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

In the Matter of	)	
	)	
Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges ("Cramming")	)	**CG Docket No. 11-116**
	)	
Consumer Information and Disclosure	)	**CG Docket No. 09-158**
	)	**CC Docket No. 98-170**
Truth-in-Billing and Billing Format	)	

COMMENTS OF THE INDIANA UTILITY REGULATORY COMMISSION

The Indiana Utility Regulatory Commission ("Indiana Commission") respectfully submits these initial comments in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("Cramming NPRM") to assist consumers in detecting and preventing the placement of unauthorized charges on their telephone bills, an unlawful and fraudulent practice known as "cramming."

The Indiana Commission applauds the FCC in its effort to provide customers with additional tools to combat the problem of cramming. The Indiana

Commission understands and supports the needed policy changes to assist consumers who are at risk of cramming. As elaborated upon below, the Indiana Commission supports the anti-cramming proposals set forth by the FCC. The Indiana Commission also suggests additional policy changes to help consumers faced with the prospect or the reality of cramming on their telephone bills. The Indiana Commission has been engaged in the issue of cramming for well over a decade and offers its comments and suggestions on this anti-cramming policy proposal informed by and based on that experience and perspective.

Indiana's Cramming Experience

The Indiana Commission agrees with and corroborates the evidence sited in the Cramming NPRM that indicates that cramming is an "ongoing and persistent problem" for consumers. (Cramming NPRM ¶ 37) In 1998, the Indiana General Assembly enacted Indiana Public Law 92 that established the standards and penalties for both cramming and slamming (the latter being the unauthorized switching of a customer to a different telecommunications provider) and authorized the Indiana Commission to adopt administrative rules to address the problem of cramming in Indiana. 1998 Ind. PL 92. In response thereto, the Indiana Commission promulgated 170 IAC 7-1.1-19. The Indiana Commission's Consumer Affairs Division receives approximately one hundred cramming

complaints each year and works diligently to assist consumers in getting unauthorized charges removed from their bills.

However, after working on thousands of cramming complaints over more than a decade, some issues have arisen. Current Indiana state anti-cramming law is directed specifically at telecommunications carriers and exempts CMRS providers.[1] The Indiana Commission's administrative rules are directed specifically at Local Exchange Carriers (LECs) and Primary Interexchange Carriers (PICs) who place unauthorized charges on their customers' bills for telecommunication services the LEC or PIC provides. The Indiana law and rules are silent on the issue of third-party vendor billing, which is a major focus of the FCC Cramming NPRM. (Cramming NPRM ¶ 6-9) Unfortunately, cramming by third-party vendors who have telecommunications carriers place unauthorized charges on their bills is a common complaint of Indiana telecommunications customers. Another common issue is the lack of sufficient information about the third-party vendors, especially the lack of contact information. The policy changes proposed by the FCC in the area of third-party cramming, specifically informing the consumers of the ability to block third-party charges and requiring third-party vendor contact information be placed on the bill, would be of significant benefit to Indiana consumers. In addition, the Indiana Commission sets forth its

[1] Indiana Code 8-1-29

recommendation for additional policy changes to assist consumers with the problem of third-party vendor cramming.

IURC Supports the FCC's Cramming Proposals

The Indiana Commission supports the proposals set forth by the FCC for the purpose of assisting consumers victimized by cramming. Specifically, the Indiana Commission agrees that carriers need to do a better job informing consumers of the ability to block third-party billing. A well informed consumer is essential to the effective workings of the marketplace, and better disclosure of the availability of the option to block third-party vendor billing (if a LEC offers such a service) is integral to honesty in the marketplace. The proposed requirement to better highlight third-party charges on customers' bills will also help consumers be aware of, knowledgeable as to and effectively review such charges to ensure the consumer did in fact authorize them.

An important additional FCC proposal is to require that the generator of the telephone bill clearly and conspicuously provide the contact information for each third-party vendor whose charges appear on a telephone bill. In the experience of the Indiana Commission's Consumer Affairs Division, one of the great difficulties to resolving complaints about third-party billing is lack of adequate, actionable information. Many times aggrieved consumers only have the name and telephone number of the billing agent of the third-party but not the actual vendor. If the

billing agent is not responsive to a consumer's inquiries, the customers lack the information necessary to contact the vendor directly. Since the LEC is the one entity that knows (or should know) how to reach the third-party entities for which it bills, the LEC should be required to provide that contact information to customers and state utility commissions and consumer advocates. If carriers had to play a greater role than they do today in the resolution of customer complaints about third-party vendor billing, those carriers would likely be more selective about the third-party vendors for which they provide billing services. Increased carrier accountability would expedite the Indiana Commission's Consumer Affairs Division handling of customer complaints about third-party vendor cramming. Quicker resolution of complaints through greater carrier accountability would allow the Indiana Commission's Consumer Affairs Division to process other complaints more quickly.

The FCC in the Cramming NPRM asks for input on extending anti-cramming rules to Commercial Mobile Radio Service (CMRS) customers. The Indiana Commission believes that rules and policies intended to protect customer's from the impact of cramming should be extended to CMRS customers. Consumers have no less a need to review their wireless telephone bill for unauthorized third-party charges and, if any are found, to be able to quickly resolve their complaints. Indeed, with the impending development and deployments of near field

communications (NFC), which enables smartphones and other wireless devices to operate like credit or debit cards at retail cash registers, the occurrence of third-party vendor charges appearing on wireless telephone bills will likely increase in the coming months and years. Accordingly, the FCC would be wise to proactively include CMRS providers in any new third-party vendor anti-cramming rules it adopts.

In addition, the FCC in the Cramming NPRM asks if any of the proposed rules should apply to interconnected Voice over Internet Protocol (VoIP). The Indiana Commission recommends that anti-cramming measures also apply to direct competitors of wireline telecommunications service, like VoIP, in order to promote regulatory parity as much as possible.

IURC Suggested Additional Anti-Cramming Policies

As good as the anti-cramming proposals offered by the FCC are, the Indiana Commission believes they do not go far enough to protect consumers from unauthorized third-party vendor billing. The Indiana Commission proposes an additional measure that would benefit consumers. Entities that generate telephone bills containing charges from third-party vendors should be required to obtain affirmative authorization (opt-in) from their customers before billing for any such third-party vendor services on the consumer's telephone bill. Additionally, LECs, CMRS providers and VoIP providers alike should bear a greater responsibility to

assist consumers in resolving complaints about third-party vendor charges. The billing service offered by generators of telephone bills should include providing an interface for customers who believe charges placed on the telephone bill were not authorized.

Conclusion

The issue of cramming, particularly by third-party vendors, is a serious problem that needs to be address by changes in FCC policies and rules. The Indiana Commission believes its suggested policy changes along with those proposed by the FCC would collectively go a long way to reducing the incidents of cramming and speed the resolution of customer complaints regarding the same.

Respectfully Submitted,

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