

**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)	CC Docket No. 98-170

**COMMENTS OF THE
MICHIGAN PUBLIC SERVICE COMMISSION**

On July 12, 2011, the Federal Communications Commission (FCC) issued a Notice of Proposed Rulemaking (NPRM) in the above-captioned proceedings regarding unauthorized billing to consumers’ telephone accounts (cramming). The Michigan Public Service Commission (MPSC) offers the following comments on specific questions and concepts discussed in the NPRM. The comments are formatted to coincide with the headings and subheadings used in the Discussion section of the NPRM. The MPSC may address additional questions and topics from the NPRM not addressed here in the reply comment period.

Introduction

Historically, cramming has ranked high among Michigan consumers’ telecommunications complaints. Cramming was the fourth highest telecommunications complaint received by the MPSC from Michigan consumers in 2009 and 2010. In 2009, cramming represented 18 percent of the total telecommunications complaints received.

In 2010, cramming represented approximately 12 percent of the total telecommunications complaints.

Cramming is a violation of the Michigan Telecommunication Act.¹ Although the MPSC has a formal complaint process where a consumer can request an administrative hearing to resolve his/her cramming complaint, the MPSC believes that the best way to address cramming is to prevent it from happening in the first place.

Measures to Assist Consumers in Preventing Cramming

Disclosure of the Availability of Blocking of Third-Party Charges

The MPSC believes that all telephone carriers should be required to offer blocking of third-party billers and that the blocking service should be provided free of charge. The MPSC agrees that carriers should be required to inform consumers of the option to block third-party billers at the point of sale, on each bill, and on the carrier's website. Requiring carriers to inform consumers of the blocking option would allow consumers to proactively prevent cramming before it occurs. If the FCC does not require all carriers to offer blocking, carriers should be required to disclose that they do not offer blocking. Disclosure should be made at the point of sale, on each bill and on the carrier's website.

The MPSC supports the requirement for all wireline carriers to clearly and conspicuously explain to consumers that their bills may include charges from third-party providers when they provide consumers with information on the blocking option at the point of sale, on each bill and on the carrier's website.

¹ Michigan Telecommunications Act, Public Act 179 as amended, <http://www.dleg.state.mi.us/mpsc/comm/telecom/pa179.pdf>.

The MPSC supports a rule which prohibits customer service representatives from advising customers that they cannot block third party charges.

Measures to Assist Consumers in Detecting Cramming

The MPSC agrees that charges from third party billers should be listed separately on the consumer's telephone bill. This requirement would help consumers detect unauthorized charges on their bills.

The MPSC proposes that the first page of the bill should include the full legal name of each company with charges on the bill, each company's toll-free customer service number and a sum of each company's billed charges. This information should be summarized to show that the sum of each of the companies' charges equals the total bill balance.

Disclosure of Commission Complaint Contact Information to Enhance the Ability of Consumers to Resolve Cramming Disputes

The MPSC believes that each wireline carrier's telephone bill and customer service section website should be required to include a statement that consumer inquiries and complaints may be submitted to the FCC. The statement should include the FCC's telephone number, website address and mailing address for filing complaints. This will assist consumers in addressing cramming and other telecommunications-related issues.

Wireless Service

The MPSC believes that CMRS carriers should be subject to the same cramming requirements as wireline carriers. Michigan recently added a provision to the Michigan Telecommunications Act recognizing wireless and voice over internet protocol (VoIP) service providers as alternative providers of a comparable wireline voice service for

purposes of allowing a wireline carrier to discontinue service in the area when these other services are available (MCL 484.2313). Sec. 313. (1) provides that:

A telecommunication provider that provides either basic local exchange or toll service, or both, shall not discontinue either service to an exchange unless 1 or more alternative providers for toll service, or 2 or more alternative providers for basic local exchange service, are furnishing a comparable voice service to the customers in the exchange. A comparable voice service includes any 2-way voice service offered through any form of technology that is capable of placing and receiving calls from a provider of basic local exchange service, including voice over internet protocol services and wireless services.

The MPSC notes that, according to the FCC's report on [Local Telephone Competition: Status as of June 30, 2010](#), there were approximately 8,690,000 mobile wireless telephone subscribers in Michigan. The number of wireless subscribers in Michigan is more than double the number of wireline subscribers. Consequently, the MPSC believes it is important for the Commission to extend effective consumer protections to wireless customers.

Additional Questions for Comment

Disclosure of Third-Party Vendor Contact Information

The MPSC recommends that carriers be required to provide the full legal name of the third-party vendor and its toll-free customer service telephone number prominently on the bill. The carrier's name and toll-free customer service number should be clearly stated at the top of its portion of the bill (and on the front page of the bill as described above).

If third-party charges have been billed by a billing company hired by the third-party vendor, the biller's full legal name and toll-free customer service telephone number should be stated near the top of the bill with the name and number of the third-party

vendor. A description of the relationship between the biller and the third-party vendor should also be provided on the bill to minimize customer confusion.

Telecommunication carriers should be required to remove disputed charges from the customer's bill when the customer reports that a third-party charge is unauthorized. Telecommunications carriers should be required to recourse the charges to the third-party vendor or billing company without further question to the customer. Once the third-party vendor or billing company is advised of the recoured charges, they then can choose to bill the customer directly.

Due Diligence

The MPSC supports threshold requirements. If a carrier receives a threshold number of cramming complaints (25 for example) regarding unauthorized charges for a specific billing company or third-party vendor, the carrier should be required to place the billing company or third-party vendor on alert that they are being observed for cramming violations. If the carrier receives a higher, second threshold number of cramming complaints (50 for example), the carrier should be prohibited from billing for the offending billing company or third-party vendor.

Federal and State Coordination

The MPSC recommends that the FCC create a list of state and federal agency contacts interested in cramming issues. The list could be based on a request submitted to all state commissions, the Federal Trade Commission, etc., asking for contact information (name, email address and telephone number) for a person or persons at that agency responsible for or otherwise interested in cramming issues. This list would be a resource for sharing cramming questions, information on significant cramming offenders, updates

on cases, and other relevant information. The group may wish to develop a mechanism for compiling and tracking this information in a useful manner.

Interconnected VoIP Service

The MPSC believes that providers of interconnected VoIP service should be subject to the same cramming requirements as wireline carriers. As mentioned earlier, a new provision in the Michigan Telecommunications Act (Section 313) allows VoIP to be considered a comparable service to wireline service. As of June 30, 2010, there were over 1,400,000 VoIP subscribers in Michigan (see FCC's report on [Local Telephone Competition: Status as of June 30, 2010](#)).

Effective Consumer Information Disclosure

The MPSC believes that carriers should already be doing much of what is being proposed in the NPRM as simply good business practice. Any cost estimates that the carriers may submit for complying with the proposed rules should be adjusted to reflect the difference between the cost of implementing the proposed rules and the cost of the practices that the companies already should have been performing to protect their customers from cramming. Currently, the carriers have a monetary incentive to allow third party vendors to use the carriers' bills to charge the carriers' customers, but not for following best practices to prevent cramming.

Communications Act

The MPSC agrees that the FCC has the authority to adopt cramming rules for wireline, and CMRS carriers based on Section 201 (b) of the Act. The proposed cramming rules should be enacted to implement the statutory requirement that all

charges, practices, classifications, and regulations for and in connection with interstate communications service be just and reasonable.

The MPSC believes that the Commission may need to invoke its Title I authority to adopt the proposed cramming requirements for interconnected VoIP providers.

Conclusion

The MPSC believes that the FCC can reduce the incidence of unauthorized billing on consumers' telephone accounts through the implementation of the aforementioned requirements. The MPSC appreciates the opportunity to comment as the FCC reviews this topic. The MPSC looks forward to reviewing the comments of the other parties in this proceeding and will continue to participate by filing reply comments to the extent that they add to the discussion of how to best address unauthorized billing to consumers' telephone accounts in today's telecommunications marketplace.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE
COMMISSION**

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