



**Statement of
Walter B. McCormick, Jr.
President & CEO
United States Telecom Association
On the Topic of Preventing “Cramming”
Before the
U.S. Senate Committee on Commerce, Science & Transportation
July 13, 2011**

Chairman Rockefeller, Ranking Member Hutchison, Members of the Committee, thank you for giving me the opportunity to appear before you today and present the views of our industry on the important issue of preventing “cramming.”

The United States Telecom Association represents broadband service providers engaged in the business of offering advanced communications services. Previously known, years ago, as the United States Telephone Association, USTelecom today represents companies offering a wide range of voice, video, and data services, on both a fixed and mobile basis, in markets both urban and rural. Our member companies range in size from the largest publicly-traded communications corporations to small privately-owned companies and rural cooperatives.

Mr. Chairman, simply put, consumers should not be charged for services they did not purchase. I appreciate this opportunity to describe the measures that are being taken in our industry, both voluntarily and in compliance with federal regulation, to prevent cramming.

The FCC has identified three parties as typically being involved in the billing chain for products or services being charged on the consumer’s telephone bill – the third-party provider of that product or service, the billing consolidator or clearinghouse, and the local exchange company that presents the invoice to its customer. Each has a separate and distinct role and responsibility in relation to the consumer, and in protecting against fraud. The focus of my testimony will be on the third part of that chain, the local exchange carrier.

At the outset, it is important to note that with regard to local exchange companies, third-party billing had its genesis in a well-intentioned pro-consumer initiative by the federal government. In the wake of the AT&T divestiture, the FCC required telephone companies that had been part of the Bell System to bill and collect charges on behalf of competitive long distance carriers and enhanced services providers offering services such as phone mail, paging, prison calls, and conference calling – often in competition with the local exchange provider. While large long distance carriers contracted directly with the local exchange companies for billing, consolidators and clearinghouses served as middlemen for competitive service providers that were too small, or who had too few transactions, to contract directly with each local exchange company for billing services. The convenience of having all telecommunications-related services incorporated into a single bill was believed to be a pro-competition, pro-consumer requirement. Although the federal government later eliminated these regulations, the provision of third-party billing and collection services continues to be considered by many entirely legitimate businesses as an efficient and consumer-friendly way to bill for their products or services, and by many consumers as a convenience.

The history of the cramming problem is well known to this Committee. As telephone companies opened their billing systems to industry competitors and third-party providers, scammers and con artists took advantage of the ease with which they could obtain telephone numbers, and began defrauding both telephone companies and their customers by invoicing consumers for services that had not actually or knowingly been purchased. In response to a rapid growth in consumer complaints in the late 1990s, FCC Chairman Bill Kennard responded with a three-part initiative:

1. *A challenge to the industry:* to develop and implement a voluntary code aimed at preventing unauthorized charges from ever appearing on consumer bills. The industry responded immediately – producing “Anti-Cramming Best Practices Guidelines” within two months.
2. *The promulgation of new “truth-in-billing” rules:* to assure consumers that telephone bills would be well-organized and easily understandable, with full and non-misleading descriptions of charges, and directions on how to make inquiries about, or contest charges on, individual bills.

3. *Aggressive enforcement*: to take action against parties engaging in fraudulent practices.

These three complementary and inter-related measures – the industry’s 1998 *Anti-Cramming Best Practices Guidelines*, the FCC’s 1999 *Truth-in-Billing Order*, and agency enforcement – form the foundation of the basic framework in place today.

Although quite detailed, the key elements of the *Best Practices* can be summarized as calling upon local exchange carriers to provide:

- Pre-acceptance screening of third-party products, services and marketing materials;
- Procedures for monitoring complaint levels, and establishment of complaint level thresholds for terminating billing services for individual providers and billing aggregators;
- Procedures for authorization and verification of charges to ensure that consumers have, in fact, knowingly approved of them;
- Clear descriptions of charges, and information on how the consumer may challenge them;
- Options for consumers to take advantage of in order to control the types of charges that may appear on their bills; and
- Commitments to law enforcement and regulatory agencies to work cooperatively with them in eliminating cramming.

Today, just as the crammers, scammers and con artists have adopted new and more sophisticated approaches to evading detection, local exchange companies operating in conformance with the *Best Practices* have continued to evolve and improve their billing

practices to guard against consumer fraud. The steps that telephone companies are taking in order to better protect their customers fall into four distinct categories.

The *first level* of protection involves seeking to prevent bad actors from ever getting access to the telephone bill in the first place. This protection is sought through contractual commitments from billing aggregators requiring them to undertake active oversight of all service providers for which they intend to submit charges. For example, such contractual provisions typically:

- Require the billing aggregator to obtain a detailed application for each new service provider, including a review of ownership and product information, the bill description of the service, 800 customer service numbers and marketing materials.
- Require aggregators to obtain signed commitments from service providers that they will utilize acceptable authorization and verification processes and agree to audits of documentation. Such processes typically involve traditional letter-of-authorization or third-party-verification, with double-click options and “welcome packages” increasingly being employed on Internet-based transactions.
- Require aggregators to maintain a web site and toll free number for handling customer inquiries and complaints.
- Set cramming complaint thresholds for billing aggregators and individual providers, and provide for suspension or termination of billing services if those thresholds are exceeded. Such contractual provisions often include penalties to be paid by the aggregator for each complaint received in order to incent active oversight.
- And, require the billing aggregator to be subject to audits of its contractual obligations, and to pay penalties for being out of compliance.

The *second level* of anti-cramming protection involves continuing efforts to make new charges on a customer’s bill as clear and transparent as possible. This, of course, is both

consistent with, and pursuant to, the requirements of the FCC's *Truth-in-Billing Order*. For example, third-party charges are aggregated in a separate section of the consumer's bill, along with notification that such charges may be contested without risking phone service continuity. The *Order* requires that each charge be described in sufficient detail for the customer to understand it; and that contact information be provided for each service provider. Some telephone companies have found that, whenever a new charge appears on a customer's bill for the first time, it is helpful to highlight that charge on the first page of the bill with an explanation that it is a new charge from a third-party along with information for contesting the charges. And, as previously mentioned, the use of "Welcome Packages" in which the third-party provider sends information to the customer with specific detail concerning the terms of the purchase provides another level of assurance that the consumer has knowingly agreed to the charges.

The *third-level* of anti-cramming protection afforded to consumers by telephone companies is to provide an instant credit to any customer that notifies the company that there is a charge on their bill that is not recognized and/or unauthorized. The common practice among leading companies in the industry is to eliminate the charge – no questions asked. The goal of this "first-call" approach is to provide the customer with full relief without further hassle. And, while the customer is still on the phone, the company will offer to block further charges from that service provider, and to review prior bills to see if similar charges that previously went unnoticed need to be removed as well. Finally, many leading companies – including AT&T, Fairpoint, Frontier, Verizon and others – offer the customer the option of placing a block on *all* third-party charges, at no cost.

The *fourth level* of protection involves monitoring and audits. An essential element of cramming prevention is continuous review of cramming complaints to identify problems and to invoke the remediation provisions in the contracts with billing aggregators and individual providers – measures that include financial penalties, suspension of service, or termination of third-party billing services.

These measures, taken together, can have dramatic results. AT&T, for example, through a combination of audits, imposition of financial penalties for each cramming complaint received, and enforcement of complaint thresholds achieved an 89% reduction in consumer cramming complaints in a 17-month period – between January 2010 and May 2011.

Nevertheless, as today's hearing demonstrates, the problem of cramming persists. As the technology and sophistication of con artists and scammers increases, "best practices" must evolve, and all parties in the billing chain need to elevate efforts to prevent consumer fraud. Today's forum is an important step in that direction. We appreciate being given the opportunity to be a part of it.