

Resolution Urging the Federal Communications Commission to Protect All Voice Service Consumers from Cramming Billing Practices

WHEREAS, On July 12, 2011, the Federal Communications Commission (FCC) released a *Notice of Proposed Rulemaking* (FCC 11-106; NPRM) proposing to implement more stringent rules specifically “designed to assist consumers in detecting and preventing the placement of unauthorized charges on their telephone bills, an unlawful and fraudulent practice commonly referred to as ‘cramming;’” *and*

WHEREAS, The FCC indicates that it previously chose to adopt “‘broad, binding principles’ to promote truth-in-billing, rather than mandating more detailed rules to govern the details or format of carrier billing practices,” and permitted industry to adopt a voluntary code of best practices designed to prevent the placement of unauthorized charges on consumer bills; *and*

WHEREAS, The FCC deems cramming to be an unjust and unreasonable practice in violation of Section 201(b) of the Communications Act of 1934, as amended (Act); *and*

WHEREAS, The NPRM recognizes and data suggest that, despite the FCC’s previous actions and other State and federal actions, “cramming is a significant and ongoing problem that has affected consumers for over a decade, and has drawn the concern of Congress, States, and other federal agencies” and “reports of cramming likely understate the magnitude of the problem because consumers face significant challenges in detecting and preventing unauthorized charges on their telephone bills;” *and*

WHEREAS, Carriers may have a financial *disincentive* to closely monitor customer bills because: (1) voice service providers often earn revenues by placing third-party charges on their customers’ bills; and (2) unauthorized charges often go undetected and unchallenged by consumers; *and*

WHEREAS, More than twenty (20) State Attorneys General, certain State public utility commissions, the National Association of State Utility Consumer Advocates (NASUCA), and the Federal Trade Commission (FTC) responded to the NPRM urging the FCC to ban all third-party charges on customer telephone bills in some measure; *and*

WHEREAS, Many State public utility commissions and consumer advocates, including the California Public Utilities Commission, the Indiana Utility Regulatory Commission, the Iowa Utilities Board, the Michigan Public Service Commission, the Nebraska Public Service Commission, the Rhode Island Division of Public Utilities and Carriers, Tennessee Regulatory Authority Chairman Kenneth C. Hill, staff from the Virginia State Corporation Commission, and through the New England Conference of Public Utilities Commissioners, the Connecticut Department of Energy and Environmental Protection Public Utilities Regulatory Authority, the Maine Public Utilities Commission, the Massachusetts Department of Telecommunications and Cable, the New Hampshire Public Utilities Commission, the Vermont Department of Public Service, and the Vermont Public Service Board, as well as certain State Attorneys General, NASUCA, the FTC, and others, offer alternative recommendations short of a complete federal ban on third-party charges; *and*

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) filed a letter with the Senate Committee on Commerce, Science, and Transportation (Committee) on July 12, 2011, commending the Committee’s “investigation into and hearing on cramming issues,” noting that the issue “continues to affect consumers despite unprecedented technological advancements in the telecommunications space marketplace and focused federal and State enforcement activity,” and indicating that it “stands willing to work with Congress, the FCC, FTC and other stakeholders to address this and other consumer concerns;” *and*

WHEREAS, NARUC adopted a Resolution in 2002, entitled *Telecommunications Consumer Bill of Rights*, which, among other things, affirmed that “consumers should have a right to receive clear and complete information about rates, terms and conditions for available products and services, and to be charged only according to the rates, terms and conditions agreed to” and called for consumers to have “fair, prompt and courteous redress for problems they encounter;”

WHEREAS, NARUC agrees that the FCC has sufficient legal authority to impose cramming prevention rules on traditional wireline service providers, interconnected VoIP service providers, wireless service providers and broadband Internet service providers; *and*

WHEREAS, The FCC and the market are quickly transitioning from a voice to a broadband-focused infrastructure; *now, therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 2011 Annual Meeting in St. Louis, Missouri, urges the FCC to implement mandatory cramming rules to all voice service providers that assess telephone bills on consumers, including traditional wireline service providers, interconnected Voice-over Internet Protocol (VoIP) service providers, and wireless service providers; *and be it further*

RESOLVED, That the FCC should mandate that all voice service providers offer a blocking option of third-party provider charges to their customers free-of-charge; *and be it further*

RESOLVED, That the FCC should mandate that all voice service providers disclose third-party blocking options to their customers on, at least, an annual basis; *and be it further*

RESOLVED, That all disclosure mandates by the FCC to address cramming billing practices be clear and conspicuous; *and be it further*

RESOLVED, That the FCC should clearly specify that federal cramming rules will not preempt more stringent or other State cramming standards, nor will they preempt States’ consumer protection rules or other regulatory authority; *and be it further*

RESOLVED, That the FCC should require voice service providers to report billing complaint trends and spikes driven by activity of specific third-party vendors to appropriate federal and State entities, including the FCC, FTC, and State public utility commissions, consumer advocates, and Attorneys General; *and be it further*

RESOLVED, As we transition to a broadband-focused infrastructure, one where the broadband Internet Service Provider may be the primary billing party, that the FCC should structure its cramming rules to provide protections to broadband service customers as well as voice service customers; *and be it further*

RESOLVED, That NARUC strongly endorses a federal-State collaborative approach to address cramming prevention.

Sponsored by the Committee on Telecommunications

Recommended by the NARUC Board of Directors November 15, 2011

Adopted by the NARUC Committee of the Whole November 16, 2011