MASSPIRG
Public Interest Advocate

44 Winter Street, 4th Floor | Boston, MA 02108
www.masspirg.org (617) 292-4800 (ph)
info@masspirg.org (617) 292-8057 (fx)

Massachusetts Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

RE: Comments relative to notice about review of consumer protection regulations in telephone and cable providers

From: Deirdre Cummings, Legislative Director, MASSPIRG, 617-292-4800

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MASSPIRG statewide is a non-profit, non-partisan member supported consumer advocacy organization with a 35 year track record of protecting consumers. Please accept these comments in response to your request soliciting feedback on the need to update consumer protection regulations in the telephone and cable industries. I will focus my comments solely on updating phone regulations, or more specifically, cell phone regulations – with the exception of dealing with "telephone cramming," also known as 3rd party billing which is most problematic now on land lines.

For the record, I am submitting 2 reports which we authored highlighting consumer problems with the cell phone service, billing and fees; *Can You Hear Us Now? A report on how the cell industry has failed consumers, including a cell phone shoppers' guide*, March 2005 and *Locked in a Cell, How cell phone early termination fees hurt consumers*, August 2005, which can also be found on our website, www.masspirg.org.

In a report released in March by the Federal Trade Commission (FTC), consumer complaints about "telephone and mobile services" ranked number 9, generating 37,000 complaints to the FTC in 2010.

A 2010 Federal Communications Commission (FCC) survey found that 30 million Americans – or one in six wireless phone users – have experienced a sharp and sudden increase in their monthly bill not caused by a change in their service plan.

While it also found that 58 percent of cell phone users are very satisfied with the number of places they can get a good wireless signal, this means that about a third of cell phone users were not very satisfied with their signals.

The findings show consumers suffer "bill shock":

• 84 percent said their mobile carrier did not contact them when they were about to exceed their allowed minutes, text messages, or data downloads.

• 88 percent said their carrier did not contact them after their bill suddenly increased.

The amount of bill shock varies widely but is often sizeable. In the survey, more than a third of people who experienced bill shock said their bills jumped by at least $50, and 23 percent said the increase was $100 or more.

Among the other finding consumers have problems with early termination fees (ETFs):

• 54 percent said they would have to pay an ETF should they terminate their contracts before the expiration date, and 18 percent didn't know whether they would have to pay or not.

• Of those who are subject to an ETF, 43 percent said it was $150 or more, but 47 percent didn't know how much it was.

• Only 36 percent of cell phone customers who are familiar with their bills said that they include "very clear" information on ETFs.

Early Termination Fees are anti-competitive. High fees for terminating contracts prevent consumers from shopping around and using the "market" to indicate consumer acceptance or failure of the product/service. For a detailed analysis of the consumer impact of the ETF fee, see our August 2005 report, *Locked in a Cell: How Cell Phone Early Termination Fees Hurt Consumers,"* on our website, www.masspirg.org.

Customer dissatisfaction with the cell phone industry demonstrates a need for basic, common-sense consumer protections. We reviewed the problems in detail in *Can you Hear Us Now* included with these comments. While the FCC has generally taken a "hands-off" approach to wireless regulation, states, including Massachusetts, can play an important role in establishing a set of basic service quality and customer service standards we have dubbed the Cell Phone Users' Bill of Rights which includes the following consumer provisions:

Better disclosure:

- All wireless contracts and marketing materials must clearly spell out the terms of the contract in an easy-to-read, standardized format so consumers can compare costs. The disclosures must be made available and accessible to consumers comparing prices and services.
- All providers must provide consumers with coverage maps that are as accurate as current technology would allow. These maps must be available on the provider's Internet site as well.

Billing:

- Cell phone bills must be clearly organized. All mandated government taxes, surcharges and fees required to be collected from consumers and to be remitted to federal, state, or local governments would be listed in a separate section of the bill and clearly itemized. This section of the bill may not include any charges for which the carrier is not required to remit to the government.

- Roaming calls must be itemized on the bill within 60 days of the call, and identify the date and location of the call.
- Charges from theft that arise after reported to the carrier may not be charged to the consumer as long as the consumer promptly reported the theft to the service provider.
- Consumers will be able to file billing disputes with the state utility commission and providers should not treat the disputed portion of the bill as late or terminate the contract or service for non-payment if the billing dispute complaint is pending with the state.

Service Quality:

- The DTE (Department of Telecommunications and Energy) would monitor service quality. Data should be collected and made publicly available so consumers can compare signal strength, dropped call counts and dead zones across carriers.

Service Contracts:

- Consumers would have a trial period during which a customer can cancel any new service contract without having to pay the hefty contract termination fee ($175-300). This gives consumer time to see whether the phone works where and how it was promised. Consumers would have 30 days to cancel after having received their first bill.
- Carriers can not extend a customer's contract without obtaining a customer's written permission. Currently, many consumers do not realize that they are extending their contracts by upgrading their phones or by increasing or decreasing the minutes in their plans.
- No contract for wireless telephone service can be longer than twelve months.
- Any material changes that the carrier makes to the contract must be provided to customers in advance, and customers would have a 30 day opportunity to terminate the contract without penalty and to receive a pro-rated refund of the charges they paid for purchasing a phone for the carrier's network.

Consumer Privacy:

- Carriers must obtain customers express permission prior to making cell phone numbers public. They may not charge a fee for keeping the number private.

Bill Shock:

- MASSPIRG supports including a provision now being considered by the FCC to require wireless providers to notify customers before and when they reach their monthly limits for voice, text, and data services. Customers would get a notice, such as a voice or text message, when they approach their limits. Notifying customers before they exceed their limits is a simple, effective way to prevent "bill shock."

Craming:

<u>Key Findings of the US Senate Committee on Commerce, Science and Transportation Staff's Investigation:</u>

- **Third-party billing is a billion dollar industry.** On a yearly basis, telephone companies place approximately 300 million third-party charges on their customers' bills, which amount to more than $2 billion worth of third-party charges on telephone bills every year. Over the past five years, telephone companies have placed more than $10 billion worth of third-party charges on their customers' landline telephone bills.

- **Most third-party charges appear to be unauthorized.** The evidence obtained through the investigation overwhelmingly suggests that a large percentage of these charges are unauthorized cramming charges.

- **Telephone companies profit from cramming.** Over the past decade, telephone companies have generated well over $1 billion dollars in revenue by placing third-party charges on their customers' telephone bills. Over the past five years, AT&T, Qwest and Verizon have earned more than $650 million through third-party billing. Verizon explained that it "receives a flat fee between $1 and $2 per charge for placing third-party charges" on its customers' bills. Because telephone companies generate revenue by placing third-party charges on their customers' bills, telephone companies profit from cramming.

Simply put, these deceptive and sometimes fraudulent solicitations for products that no one wants or agreed to buy have persisted for at least 15 years and show no signs of disappearing. **With a few exceptions for some regulated services, such as operator-assisted calls, it is time to put an end to third party billing on telephone bills by banning them at the state and/or federal level.**