



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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FCC ENFORCEMENT ADVISORY

CRAMMING

Enforcement Bureau Aggressively Pursuing “Crammers”; Consumers Advised to Carefully Review Phone Bills for Unauthorized Charges

Recently, the Federal Communications Commission acted on four major investigations by the Enforcement Bureau involving “cramming” – that is, placing unauthorized charges on consumers’ phone bills. In these cases, the Commission proposed very substantial penalties ranging from \$1.5 million to \$4.2 million per company, having found that each of the companies involved appears to have charged thousands of consumers for services that they never wanted, ordered, or used. We are issuing this enforcement advisory to remind companies that this agency will not tolerate the abuse of consumers by this unscrupulous practice, and to emphasize to all who might be involved in such activities that they may face very severe penalties. We also urge consumers to be vigilant in protecting themselves by thoroughly reviewing their bills, reporting any discrepancies promptly, and filing complaints with the FCC.

What is cramming? Cramming is the practice of adding charges to a customer’s phone bill without the customer’s authorization. These charges typically might be as small as \$1.99, or as substantial as \$19.99 per month, and are not generally disclosed clearly or conspicuously on the bill. As a result, the charges can go undetected by the consumer for many months or even years. The cramming party can be the customer’s own carrier or an unaffiliated third party. The charges can be from carriers for additional phone services, voice mail and similar services, but they may also be from non-carriers for unrelated products and services such as chat lines, diet plans, and cosmetics.

What rules prohibit cramming? Section 201(b) of the Act mandates that “[a]ll charges, practices, classifications, and regulations for and in connection with [interstate and foreign] communication service [by wire or radio], shall be just and reasonable...” The FCC has found companies liable for including unauthorized charges and fees on consumers’ phone bills as an “unjust and unreasonable” practice under section 201(b).¹

Applying section 201(b) in the recent cases, the FCC found that the carriers involved had apparently engaged in constructive fraudulent activity as part of a plan to place charges on consumers’ phone bills for services that the consumers neither requested nor authorized. The Commission found the violations to be particularly egregious because of the number of consumers affected, and because the companies either knew or reasonably should have known that the consumers did not request, authorize, or use the services, based on the numerous consumer inquiries and complaints they received. Some of the companies were apparently billing thousands of consumers, the vast majority of whom had never heard of the companies, were unfamiliar

¹ See *Long Distance Direct, Inc. Apparent Liability for Forfeiture*, Memorandum Opinion and Order, 15 FCC Rcd 3297, 3302, ¶ 14 (2000). See also *Cheap2Dial Tel., LLC*, Notice of Apparent Liability for Forfeiture, FCC 11-90 (rel. June 16, 2011); *Main Street Tel. Co.*, Notice of Apparent Liability for Forfeiture, FCC 11-89 (rel. June 16, 2011); *Norristown Tel. Co., LLC*, Notice of Apparent Liability for Forfeiture, FCC 11-88 (rel. June 16, 2011); *VoiceNet Tel., LLC*, Notice of Apparent Liability for Forfeiture, FCC 11-91 (rel. June 16, 2011)

with the services they offered, and never used the services for which they were billed.

In addition, carriers should be mindful of the Commission's Truth-in-Billing Rules, which require that the billing carrier use clear, non-misleading, plain language in describing services for which a consumer is charged. The descriptions of charges must be specific enough so that customers can assess whether they were billed correctly for services they requested and received. The carrier also must identify the service provider associated with each charge and must display on the bill a toll-free number that a consumer can call to ask about or dispute any charge on the bill.

What can be done to help combat cramming? Billing carriers often become aware of unauthorized third-party billing as consumers generally contact them first to try to resolve the matter. We strongly urge those carriers to take steps to ensure that they bill only for those companies that obtain reasonable authorization from consumers before placing charges on their phone bills.

What can consumers do to protect themselves? Consumers should carefully review their bills each month, and confirm that any new or unusual charges are legitimate. If you see an unfamiliar charge, call the company that charged you, as well as the phone company that issued the bill, to get an explanation and a bill adjustment if appropriate. We encourage consumers to report to us any instances of cramming as these complaints allow us to take appropriate enforcement action. Consumers can file a complaint using an FCC [on-line complaint form](http://www.fcc.gov/complaints) at <http://www.fcc.gov/complaints>. They can also file a complaint with the FCC's Consumer Center by calling 1-888-CALL-FCC (1-888-225-5322) voice or 1-888-TELL-FCC (1-888-835-5322) TTY; faxing 1-866-418-0232; or writing to: Federal Communications Commission, Consumer & Governmental Affairs Bureau, Consumer Inquiries and Complaints Division, 445 12th Street, SW, Washington, D.C. 20554.

What are the roles of the FCC and the Federal Trade Commission (FTC) in protecting consumers against cramming? The FCC has jurisdiction under the Communications Act to police the practices of carriers, and the FTC has jurisdiction under the Federal Trade Commission Act to address cramming by non-carriers. The FCC coordinates with the FTC to ensure that all entities involved in third-party billing only charge for legitimate services that were authorized by consumers.

What should businesses do to ensure they are in compliance? The FCC encourages businesses to review section 201(b) of the Act, as well as the FCC orders cited above as they relate to the placement of charges on phone bills. Businesses should consult their own legal counsel with any questions pertaining to their particular operations. We expect this Advisory will lead to greater compliance with the Act in the charging and billing for telecommunications services. At the same time, however, we emphasize that section 201(b) provides important consumer protections and that we intend to continue to strictly enforce it.

What happens if companies do not comply with the law? Failure to comply with the Communications Act may subject a company to severe penalties including, but not limited to, substantial monetary forfeitures.

Need more information? For additional information regarding compliance and enforcement of Section 201(b) as it applies to cramming, you can contact Mika Savir at (202) 418-0384 or Erica McMahon (202) 418-0346, of the Enforcement Bureau. For general information on the FCC's rules, you can contact the FCC at 1-888-CALL-FCC (1-888-225-5322) or visit our website at www.fcc.gov. Consumers can also get more information by reviewing our fact sheet on cramming at <http://www.fcc.gov/cgb/consumerfacts/cramming.html>.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), (202) 418-0432 (TTY). You may also contact the Enforcement Bureau on its TTY line at (202) 418-1148 for further information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-Tell-FCC (1-888-835-5322).

Issued by: Chief, Enforcement Bureau