



Federal Communications Commission
Washington, D.C. 20554

May 17, 2013

DA 13-1140

Small Entity Compliance Guide

Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”); Consumer Information and Disclosure; Truth-in-Billing and Billing Format

Report and Order and Further Notice of Proposed Rulemaking
FCC 12-42
CG Docket Nos. 11-116, 09-158, 98-170

Released: April 27, 2012

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC’s approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC’s Consumer Center:

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TTY: 1-888-TELL-FCC (1-888-835-5322)
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Objectives of the Proceeding

“Cramming” is the unlawful and fraudulent practice of placing unauthorized charges (i.e. charges for services that the consumer did not authorize) on a consumer’s bill for telecommunications services. The Commission previously has determined that cramming is an unjust and unreasonable practice prohibited by section 201(b) of the Communications Act of 1934, and has adopted Truth-in-Billing rules in part to address cramming. In the April 2012 Report and Order, the Commission adopted additional safeguards for wireline telephone consumers that build on existing Commission rules and industry efforts to prevent cramming. These additional safeguards are necessary to better enable consumers to prevent cramming before it occurs and detect it if it does happen to them.

Cramming occurs when telephone companies bill consumers for unauthorized charges or allow third parties to place unauthorized charges on their consumers’ telephone bills, enabling consumers’ telephone numbers to operate similarly to a credit or debit card account number. . Entities that purchase billing-and-collection services from a telecommunications carrier need only an active telephone number, which can be obtained from a telephone directory, to place unauthorized charges on the consumer’s telephone bill.

New rules adopted in the April 2012 Report and Order require wireline carriers that currently offer blocking of third-party charges to clearly and conspicuously notify consumers of this option on their bills and websites, and at the point of sale; to place non-carrier third-party charges in a distinct bill section separate from all carrier charges; to provide subtotals in each section of the bill; and to display separate subtotals for carrier and non-carrier charges on the payment page of the bill.

These rules reflect an important step beyond the existing Truth-in-Billing rules by requiring additional clear and conspicuous disclosures and by requiring clearer and distinct separation of carrier and non-carrier charges. The Truth-in-Billing rules are codified at sections 64.2400 and 64.2401 of the Commission’s rules and, among other things, require that consumer bills: (1) be clearly organized, clearly identify the service provider, and highlight any new provider (*i.e.*, one that did not bill the customer for service during the last billing cycle); (2) separate charges by service provider; (3) contain full and non-misleading descriptions of the charges that appear therein; and (4) contain clear and conspicuous disclosure of any information that the consumer may need to make inquiries about, or to contest charges on, the bill.

Compliance Requirements

A. Disclosure of Blocking Options

We require wireline carriers to clearly and conspicuously notify consumers – at the point of sale, on each bill, and on their websites – of blocking options they offer. This required disclosure will benefit consumers by making them aware that non-carrier third-party charges can be placed on their telephone bills and by educating consumers about the blocking options carriers already offer voluntarily. Consumers will have the information necessary to take advantage of blocking options and thereby prevent cramming before it happens rather than having to dispute unauthorized charges after they have been crammed.

Consistent with our existing Truth-in-Billing rules, we afford carriers the flexibility to implement this requirement in the manner that best accomplishes the goal of the rule within the context of each carrier’s individual website, bill, and point-of-sale scripts. Each carrier’s disclosures must accurately reflect the capabilities of its blocking options.

B. Identifying Charges on Bills

We require carriers that choose to place non-carrier third-party charges on their own bills to their consumers to put such charges in a distinct section of the bill separate from charges assessed by carriers that

provide telecommunications services to the consumer. The Truth-in-Billing rules already require charges from different carriers to be separated and displayed by carrier, but do not require that charges from each individual carrier or type of carrier, *e.g.* local or long distance, be placed in distinct sections of the bill. Carriers are free to separate such carrier charges into different sections on their bills but are not required to do so. These new measures should ensure that carriers' choice of bill format does not, even unwittingly, contribute to consumer confusion about whether a third-party charge is from a carrier or from a third party that does not provide telecommunications services to them.

The rule does not prohibit carriers from using the same basic format for all third-party charges, provided the format otherwise complies with our rules. This rule does, however, require that non-carrier third-party charges be completely separated from carrier charges by placing them in their own distinct section of the bill so that it is clear and conspicuous to the consumer that all non-carrier third-party charges are in one part of the bill and that all carrier charges are elsewhere on the bill. Although a carrier's compliance with this rule will be determined on a case-by-case basis, a carrier might seek to comply by, for example, designating "Part A" of its bill for carrier charges and "Part B" for non-carrier charges. Similarly, a carrier may prefer "Part A" for its own charges, "Part B" for third-party carrier charges, and "Part C" for non-carrier third-party charges. With clear and conspicuous labeling of each section of the bill, such formats likely would comply with the requirement adopted in the Report and Order. We do not mandate any specific format, however, and carriers have flexibility to develop their own solutions that comply with the rule.

This rule does not change anything with respect to carrier billing for bundled services. A carrier may continue to place the bundle charge in the section of the bill containing carrier charges. To clarify, we do not disrupt the Truth-in-Billing rules that permit a carrier offering a bundle to treat the bundle as a single service offering even though the bundle may contain service provided by others.

We also require carriers to clearly and conspicuously identify and disclose separate subtotals for charges from carriers and charges from non-carrier third-parties on the payment page of their bills. For consumers who do not receive a paper bill, these subtotals must be clearly and conspicuously displayed in an equivalent location and in any bill total that is provided to the consumer before the consumer has an opportunity to access an electronic version of the bill, such as in a transmittal email message, on a payment portal, or on a webpage.

Effective Dates

Carriers were required to implement changes to their billing systems by December 26, 2012. Carriers were required to implement the required disclosures on their websites and at their points of sale by November 13, 2012.

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A copy of the *Report and Order* is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-42A1.pdf, FCC 12-42 (2012).