2009. In the NOI, the FCC seeks "to build a factual record to assess whether there are opportunities to protect and empower consumers through policies addressing information disclosure."¹ These comments address service information and billing disclosures for wireline, wireless, and prepaid telecommunications services, and reflect the CPUC's experience implementing relevant California statutes and regulations. We propose new steps the FCC should consider to ensure that consumers can meet the challenges posed by an evolving communications marketplace. We also recommend that the FCC consider applying disclosure requirements and billing rules where traditional

¹ *In the Matter of Consumer Information and Disclosure; Truth-in-Billing and Billing Format; IP-Enabled Services*; CG Docket No. 09-158, CC Docket No. 98-170, WC Docket No. 04-36; rel. August 28, 2009 (NOI), ¶ 3.

voice and video services are bundled with broadband Internet access and VoIP, so that consumers can comparison shop more effectively.

I. **DISCUSSION**

A. **California Laws and Regulations Addressing Service Information and Billing Disclosures**

Under California law, telephone bills may contain only charges for products or services that the subscriber has authorized.² Carriers may not place any unauthorized charges, including charges for non-communications service, on bills for telecommunications services. A billing telephone company must clearly identify, and use a separate billing section for, each person, corporation, or billing agent that generates a charge.³ California law prohibits solicitors from misrepresenting their association with a telephone carrier regarding a product or service to be charged on telephone bill.⁴

California law also requires wireless carriers to provide customers with a way to get information on their calling plans and service usage.⁵ In general, California law requires carriers to provide sufficient information for subscribers to be able to make informed choices and resolve complaints.⁶

The CPUC has adopted rules regarding billing complaints involving unauthorized charges (cramming) that include strong enforcement mechanisms. We have successfully prosecuted twelve formal cramming cases under the anti-cramming statutes and rules,

² See Cal.Pub.Util.Code § 2890(a): “A telephone bill may only contain charges for products or services, the purchase of which the subscriber has authorized.”

³ Cal.Pub. Util. Code § 2890.

⁴ Cal.Pub. Util. Code § 2889.9.

⁵ Cal.Pub. Util. Code § 2890.2.

⁶ Cal.Pub. Util. Code s 2896.

resulting in total fines of more than \$60 million and total restitution of more than \$13 million for California consumers. (See Appendix.) Our experience enforcing these rules is the basis for our recommendations for the new steps the FCC should consider.

1. Disclosure Requirements for Wireless Carriers

The FCC seeks comment on what information helps consumers assess the service quality offered by each provider and the different dimensions of service quality, including information about the coverage area for wireless voice and data services. A recent CPUC decision adopted disclosure requirements for wireless carriers regarding coverage area maps and signal strength,⁷ along with standardized service quality reporting forms so that data would be consistently reported and comparable across companies.⁸ The newly adopted information requirements include the following:

- Wireless coverage maps must show where wireless phone users generally may expect to receive signal strength adequate to place and receive calls when outdoors under normal operating conditions.
- Wireless carriers must provide coverage maps in printable format on their websites and in a printable or pre-printed format at retail locations that customers can take with them.
- Wireless carriers must provide coverage maps depicting approximate wireless service coverage applicable to the wireless service offered rate plans.
- All coverage maps must include a clear and conspicuous disclosure of material limitations in wireless service coverage depiction and wireless service availability.⁹

⁷ D09-07-019. *Decision Adopting General Order 133-C and Addressing Other Telecommunications Service Quality Reporting Requirements*, July 9, 2009, Rulemaking 02-12-004 (Filed December 5, 2002).

⁸ D 09-07-019 at 58, 77.

⁹ Rev. GO 168, *Market Rules to Empower Telecommunications Consumers and to Prevent Fraud*, Adopted March 2, 2006, Decision 06-03-013.

B. New Steps the FCC Should Consider

1. Anti-Cramming Protections

The FCC asks to what extent cramming remains a problem for consumers. The CPUC has tracked third-party billing complaints since November 2008 and found that more than 77 percent of all cramming complaints originate from third-party billing practices, as shown below in Table 1.

**Table 1. Informal Cramming Complaints,
November 1, 2008 - October 5, 2009**

All Cramming Complaints	3876	100%
Third-Party Cramming Complaints	3002	77%

About 54 percent of the third-party cramming complaints are based on charges originating with regulated service providers, as shown below in Table 2. These charges can be for regulated services such as long-distance or wireless service, or non-regulated services such as voicemail. About 46 percent of the third-party cramming complaints are based on charges originating with non-regulated service providers. These charges are generally for non-regulated services such as voicemail or other subscription services.

**Table 2. Origin of Charges in Third-Party Cramming Complaints,
November 1, 2009 - October 5, 2009**

Regulated Service Providers*	1628	54%
Non-Regulated Service Providers	1374	46%
Total	3002	100%

*Includes charges originating with non-regulated service providers which are referred to the carrier for resolution because the non-regulated third party could not be located or was not responsive.

Based on our experience with third-party billing complaints, the CPUC urges the FCC to issue for consideration the following proposals to help consumers avoid cramming charges: a requirement that all billing carriers offer customers the option of blocking third-party billings free of charge; and a requirement that all third-party billings include the name and toll-free telephone number and address of the actual third-party service provider.

2. Price Disclosures

Carriers do not always inform customers in a clear manner on their bills of the full price of service, since many non-mandated charges appear on bills as surcharges and fees. Carriers should inform consumers of all charges, including fees and surcharges, associated with a particular service, so that consumers will have a reasonable expectation of what they will pay each month. In order to help consumers manage their services, we urge the FCC to propose for public comment a requirement that all *non-mandated*

surcharges and fees associated with a particular service be included in the advertised price for that service.¹⁰

3. Bundled Services Disclosures

The CPUC has tracked complaints regarding bundled services since November 2008 and has since then received 362 bundled service-related complaints. CPUC staff report that these complaints are more difficult for both consumers and staff to resolve. Typically, they involve unregulated services provided by regulated carriers, such as video and broadband services. In addition to the difficulty in determining the identity of the original billing entity, the charges for the bundle's components are hard to isolate.

Although the number of bundled service-related complaints we have received is relatively small, we recognize a potential need for disclosure requirements in this area, so that consumers will be able to compare prices and services more effectively. We therefore urge the FCC to seek comment on billing and information rules where services are bundled.

II. CONCLUSION

We urge the FCC to consider the consumer protection proposals described above.

¹⁰ For example, some carriers include a surcharge labeled, "Regulatory Program Fee," or some variation of that charge. The fee has been characterized as "not a tax but ...a fee we collect and retain to help us recover the costs associated with funding and complying with a variety of government mandates, programs, and obligations...." (*See e.g.* attached T-Mobile bill insert.) Some carriers have recently increased this fee without any discernable change in the cost of complying with "government mandates, programs, and obligations." By imposing this fee, and then raising it, carriers effectively increase consumer costs without increasing the advertised "rate" for the services offered. T-Mobile, for example, increased the charge by \$0.35 per *line*, not per account, which increased the total billed cost by \$0.35 times the number of lines on the account.

Respectfully submitted,

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APPENDIX

Pursuant to California's anti-cramming statutes, PU Code Sections 2889.9 and 2890, the CPUC has formally prosecuted twelve cramming cases:

Entity	Decision Date	Consumers Affected	Fines (F) Restitution (R)	Additional Resolution
Future Telephone Communications	June 1999	30,000	\$529,050 (F) \$500,000 (R)	Operating authority revoked. Barred from doing business in CA for 10 yrs.
Coral Communications, Inc.	April 2001	300,000	\$5,100,000 (F) \$4,600,000 (R)	
Accutel Communications, Inc.	July 2002	44,000	\$1,500,000 (F)	Operating authority revoked.
Telmatch Telecommunications, Inc.	June 2002	120,000	\$1,740,000 (F) \$5,500,000 (R)	Operating authority revoked.
USP&C	April 2001, April 2003	12,000	\$1,750,000 (F)	All LECs ordered to cease providing billing and collection services to USP&C.
Coleman Enterprises, Inc.	Dec 2000	9,700	\$245,000 (R)	Settled: Ordered to pay restitution, carrier surrendered operating auth.
VarTec Telecom, Inc.	April 2002	1,700	\$80,000 (F) \$2,525 (R)	
MCI, WorldCom, or MCI WorldCom	April 2006	713	\$1,300,000 (F) \$2,000,000 (R)	
Talk America, Inc.	June 2002	4,000	\$625,000 (F) \$374,800 (R)	
Qwest Communications Corporation	Oct 2002	6,553	\$20,340,000 (F)	
Pacific Bell Telephone Company, Pacific Bell Internet Svces, and SBC Advanced Solutions, Inc.	Oct 2002		\$27,000,000 (F)	
Vycera Communications, Inc.	March 2005		\$100,000 (F)	3 years probation and monitoring.

In the Cingular case, described below, the CPUC alleged misleading advertising under PU Code Section 2896. In this case, a fine of \$12.4 million was imposed and restitution to customers has amounted to around \$20 million. This language was taken from D.07-03-048:

“We found that from 2000 to 2002, Cingular advertised and marketed its services heavily without disclosing its network coverage problems to customers. (D.04-09-062, Finding of Fact No. 4.) We concluded that Cingular’s advertising and coverage maps misled consumers into signing up for wireless service in areas where the cell phone did not work, and then imposed ETFs when the customer tried to cancel, allowing for no grace period to return the phone. (*Id.*, pp.67-69.) Our decision found that Cingular’s official no return/no refund ETF policy constituted an unfair business practice that failed to provide adequate, just and reasonable service to customers, in violation of California Public Utilities Code sections 451,702, 2896 and D.95-04-028. (*Id.*, Conclusion of Law No. 3.)”



Information about the Regulatory Program Fee

Dear T-Mobile Customer:

As you know, T-Mobile, like other wireless carriers, charges its customers a regulatory cost recovery fee. T-Mobile's Regulatory Programs Fee (RPF) is not a tax but is a fee we collect and retain to help us recover the costs associated with funding and complying with a variety of government mandates, programs, and obligations, such as enhanced 911 programs, number portability, and governmental requirements concerning the construction and operation of our network. These programs and the costs of compliance vary over time, as do the costs that T-Mobile includes in the RPF. Beginning on June 10, 2009, the RPF is increasing from \$.86 to \$1.21 per line per bill cycle. Additional information about the RPF can be found in the Terms and Conditions, which are available at www.t-mobile.com.

Thank you for being a T-Mobile customer! We'll continue to provide our customers the best services, features and benefits we offer in the years to come!

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