

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

In the Matter of)	
)	
Empowering Customers 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
)	

To: The Secretary

COMMENTS

1 800 Collect, Inc. ("1 800 COLLECT"), by its attorneys, hereby submits these Comments in response to the *Public Notice*¹ issued by the Commission seeking to update the record generated in connection with the Commission's 2012 *Report and Order and Further Notice of Proposed Rulemaking* ("FNPRM") in the above-referenced proceeding dealing with the subject of "cramming." In the *Public Notice*, the Commission seeks comment on certain changes in the marketplace that have occurred since the issuance of the *FNPRM*, including the voluntary commitments made by major carriers that have resulted in the removal of most third-party charges from the carriers' consumer telephone bills and whether cramming has emerged as a problem of any regard in the Commercial Mobile Radio Service ("CMRS") context.

While 1 800 COLLECT supports the anti-cramming measures previously adopted by the Commission, 1 800 COLLECT believes those measures, along with other actions taken by wireline and wireless carriers of their own accord, have led to a significant reduction in cramming

¹ *Public Notice*, Consumer and Governmental Affairs Bureau Seeks to Refresh the Record Regarding "Cramming," DA 13-1807, released August 27, 2013.

problems and should be given sufficient additional time in which to exhibit their effectiveness, before the Commission considers adopting any additional cramming regulations. Further, 1 800 COLLECT asks the Commission to weigh carefully the relative costs and benefits of any potential new regulations, given the actions that have already been taken. Specifically, 1 800 COLLECT believes the opt-in and/or double opt-in requirements under consideration in the *FNPRM* and referred to in the *Public Notice* would impose serious and harmful costs upon legitimate telecommunications service providers while offering little or no new benefits to consumers. As the voluntary efforts of major carriers to block most third-party charges from consumer phone bills demonstrate, additional Commission regulations are neither necessary nor appropriate at this time. Similarly, 1 800 COLLECT believes that, based on the record already achieved in this proceeding, new cramming regulations in the CMRS context are also not warranted. Finally, 1 800 COLLECT once again respectfully requests that, should the Commission decide to adopt an opt-in requirement for wireline and/or wireless third-party billing, that the Commission only apply such a requirement to non-telecommunications, 'miscellaneous,' or 'enhanced' services. As the record in this proceeding amply demonstrates, carriers, third-party providers, and public interest advocates all agree that traditional telecommunications services, such as collect calling, should be exempt from any such requirements. In support thereof, 1 800 COLLECT states as follows.

As set forth in 1 800 COLLECT's previous Reply Comments in the earlier stage of this proceeding, neither the *FNPRM* nor the pleadings submitted in response thereto present any material evidence justifying the adoption of further cramming regulations at this time, particularly any regulations affecting providers of traditional telecommunications services such

as collect calling. 1 800 COLLECT, as a provider of collect calling services with regular dealings with carriers, has found that the voluntary initiatives undertaken by major wireline carriers have gone far to eliminate non-traditional telecommunications services from bills for wireline customers, and shown that optimal resolution of any lingering cramming issues properly lies with market forces rather than regulation. The telecommunications carrier industry clearly understands that illegitimate third-party cramming charges undermine their own credibility with consumers, especially if other carriers are effectively blocking such charges and, consequently, all carriers, including smaller carriers, now have powerful market incentives to protect their consumers from cramming abuses. As numerous commenters in this proceeding have indicated, given the competitive marketplace in which consumers have many different service providers to choose from, service providers must make every effort to protect their customers from unauthorized charges and address cramming abuses, or risk losing their customers to those services providers who do so. As a result, carriers' efforts to block third-party charges for 'enhanced' or 'miscellaneous' non-telecommunications services from consumers' phone bills have effectively expanded and strengthened the Commission's own anti-cramming efforts. Such competition-based anti-cramming efforts demonstrate that, as a practical matter, further regulations are unnecessary in order to protect consumers and certainly so until a record is made that cramming is still an issue in the wireline carrier billing environment. At the same time, as 1 800 COLLECT and others have previously pointed out, further regulations, such as an opt-in or even a double opt-in, could actively harm legitimate businesses – not major carriers, but those small, independent telecommunications service providers, such as 1 800 COLLECT, who rely upon third-party billing arrangements to operate in a cost-effective manner. The Commission's

recently adopted regulations together with voluntary industry changes should be allowed to address the cramming problem as it presently exists without resorting to an opt-in scheme that could upend the existing business models of legitimate telecommunications services that many consumers, and especially those with low incomes or without access to wireless services, have come to expect to be available.

With respect to the need for and appropriateness of cramming regulations in the CMRS context, 1 800 COLLECT believes the record in this proceeding establishes that wireline and wireless billing processes are fundamentally different and that anti-cramming measures are absolutely unwarranted for CMRS. Significantly, as wireless carriers have previously noted, far fewer customer cramming complaints occur with mobile services than with wireline services, due in part to the nature of wireless billing and the public's understanding that wireless is a mechanism to purchase goods and services. According to Verizon, "[t]he majority of third-party charges billed by wireless providers are ordered directly from the handset itself, and the end user is directly involved in a double opt-in or equivalent verification process." For wireless customers who wish simply to do-away with third-party charges on their wireless bills, carriers offer the option to block such charges, which the wireless industry should consider publicizing to a greater degree.

1 800 COLLECT submits that there is nothing in the record to suggest that further cramming regulations are necessary at this time, in either the wireline or the wireless context, and, accordingly, the Commission should allow its previously-adopted regulations to continue to prove their effectiveness before considering any new regulations. The voluntary efforts of major

carriers to curtail cramming abuses lends further support to a non-regulatory approach to any lingering cramming issues at this time.

However, should the Commission choose to adopt an opt-in or double opt-in requirement as discussed in the *FNPRM* and the *Public Notice*, 1 800 COLLECT reiterates its position that the Commission should exempt legitimate telecommunications services such as collect calling from any such a requirement. Traditional telecommunications services are not the source of cramming problems and the record does not evidence any abuses by providers of traditional telecommunications services and, accordingly, such services should not be unfairly burdened by regulations meant to address the abuses of others. Many consumer advocacy groups and State PUCs agree with this common sense position and have previously evidenced this in pleadings submitted in this proceeding. Further, as previously pointed out by 1 800 COLLECT, as a practical matter any formal opt-in requirement is at odds with the nature of collect calling and the manner in which customers utilize collect call services. On the one hand, as recognized by the Commission and others, the situational, "on demand" nature of collect calling does not lend itself to a one-time, fixed decision to opt in or out of collect calling altogether. Forcing customers to make a single advance decision with respect to collect calls upends the value and utility of the collect calling service model, often used in emergency situations, and runs directly counter to consumers' calling practices and needs. And on the other hand, an "opt-in" component is integral to the process already, i.e., customers opt-in to the service and billing features of collect calling on a one-off basis each time they place or accept a collect call. An opt-in feature imposed atop

this explicit consumer choice, which consumers are aware of based on the customs and practices in the telecommunications industry, is both unnecessary and counterproductive.²

The unsuitability of opt-in measures vis-à-vis traditional telecommunications services such as collect calling applies equally to the wireline and wireless contexts. Collect calling is poised to play as important a safety-net role in wireless telephony as with traditional wireline service, now that the number of wireless users has exploded and many consumers have cut the wireline cord. For example, prepaid mobile is one of the fastest growing segments in the wireless industry. Today, when prepaid customers fail to pay on a timely basis for their service, their accounts are suspended and they cannot make calls (except to 911) until they make their required payments. 1 800 COLLECT has developed a collect calling mobile service that provides suspended mobile subscribers another way to complete an important call, thus providing a critical safety-net for a large and growing segment of wireless customers. An opt-in requirement would thus have as great a negative impact in the CMRS context as in the wireline one.

In sum, 1 800 COLLECT believes an opt-in approach is unnecessary and that such an aggressive measure would impose costs on telecommunications businesses and customers far outweighing any consumer protection benefits. In an effort to target abusive cramming practices, the Commission should not adopt an opt-in scheme that casts too wide a net and undermines legitimate telecommunications services at the expense of market competition and consumer choice. The Commission should give its previously adopted measures a chance to work before concluding that more drastic measures are necessary to reduce the incidence of

² The complexity of a double opt-in, to a telephone service such as collect calling, which already has, as previously noted, a clear opt-in process on a one-off basis that is well-recognized by the collect calling community, is an unnecessary burden to be imposed on the public.

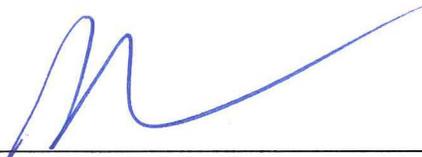
cramming. However, if the Commission adopts an opt-in requirement, 1 800 COLLECT urges the Commission to steer clear of potential overreach by permitting a clear exemption for collect calls and other legitimate telecommunications services in both the wireline and wireless contexts. Such an exemption is widely supported by industry stakeholders, anti-cramming advocates and a number of state regulators. It would result in the Commission continuing to pursue more aggressive anti-cramming measures without harming legitimate telecommunications services, not engaging in cramming practices, and the many consumers who rely upon them.

WHEREFORE, 1 800 COLLECT, Inc. respectfully requests that the Commission no longer consider a proposal to adopt an opt-in requirement for third-party billing, or, in the alternative, should the Commission adopt any form of opt-in proposal, that the Commission exempt legitimate telecommunications services such as collect calling from such opt-in requirement.

Respectfully submitted,

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