

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL**

Re: *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”), Consumer Information and Disclosure, Truth-in-Billing and Billing Format*; CG Docket Nos. 11-116 and 09-158, CC Docket No. 98-170; Report and Order and Further Notice of Proposed Rulemaking

Consumers have complained for well over a decade about being surprised to find various unauthorized charges popping up on their telephone bills. This practice commonly has been referred to as “cramming”. Dating back to 1999, the FCC began adopting various “Truth-in-Billing” rules to protect consumers from cramming practices. Nevertheless, according to the FCC’s records and numerous consumer complaints, it appears that “cramming” continues to vex consumers.¹

Accordingly, I vote to approve today’s report and order and further notice of proposed rulemaking. I was pleased that the report and order takes a narrower approach by focusing merely on disclosure requirements for wireline carriers, and wireline carriers only, instead of expanding these requirements to wireless and VOIP providers which have not experienced as high a consumer complaint rate compared to the wireline industry.

The order will make it easier for consumers to detect unauthorized charges on their wireline phone bills. Furthermore, our action will ensure that consumers are alerted of blocking options by wireline carriers that provide such blocking capabilities. This, in turn, will empower consumers to shield themselves from the practice of unauthorized charges being “crammed” on their wireline telephone bills.

Additionally, I note that prior to our action today, some carriers have already agreed to various voluntary efforts such as implementing consumer education efforts for consumers and launching an opt-in process. Furthermore, some carriers have even announced their intent to end the practice of placing third party charges for “miscellaneous” or “enhanced” services on their phone bills.

As for the issues discussed in the further notice, the Commission must keep in mind that new regulations almost always cause collateral and unpredictable economic effects. Therefore, it is my hope that the Commission will keep this law of bureaucratic physics in mind during any continued examination of cramming because regulatory burdens are ultimately passed on to consumers as additional costs. In that regard, I encourage any stakeholders that are concerned about costs of potential regulations to provide such burden estimates for the record. Also, if further action is deemed necessary

¹ Interestingly, however, according to the Bureau staff’s analysis of the FCC’s quarterly reports on informal consumer inquiries and complaints, the number of complaints received by the FCC regarding cramming dipped to approximately 1,700 complaints in 2011 compared to the higher complaint numbers in the previous three years (2,157 in 2008, 3,181 in 2009 and 2,516 in 2010).

and appropriate, the Commission must be ever vigilant in ensuring that it does not tread beyond its legal authority.²

I thank the Chairman and the Consumer Bureau staff for their efforts to find a narrow solution to thwart unauthorized cramming practices. I also would like to recognize the long hours spent by the majority staff of the Senate Commerce Committee to craft their report on the scope of the cramming problem and the negative effects of cramming on consumers.

² For example, the further notice explores whether the Commission should impose a requirement that third party charges would only be permitted if a consumer elected to “opt in”. In that context, the further notice points out that such an “opt in” regime would go beyond bill format and transparency issues and therefore raises questions as to whether the FCC would be exceeding its authority under Section 201(b) of the Act. 47 U.S.C. 201(b).