

**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
	)	
Truth-in-Billing and Billing Format	)	CG Docket No. 98-170

**REPLY COMMENTS OF VERIZON AND VERIZON WIRELESS**

Verizon and Verizon Wireless are committed to protecting their customers from unauthorized charges. In today's fiercely competitive environment, Verizon and Verizon Wireless will do whatever they can to avoid losing a customer for any reason, including due to unauthorized third-party charges. Third-party billing is not a large component of Verizon's or Verizon Wireless' businesses, contrary to certain commenters' suggestions.<sup>1</sup> As such, Verizon and Verizon Wireless have invested considerable resources in measures to protect customers from unauthorized third-party charges and are actively considering additional steps.<sup>2</sup> Not surprisingly, given the economic incentives, comments from other wireline and wireless providers demonstrate a similar level of commitment.<sup>3</sup>

In light of industry's heightened attention to cramming, the Commission should reject suggestions that it enact anti-cramming rules that extend far beyond those proposed

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<sup>1</sup> See, e.g., Minnesota Attorney General Comments at 6-7 (focusing on industry aggregated revenues from third-party billing over five and ten year periods).

<sup>2</sup> See Verizon Comments at 2-9.

<sup>3</sup> For example, AT&T has recently adopted measures that resulted in an 87% decrease in wireline cramming complaints. See AT&T Comments at 8-10; see also CenturyLink Comments at 12-16; Sprint Comments at 5-11; T-Mobile Comments at 3-7.

in the *Notice*.<sup>4</sup> Even if it had authority to do so,<sup>5</sup> the Commission should not prohibit third-party billing.<sup>6</sup> Such drastic action would harm the hundreds of thousands of customers who prefer to review and pay a single bill each month and who have not experienced any unauthorized charges. There are more effective ways to ferret out illegitimate third-parties, while still protecting customers, than a wholesale ban on such billing that indiscriminately penalizes lawful providers of services consumers demand. As Federal Trade Commission (FTC) Commissioner Rosch observed, a more flexible approach than an outright ban would benefit both business and consumers.<sup>7</sup>

Nor should the Commission mandate that carriers adopt one specific anti-cramming measure, such as a default third-party bill block.<sup>8</sup> Carriers should have the freedom to develop innovative solutions to unauthorized third-party billing. A measure like a default bill block may well make sense for some carriers, but for others, it may not. Even with respect to one specific anti-cramming approach, there could be multiple ways to implement it, and carriers should have the freedom to determine the most effective manner. For example, while some commenters suggest that the Commission mandate that a default bill block only be lifted if a request is made via a call from the billing

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<sup>4</sup> See *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges* (“Cramming”); *Consumer Information and Disclosure; Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, 26 FCC Rcd 10021 (2011) (“*Notice*”).

<sup>5</sup> Numerous commenters make clear that the Commission’s authority with respect to third-party billing is limited. See, e.g., AT&T Comments at 17-20; CenturyLink Comments at 16-19; MetroPCS Comments at 16.

<sup>6</sup> Those commenters that propose a ban on third-party billing generally recognize the need for exceptions for services like long distance calls, operator-assisted calls, dial-around services, prisoner calls, collect calls, etc. See, e.g., 17 State Attorneys General Comments at 23.

<sup>7</sup> See Federal Trade Commission Comments at n.7.

<sup>8</sup> See 17 State Attorneys General Comments at 25.

telephone number,<sup>9</sup> such a requirement may unnecessarily inconvenience customers, particularly those out of town or wishing to do so online. The Commission should not limit the various methods of effective customer authentication.

Perhaps most importantly, mandated measures do not allow for flexibility. Technology and the associated threats from unscrupulous third parties can develop too fast to address through a formal regulatory process. A single, mandated anti-cramming measure could also cause bad actors to focus their resources on defeating that measure. By contrast, the deployment of various anti-cramming measures throughout the industry would be far more difficult to overcome.

Avoiding prescriptive anti-cramming requirements on wireline carriers would also be consistent with the President's commitment to regulatory humility and to limiting the burdens associated with unnecessary regulation. As President Obama first recognized in January and reaffirmed in July, the regulatory system should "promot[e] economic growth, innovation, competitiveness, and job creation . . . [and] use the best, most innovative, and least burdensome tools for achieving regulatory ends."<sup>10</sup> To further those interests, the federal agencies must "adopt a regulation only upon a reasoned determination that its benefits justify its costs" and "tailor its regulations to impose the least burden on society."<sup>11</sup>

Likewise, the Commission should not impose anti-cramming requirements on wireless carriers. Those commenters proposing that the same requirements apply to both wireline and wireless carriers claim that given the popularity of wireless service and

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<sup>9</sup> *Id.*

<sup>10</sup> *See* President Barack Obama, Executive Order 13579 (July 11, 2011), 76 FR 41857 (2011).

<sup>11</sup> *Id.*

innovative new services for making purchases, wireless cramming complaints are bound to increase.<sup>12</sup> The Commission should reject this idle speculation.

As Verizon and other wireless carriers made clear, there are numerous differences between billing for third-party services and content in the wireless and wireline segments.<sup>13</sup> Third-party charges on wireless bills, such as charges for premium short message services or mobile content, are generally related to the customer's handset. Verizon Wireless requires a double opt-in or equivalent process that typically involves a text message sent to the user's handset that includes information (e.g., a passcode) necessary to complete the purchase.<sup>14</sup> This additional measure helps confirm that the purchase is authorized before the third-party charge is placed on a wireless customer's bill.

In addition, cramming complaint rates are significantly lower for wireless third-party charges. Using the Commission's own data, CTIA demonstrated the infrequent nature of wireless cramming complaints, by calculating a ratio of one complaint per 646,974 wireless subscriber units per year from 2008-10.<sup>15</sup> Sprint analyzed FTC complaint data from the same period and calculated a similar ratio: one complaint per every 422,832 wireless subscribers.<sup>16</sup> Notably, the FTC, which proposes significant anti-cramming regulation of wireline carriers, does not seek to extend that regulation to wireless carriers

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<sup>12</sup> See Sandra Merrick, Massachusetts Attorney General Comments at 18.

<sup>13</sup> See, e.g., MetroPCS Comments at 4-15; Sprint Comments at 5-12; T-Mobile Comments at 1-7; Verizon Comments at 9-11.

<sup>14</sup> See Verizon Comments at 6-9.

<sup>15</sup> See CTIA Comments at 5.

<sup>16</sup> See Sprint Comments at 11-13; see also T-Mobile Comments at 1-3 (analyzing Commission, FTC, and state commission data).

due to the far fewer complaints it receives concerning wireless cramming and “the technologies inherent to the mobile platform.”<sup>17</sup>

While it is true that there is rapid innovation and development of new purchasing services in the wireless industry, that is due, in part, to the absence of burdensome regulation – it is not a reason for *more* regulation. The Commission should avoid any action that could hinder this innovation. A surge in cramming complaints resulting from this innovation is unlikely because the effective, wireless-specific anti-cramming protections in place today will continue to be utilized.

Respectfully submitted,

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<sup>17</sup> FTC Comments at 2 n.5.