

SB

138

<TARGET><BILL>SB 138</BILL><SUBJECT>SB
138</SUBJECT><COMM>SJUD27</COMM></TARGET>

ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 101
Juneau, AK 99801
(907) 465-2435
Fax: (907) 465-6615

Interim

716 W. 4th Ave, Ste. 540
Anchorage, AK 99501
(907) 269-0120
Fax: (907) 269-0122



Chair

State Affairs Committee

Co-chair

Joint Armed Services Committee

Vice Chair

Resources Committee
Judiciary Committee

Member

Administrative Regulation Review

Senator_Bill_Wielechowski@legis.state.ak.us

SENATOR BILL WIELECHOWSKI

Protecting Alaskans From Unethical Telephone Billing Practices SPONSOR STATEMENT

Senate Bill 138 would prohibit the practice of third-party telephone bill cramming in the state of Alaska. Cramming is the practice of third-party businesses charging customers on their telephone bills without properly obtaining prior authorization. The charges are included in monthly telephone bills, and the payments are relayed from the telecommunications provider to the third-party company.

Unlike normal businesses where a customer agrees to pay for services and is billed directly from the company, cramming charges consumers through an unlikely mechanism for unauthorized services. Customers do not expect to pay for groceries at the airport or gasoline at a restaurant, and customers expect the same treatment for monthly telephone bills. SB 138 would make sure consumers get what they expect, telephone bills that only contain charges related to telecommunication services. Cramming is a multi-billion dollar industry in the United States and occurs in Alaska on a smaller scale. This bill would stop third party telephone bill cramming in Alaska in its infancy and keep more money in consumer's pockets to spend on legitimate goods and services.

In the absence of congressional action, Vermont enacted popular legislation in 2011 to ban cramming. The State of Alaska has regulatory authority over landlines and wireless service providers in rural Alaska that are carriers of last resort, so this bill would target cramming as it relates to those services.

I ask that you support SB 138 to protect Alaska consumers from this deceptive and unethical practice.

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Senator_Bill_Wielechowski@legis.state.ak.us

SENATOR BILL WIELECHOWSKI

MEMORANDUM

DATE: 23 February 2012

TO: Senator Egan

FROM: Senator Wielechowski *BW*

SUBJ: Changes in CS to SB 138

Below you will find a description of the changes made to SB 138. These changes are a combination of advice from the Attorney General's office and suggestions from Billing Services Group (BSG).

- In section 1, the definition for "telecommunications carrier" has been limited to a single definition. Previously, this definition captured "those who were eligible for universal service fund." This change was made because previous language captured wireless carriers, which is not the intent of SB 138.
- In section 1, subsection d was moved from section 3 and placed in this section. This was done because the RCA's jurisdiction is defined by statutes 42.05. Previously, the RCA was given regulatory authority by placing section 1, subsection d in section 3. Sections 2-4, though, are written into consumer protection statutes, beginning with 45.50.
- In section 3, subsection c, the language of the exceptions was cleaned up on advice from the attorney at the RCA. The previous language was redundant.
- In section 3, subsection c, part 4, (A) – suggestions by BSG to clarify how express authorization is obtained and verified.
- Section 3, subsection d, defines "billing agent" and "express authorization"
- Section 3, subsection d, part 3 makes the definition of "telecommunications carrier" inclusive of landline telephone bills only. Previously, the definitions captured wireless carriers.

CS FOR SENATE BILL NO. 138(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS WIELECHOWSKI, DAVIS, AND EGAN, Ellis, Thomas

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the inclusion of the charges of a vendor of goods or services on the
2 bills of certain telecommunications carriers; and adding an unlawful act to the Alaska
3 Unfair Trade Practices and Consumer Protection Act."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 42.05 is amended by adding a new section to article 8 to read:

6 **Sec. 42.05.715. Telecommunications carrier bills; disclosures and**
7 **contested charges.** (a) A telecommunications carrier shall clearly identify in separate
8 sections of a customer's bill

9 (1) charges by each person or billing agent that generates a charge on
10 the bill; and

11 (2) the information provided to the telecommunications carrier under
12 (b) of this section.

13 (b) A person or billing agent may not charge customers of a
14 telecommunications carrier on the carrier's bill for a product or service unless the

1 person or billing agent provides to the telecommunications carrier the following
2 information:

3 (1) the amount charged for each product or service, separately
4 identifying taxes or surcharges;

5 (2) a clear and concise description of the product or service that is the
6 basis of the charge;

7 (3) the name of the entity providing the product or service or otherwise
8 generating the charge; and

9 (4) a toll-free telephone number or other no-cost means of contacting
10 the entity generating the charge to resolve a dispute regarding the charge.

11 (c) A telecommunications carrier may not discontinue services to a customer
12 based on the customer's failure to pay a charge of another person or billing agent
13 appearing on the telecommunications carrier's bill, when the customer has contested
14 the charge using the contact information provided under (b) of this section and orally
15 or electronically informed the telecommunications carrier of the reason for
16 nonpayment.

17 (d) A telecommunications carrier may recover from a person or billing agent
18 reasonable costs incurred in implementing billing changes or otherwise complying
19 with this section.

20 (e) The commission may adopt regulations to carry out the provisions of this
21 section.

22 (f) In this section,

23 (1) "billing agent" has the meaning given in AS 45.50.476;

24 (2) "telecommunications carrier" means a telecommunications utility
25 required to be certificated by or registered with the Regulatory Commission of Alaska.

26 * **Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:

27 (58) violating AS 45.50.476 (charges billed by telecommunications
28 carriers).

29 * **Sec. 3.** AS 45.50 is amended by adding a new section to read:

30 **Sec. 45.50.476. Charges billed by telecommunications carriers.** (a) Except
31 as provided in (c) of this section, a person or billing agent may not bill charges for

1 goods or services on a customer's telephone bill from a telecommunications carrier.

2 (b) A person or billing agent may not induce a telecommunications carrier,
3 directly or through an intermediary, to bill a customer for goods or services of a
4 vendor unless the billing is permitted under (c) of this section.

5 (c) This section does not apply to an itemized billing in compliance with
6 AS 42.05.715 for

7 (1) the sale of goods or services governed by an effective tariff of

8 (A) a public utility operating under a certificate of public
9 convenience and necessity issued by the Regulatory Commission of Alaska; or

10 (B) a carrier operating under a certificate, license, or
11 authorization issued by the Federal Communications Commission;

12 (2) direct-dial or dial-around services initiated from the customer's
13 telephone;

14 (3) operator-assisted telephone calls, collect calls, or telephone
15 services provided to facilitate communications to or from inmates in a correctional
16 center; or

17 (4) goods or services for which the person or billing agent has
18 provided the telecommunications carrier with

19 (A) the following:

20 (i) an electronic letter with the consumer's express
21 authorization of the charge;

22 (ii) proof that a written confirmation of the charge was
23 provided to the consumer; and

24 (iii) the consumer's birthdate or the last four digits of
25 the consumer's social security number; or

26 (B) independent third-party verification of the customer's
27 express authorization.

28 (d) Telecommunications carriers have no duty to verify independently the
29 accuracy of information received from a person or billing agent under this section.

30 (e) In this section,

31 (1) "billing agent" means a person or entity that aggregates consumer

1 billings or serves as a clearinghouse for aggregate billings and submits charges for
 2 goods or services to the billing telecommunications carrier on behalf of itself or a
 3 vendor;

4 (2) "express authorization" means

5 (A) a customer agreement to be billed for the charges in a
 6 signed, written document in paper, electronic, or digital form; or

7 (B) oral agreement to be billed for the charges after the
 8 customer's identity has been verified by an independent third-party verification
 9 company using unique identifying information;

10 (3) "telecommunications carrier" means a telecommunications utility
 11 required to be certificated by or registered with the Regulatory Commission of Alaska.

12 * **Sec. 4.** AS 45.50.481(a) is amended to read:

13 (a) Nothing in AS 45.50.471 - 45.50.561 applies to

14 (1) an act or transaction regulated under laws administered by the state,
 15 by a regulatory board or commission except as provided by AS 45.50.471(b)(27),
 16 [AND] (30), and (58), or officer acting under statutory authority of the state or of the
 17 United States, unless the law regulating the act or transaction does not prohibit the
 18 practices declared unlawful in AS 45.50.471;

19 (2) an act done by the publisher, owner, agent, or employee of a
 20 newspaper, periodical, or radio or television station in the publication or dissemination
 21 of an advertisement, when the owner, agent, or employee did not have knowledge of
 22 the false, misleading, or deceptive character of the advertisement or did not have a
 23 direct financial interest in the sale or distribution of the advertised product or service;

24 (3) an act or transaction regulated under AS 21.36 or AS 06.05 or a
 25 regulation adopted under the authority of those chapters.

27-LS1002\U
Kirsch
3/28/12

CS FOR SENATE BILL NO. 138()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS WIELECHOWSKI, DAVIS, AND EGAN, Ellis, Thomas

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25 regulation adopted under the authority of those chapters.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 11, 2012

SUBJECT: Sectional Summary of SB 138 (Work Order No. 27-LS1002\D)

TO: Senator Bill Wielechowski
Attn: Sam Gottstein

FROM: Lisa Moritz Kirsch
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill -- the bill itself is the best statement of its contents.

Section 1. Creates a new section to AS 42.05.715 of the Alaska Public Utilities Regulatory Act that

- requires telecommunications carriers to disclose detailed information on bills;
- precludes a telecommunications carrier from billing for a third person, corporation, or billing agent, unless the telecommunications carrier bill includes certain details of the third party's billing and a toll free-contact for the third party to resolve a disputed charge;
- forbids a telecommunications carrier from discontinuing service to a customer who uses the contact information on the bill to contest a charge and refuses to pay a charge from a third person, corporation, or billing agent; and
- defines the term "telecommunications carrier."

Section 2. Adds a new unlawful act or practice to the list in AS 45.50.471(b) for violation of new section AS 45.50.476.

Section 3. Creates a new section, AS 45.50.476, that precludes a telecommunications carrier from billing for another vendor of goods or services unless the services fall within a narrow list of exceptions, gives the Regulatory Commission of Alaska authority to adopt regulations to implement this section, and defines "telecommunications carrier" as it is defined in section 1 of this bill for AS 42.05.715 of the Alaska Public Utilities Regulatory Act.

Section 4. Adds the new unlawful act or practice from section 2 to the exceptions to the exclusive jurisdiction of the state, a regulatory board, or a commission.

LMK:ljw
12-008.ljw

WILLIAM H. SORRELL
ATTORNEY GENERAL
JANET C. MURNANE
DEPUTY ATTORNEY GENERAL
WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



TEL: (802) 828-3171
FAX: (802) 828-2154
TTY: (802) 828-3665
CIVIL RIGHTS: (802) 828-3657

<http://www.atg.state.vt.us>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

TESTIMONY OF ELLIOT BURG BEFORE THE U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION (JULY 13, 2011)

My name is Elliot Burg. I am a Senior Assistant Attorney General in the Vermont Attorney General's Office, where I have worked on issues of consumer protection since 1987. I very much appreciate the opportunity to testify today on the subject of cramming, on behalf of Vermont Attorney General William H. Sorrell.

Since the spring of 2010, I have overseen a multi-pronged investigation into "cramming" in Vermont—that is, the practice of charging consumers and businesses on their local telephone bills for third-party services¹ without their authorization or knowledge. Based on the results of that investigation, which is still ongoing, some important observations can be made about the *nature and scope* of the problem of cramming. In addition, out of the investigation has come a state legislative proposal, enacted into law earlier this year, which represents a potential *solution* to the problem.

The investigation

In the spring of 2010, the Vermont Attorney General's Office sent a Civil Investigative Subpoena under the state's Consumer Fraud Act, 9 V.S.A. § 2460, to the first of what would ultimately be four billing aggregators—the companies that arrange for the placement of charges on local telephone bills to pay for third-party services². Based on complaints filed by consumers with the state, there was reason to believe that the sellers of those services (called "merchants" here) had violated the Act by charging consumers³ without their authorization. There was also reason to believe that neither the vendors nor the aggregators were complying with a Vermont statute enacted in the year 2000 that sought to address the problem of cramming by requiring notice to consumers⁴ of billing in the form of a letter containing specified information about the charges, any right to cancel, and contact information for the Attorney General's Office.

¹ What are sold in this way are almost always services, rather than goods.

² Information and documents produced in response to such a subpoena are deemed confidential under 9 V.S.A. § 2460. As a result, this testimony details only facts obtained from other sources or otherwise made public, such as through formal settlements.

³ Under the Vermont Consumer Fraud Act, the term "consumer" in most situations includes businesses.

⁴ The notice requirement, enacted in the year 2000 and now substantially amended (as discussed below), was set out in 9 V.S.A. § 2466. That section required merchants to send the notice, but held both merchants and aggregators liable if that did not occur.

The aggregators were asked by subpoena to identify merchants for whom they had arranged for charges to appear on local telephone bills in Vermont. The Attorney General's Office then subpoenaed the merchants with the highest total of dollars billed, for detailed information on their Vermont "customers," their methods of doing business, and their marketing materials, including web pages and telephonic scripts. Surveys were mailed to a number of the customers, asking, among other things, whether they were aware that they had been charged for the particular service, whether they had received notice of the charges other than on their local telephone bill, and whether they had consented to the charges.

The merchants consisted mostly of companies we had never heard of—such as More Local Reach, MyiProducts, YPD—that offered email, third-party voice mail, computer technical support, online directory listings, website hosting, and other services.

Conclusions drawn about the nature and scope of cramming

Three main conclusions were arrived at as a result of our investigation:

1. The level of consumer awareness about third-party charges on local telephone bills is very low. Of the 562 responses to 1700 surveys mailed in connection with the first of the aggregators to be investigated, only 8 (1.4%) recalled having received any separate written notice of their charges (although the merchants claimed to have provided notice, either online or through the mail), and only an estimated 27.4% noticed the charge within the first three months of its appearance on their telephone bill.⁵

2. The incidence of cramming is very high. Of the 562 respondents, fully 503 (89.5%) stated that they had not agreed to be charged for the third-party services that appeared on their telephone bill. Indeed, a number of these consumers indicated that they had no reason to order the services for which they were charged; the respondents gave such explanations as, "[I] have an answering machine [and so] would never use this service," "I had voicemail from the phone company [and] did not need [another service]," and "[I] can't imagine agreeing to voicemail since we have always had a personal voice recorder."

3. Deceptive telemarketing scripts have been used. Of the merchants who telemarketed their potential customers—usually businesses—a number used scripts that misstated the purpose of the call. Typical of those scripts was one employed by eBridge, Inc., which offered an online directory to local businesses using a script that began, "The reason I'm calling today is to make sure your information is listed correctly." In fact, the reason for the call was to sign up the business for a \$49.95-per month service.

⁵ A total of 234 (41.6%) responding consumers indicated on the survey that they noticed a third-party charge on their local telephone bill. It was then possible to identify the billing records of 205 of these consumers; and of that number, 135 (65.9%) were charged for fewer than four months. The resulting percentage of consumers who noticed the charge, but only within the first three months, was 41.6% x 65.9%, or 27.4%.

Merchant settlements

The investigation also led to a series of settlements, all in the form of Assurances of Discontinuance, with eight merchants. It is anticipated that there will be another 20 or more such settlements before the initiative is over. In all, the eight companies charged more than 7,000 consumers and 1,300 businesses in Vermont a total of over \$639,000.

The settlements were with the following companies:

- Douglas-Lambert Laboratories LLC, doing business as Orbit Telecom, of Henderson, Nevada, which charged more than 1,200 Vermonters over \$119,000 for a voicemail service between 2004 and 2006.
- Durham Technology, LLC, d/b/a MyiProducts IMail, of Indianapolis, Indiana, which charged more than 1,300 Vermonters over \$78,000 for a voicemail service between 2005 and 2010.
- eBridge, Inc., also known as Lawstar, Inc., doing business as B2B-ISP, eLink-ISP, InMySip, MSMB-ISP, and Zip Wide Web, Inc., also known as ZWW-ISP, based in Encino, California, which charged 485 Vermont businesses over \$93,000 for an online business directory service between 2004 and 2010.
- Liveonthenet.com, based in Huntsville, Alabama, which charged 852 Vermonters over \$56,000 for personal computer technical support between 2005 and 2008.
- More Local Reach, Inc., of Boca Raton, Florida, which charged 214 Vermont businesses over \$58,000 for online directory services between 2007 and 2010.
- Residential Email LLC, based in Henderson, Nevada, which charged more than 1,170 Vermonters over \$65,000 for an email service between 2005 and 2006.
- The Internet Business Association, Inc., based in Carson City, Nevada, which charged 435 businesses over \$86,000 for an internet and website address service between 2007 and 2010.
- YPD Corporation of Smyrna, Georgia, which charged 201 Vermont businesses over \$84,000 for online directory services between 2007 and 2010.⁶

Given that there are many more such companies, consumer losses in Vermont over the past six years have likely totaled in the millions of dollars—a significant issue for a state with a population of only 620,000, and an indicator that the problem nationwide is very substantial.

⁶ An example of these settlements accompanies this testimony as Attachment 1.

The solution: prohibition, not disclosure

Vermont's through-the-mail notice requirement enacted in 2000 to address the problem of cramming has not worked. For a decade, consumers have not received, seen or understood notifications that merchants claim to have provided; most of them have not readily noticed the merchants' charges on their telephone bills; and very few of them recall ever having agreed to be billed. In short, despite the notice requirement, consumers have continued to be crammed, a fact that is not surprising in light of the low level of public awareness that non-telephone charges can appear on one's telephone bill (any more than that third-party charges can be passed through to a person's electric bill, fuel bill, or monthly mortgage account statement).

In January 2011, the Attorney General's Office presented legislation *prohibiting* most third-party charges on local telephone bills for introduction in the Vermont Legislature. With the support of the local telephone companies, this anti-cramming measure passed both the Vermont House and Senate by voice vote, and on May 27, 2011, it was signed into law by Governor Peter Shumlin and became effective immediately.

The new law,⁷ which amends the earlier notice requirement, 9 V.S.A. § 2466, contains a general prohibition on third-party charges to local telephone bills, with the following limited exceptions:

- Billing for goods or services marketed or sold by a company subject to the jurisdiction of the Vermont Public Service Board;
- Billing for direct dial or dial-around services initiated from the consumer's telephone; and
- Operator-assisted telephone calls, collect calls, and telephone services that facilitate communication to or from correctional center inmates.

Vermont's statutory approach takes account of actual consumer expectations—*i.e.*, that consumers do *not* anticipate that they will be charged on their local telephone bills for third-party services. It is straightforward to enforce. It does not interfere with other methods of receiving payment for services provided, such as credit cards, debit cards, personal checks, and electronic funds transfers. And it is viewed as a solution to the problem of cramming in our state—one that other jurisdictions may wish to adopt in the future.

⁷ The text of the law is set out in Attachment 2 to this testimony.

Attachment 1

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

In Re eBridge, Inc., a/k/a Lawstar, Inc.,) Civil Division
d/b/a B2B-ISP, eLink-ISP, InMyZip,) Docket No. 276-5-11 WNW
MSMB2B-ISP, and Zip Wide Web, Inc.,)
a/k/a ZWW-ISP)

ASSURANCE OF DISCONTINUANCE

WHEREAS eBridge, Inc., a/k/a Lawstar, Inc., d/b/a B2B-ISP, eLink-ISP, InMyZip, MSMB2B-ISP, and Zip Wide Web, Inc., a/k/a ZWW-ISP, (hereinafter referred to as "eBridge"), is a California corporation with offices 16133 Ventura Blvd., Suite 855, Encino, CA 91436;

WHEREAS eBridge is a third-party provider of an online business directory to businesses, the charges for which were placed on local telephone bills with the assistance of a San Antonio-based company called Enhanced Services Billing, Inc. (ESBI);

WHEREAS eBridge solicited Vermont businesses over the telephone to purchase its service;

WHEREAS eBridge's charges to businesses averaged \$49.95 per month;

WHEREAS during the period 2004 to 2010, eBridge charged a total of \$93,007 to 485 businesses for its services that appeared on local telephone bills in Vermont's area code 802, with \$16,983 refunded;

WHEREAS sellers of goods or services that are to be charged on a consumer's (including a business') local telephone bill are required under 9 V.S.A. § 2466 to mail a notice to the party to be charged, containing information specified in the statute, including the consumer assistance address and telephone number specified by the Attorney General, which

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

notice must be a separate document sent for the sole purpose of providing that information and may not contain any inducement to purchase goods or services;

WHEREAS eBridge mailed notices to Vermont businesses that were charged for its services on their local telephone bills;

WHEREAS the Attorney General alleges that eBridge violated the Vermont Consumer Fraud Act, 9 V.S.A. § 2466, by not complying with that provision's notice requirements in that eBridge's notices (i) failed to include the consumer assistance address and telephone number specified by the Attorney General; and (ii) did not constitute separate documents sent for the sole purpose of providing the information required by the statute;

WHEREAS the script used by eBridge's telemarketers stated at the outset, "The reason I'm calling today is to make sure your information is listed correctly.";

WHEREAS the Attorney General alleges that the primary purpose of eBridge's calls was, instead, to solicit the purchase of its service, which was explained later in the company's telemarketing script;

WHEREAS the Attorney General therefore alleges that eBridge's script misrepresented the purpose of the company's sales calls, in violation of the Consumer Fraud Act prohibition on deceptive trade practices, 9 V.S.A. § 2453(a);

AND WHEREAS the Attorney General is willing to accept this Assurance of Discontinuance pursuant to 9 V.S.A. § 2459;

THEREFORE, the parties agree as follows:

1. *Injunctive relief.* eBridge shall comply strictly with all provisions of Vermont law, including but not limited to provisions of the Vermont Consumer Fraud Act, 9 V.S.A. chapter 63, relating to the placement of charges on local telephone bills and the prohibition on deceptive trade practices.

2. *Consumer relief.*

a. For each business from which eBridge has received money through a charge on a local telephone bill with a number in area code 802, eBridge shall, within ten (10) business days of signing this Assurance of Discontinuance, arrange for an electronic credit record to the business' local telephone company in the amount of all such monies that have not been previously refunded. eBridge shall use due diligence to ensure that accurate credits are provided to each business to whom a credit is due.

b. If a credit record sent under the preceding paragraph is not accepted or is returned by the local telephone company, eBridge shall, within ten (10) days of learning of the non-acceptance or the return, send to the business, by first-class mail, postage prepaid, a check in the amount of the credit due to the business' last known address, accompanied by a letter in substantially the form attached as Exhibit 1.

c. No later than 60 (sixty) days after signing this Assurance of Discontinuance, eBridge shall provide to the Vermont Attorney General's Office the names and addresses of the businesses whose telephone numbers were credited, and to which letters and payments were sent, under this Assurance of Discontinuance, along with the date and amount of each credit or payment.

d. No later than ninety (90) days after signing this Assurance of Discontinuance, eBridge shall pay the total dollar amount of all checks returned as undeliverable to the Vermont Attorney General's Office to be treated as unclaimed funds, along with a list in Excel format of the businesses to whom the monies due were not paid and their last known addresses.

3. *Civil penalties, fees and costs.* Within twenty (20) days of signing this Assurance of Discontinuance, eBridge shall pay to the State of Vermont, in care of the Vermont Attorney General's Office, the sum of ten thousand dollars (\$10,000.00) in civil penalties and costs.


4. *Binding effect.* This Assurance of Discontinuance shall be binding on eBridge, its successors and assigns.

5. *Release.* The State of Vermont hereby releases and discharges any and all claims that it may have against eBridge or its affiliates based on conduct or activities arising under or in connection with the Vermont Consumer Fraud Act prior to the date of this Assurance of Discontinuance.

Date: 3/21/11

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by: 
Elliot Burg
Assistant Attorney General

Date: 7/7/11

eBridge, Inc.

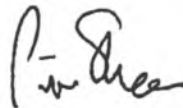
by: 
Its Authorized Agent

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

APPROVED AS TO FORM:



Elliot Burg
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609
For the State of Vermont



Peter J. Shakow, Esq.
Bird, Marella, Boxer, Wolpert,
Nessim, Dooks & Lincenberg, P.C.
1875 Century Park East, 23rd Floor
Los Angeles, CA 90067
For eBridge, Inc.

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

Exhibit 1 (Letter to Businesses)

Dear [Name of Business]:

eBridge, Inc. has entered into a settlement with the Vermont Attorney General's Office to resolve claims that we did not properly notify you of the fact that your business would be billed on your local telephone bill for our online business directory service, and that we used deceptive practices to interest you in buying our service.

As part of that settlement, we are enclosing a refund check for all of these charges. You have no obligation to do anything in response to this payment.

Sincerely,

eBridge, Inc.

Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

Attachment 2

Vermont "Anti-Cramming" Statute (2011)

9 V.S.A. § 2466 is amended to read:

§ 2466. GOODS AND SERVICES APPEARING ON TELEPHONE BILL

(a) Except as provided in subsection (f) of this section, a seller shall not bill a consumer for goods or services that will appear as a charge on the person's bill for telephone service provided by any local exchange carrier.

(b) No person shall arrange on behalf of a seller of goods or services, directly or through an intermediary, with a local exchange carrier, to bill a consumer for goods or services other than as permitted by this section. This prohibition applies, but is not limited, to persons who aggregate consumer billings for a seller and to persons who serve as a clearinghouse for aggregated billings.

(c) Failure to comply with this section is an unfair and deceptive act and practice in commerce under this chapter.

(d) The attorney general may make rules and regulations to carry out the purposes of this section.

(e) Nothing in this section limits the liability of any person under existing statutory or common law.

(f)(1) This section shall apply to billing aggregators described in 30 V.S.A. § 231a, but shall not apply to:

(A) billing for goods or services marketed or sold by persons subject to the jurisdiction of the Vermont public service board under 30 V.S.A. § 203;

(B) billing for direct dial or dial around services initiated from the consumer's telephone;
or

(C) operator-assisted telephone calls, collect calls, or telephone services provided to facilitate communication to or from correctional center inmates.

(2) Nothing in this section affects any rule issued by the Vermont public service board.



COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

OFFICE OF OVERSIGHT AND INVESTIGATIONS
MAJORITY STAFF

**UNAUTHORIZED CHARGES ON
TELEPHONE BILLS**

STAFF REPORT FOR CHAIRMAN ROCKEFELLER
JULY 12, 2011

EXECUTIVE SUMMARY

In May 2010, Chairman Rockefeller launched an investigation into third-party billing on landline telephone bills. He opened the investigation because consumers had complained for years that they were finding mysterious charges on their telephone bills for services they had not purchased. To understand the scope and the severity of this problem, commonly referred to as “cramming,” the Senate Commerce Committee staff has conducted a wide-ranging investigation over the past year.

The evidence obtained through this investigation suggests that third-party billing is causing extensive financial harm to all types of landline telephone customers, from residences and small businesses, to government agencies and large companies. Over the past decade, telephone customers appear to have been scammed out of billions of dollars through third-party billing on landline telephones. Unauthorized third-party charges are a nationwide problem.

THIRD-PARTY BILLING AND THE RISE OF CRAMMING

Cramming is not a new problem. It began appearing in the 1990s, when telephone companies opened their billing platforms to an array of third-party vendors offering a variety of services. For the first time, telephone numbers became a payment method equivalent to credit card numbers. Consumers and businesses could purchase products or services with their telephone numbers and the charges for the services would later appear on their telephone bills.

While the telephone companies’ decision to open their billing platforms had the potential to benefit consumers and businesses, cramming quickly emerged as an unintended consequence. The rise of cramming was so significant in the late 1990s that federal authorities, consumer advocates, and telephone companies all agreed that changes to the telephone companies’ third-party billing systems were needed.

At the time, both the Federal Communications Commission (FCC) and the telecommunications industry advocated for a voluntary approach, rather than rulemaking or congressional action. The United States Telephone Association told Congress that the industry “needed flexibility to deal with cramming on a case specific basis” and that “mandatory guidelines or a one-size-fits-all approach would erode that ability.” Although mandatory requirements for telephone companies were discussed, the problem was addressed almost exclusively through voluntary guidelines. The only mandatory requirements placed on telephone companies at the federal level have been the FCC’s “Truth-in-Billing” regulations, which require disclosure of third-party charges on telephone bills.

Over a decade later, thousands of consumers still regularly complain to the Federal Trade Commission (FTC) and the FCC about cramming, while state and federal authorities continue to bring law enforcement actions against individuals and companies for cramming. These cases have shown that consumers continue to be scammed out of millions of dollars through cramming.

THE SENATE COMMERCE COMMITTEE'S INVESTIGATION

To understand the scope of the cramming problem, the Committee requested information related to third-party billing and cramming from telephone companies; state and federal regulatory agencies; companies that offer third-party billing as a method of payment; consumers, businesses, and government agencies that have been affected by cramming; and companies that specialize in auditing telephone bills.

The evidence obtained and analyzed by Committee staff suggests that third-party billing on landline telephones has largely failed to become a reliable method of payment that consumers and businesses use to conduct legitimate commerce. Rather, it created cramming, a problem of massive proportions likely affecting millions of telephone users and costing them billions of dollars in unauthorized third-party charges over the past decade. With the exception of legitimate third-party vendors that offer services like satellite television and long distance, third-party billing appears to be primarily used by con artists and unscrupulous companies to scam telephone customers.

The key findings of the Committee staff's investigation are the following:

Third-party billing is a billion dollar industry. Telephone companies place approximately 300 million third-party charges on their customers' bills each year, 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.

A substantial percentage of third-party charges are unauthorized. While Committee staff cannot determine precisely how many third-party charges are unauthorized, the evidence obtained through the investigation suggests it is a large percentage.

- Telephone customers with third-party charges on their telephone bills overwhelmingly reported that the charges were unauthorized. Committee staff has spoken with more than 500 individuals and business owners whose telephone bills included third-party charges. Not one person said the charges were authorized. Law enforcement agencies have reported similar findings when conducting surveys for their own cramming investigations.
- Committee staff is aware of hundreds of third-party vendors whose actions suggest they are engaged in cramming. For example, a company specializing in auditing telephone bills reported that over 800 different third-party vendors had placed unauthorized third-party charges on its clients' landline telephone bills.
- Committee staff has found hundreds of egregious examples of cramming. Third-party vendors have enrolled deceased persons in their so-called "services" and charged family members' telephone bills for it. They have charged telephone lines dedicated to fire alarms, security systems, bank vaults, elevators, and 911 systems. Senior citizens' telephones have been enrolled in webhosting services, even though they have never used

the Internet. A children's hospital was charged for a "celebrity tracker" e-mail service that provided "daily celebrity news feeds, photos, and videos." A national bank's telephone lines were charged for "credit protection plans." Third-party vendors even crammed unauthorized charges for voicemail services onto AT&T's own telephone lines.

Telephone companies profit from cramming. Over the past decade, telephone companies have generated over \$1 billion dollars in revenue by placing third-party charges on their customers' telephone bills. Since 2006, 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. Documents reviewed by the Committee staff show that some telephone company employees feel financial pressure to approve third-party vendors even though the companies appear to be crammers.

Cramming affects every segment of the landline telephone customer base. Unauthorized third-party charges harm residences, small businesses, nonprofits, corporations, government agencies, and educational institutions. The Committee has accumulated thousands of examples of cramming on nonresidential telephone bills.

Examples of cramming on small business telephone lines. A small business that owns Popeyes and Krispy Kreme franchises reported that third-party vendors placed more than \$4,000 worth of charges on its telephone bills for electronic facsimile and other services it did not authorize or use. A small business owner in Nevada reported that seventeen different third-party vendors charged him over \$4,000 for online business listings, voicemail, identity theft protection, and streaming video services he did not authorize or use. A bicycle store owner in Illinois reported approximately \$1,500 of unauthorized charges for "virtual fax and voicemail" services she did not authorize or use.

Examples of cramming on corporate telephone lines. Large organizations are particularly susceptible to cramming because they often have thousands of telephone lines in hundreds of locations. Crammers appear to target them specifically. A national food chain reported over \$100,000 worth of unauthorized third-party charges on a yearly basis. Other companies provided similar figures. A national retail chain reported \$550,000 in unauthorized third-party charges on its telephone bills over the past decade. The retail chain estimates it has spent \$400,000 in resources battling unauthorized third-party charges.

Examples of cramming on government telephone lines. Local, state, and federal agencies also reported cramming on their landline telephone bills. The United States Postal Service would have paid almost \$550,000 in unauthorized third-party charges if it had not hired an auditor to examine its bills. The United States Naval Station in San Diego, California, reported its telephone bills included \$11,000 worth of unauthorized third-party charges in one quarter in 2009. Since November 2009, Los Angeles County has received \$306,000 in billing credits for unauthorized third-party charges on its AT&T

landline telephone bills. Los Angeles, Chicago, New York, and other large city governments also battled cramming charges.

Many third-party vendors are illegitimate and created solely to exploit third-party billing. Committee staff has found third-party vendors operating out of post office boxes, fake offices, and residences, with “presidents” that know nothing about their “companies.” One woman admitted that she became involved because “a friend said do you want to become president of a company.” Another “president” admitted that he did nothing more than sign his name to papers that were submitted to telephone companies.

Many telephone customers experiencing cramming did not receive help from their telephone companies. Although telephone companies said they instructed their representatives to assist customers with cramming problems, consumers and businesses frequently reported that the telephone companies were not helpful. Company representatives frequently stated incorrectly that telephone companies were “legally obligated to place the charges on their bills,” and that, “there was nothing they could do to help them.” Only after these consumers contacted the Better Business Bureau or their state attorneys general did their telephone companies provide assistance for many of them. Business and government offices had similar experiences. For example, an AT&T Senior Account Manager for the City of Tyler, Texas, stated, “Neither myself or my team can do anything to resolve these for you and this isn’t the first time we’ve been asked.” He added, “My former account Dallas County would have 20-30 per month...I wish, I really wish there was some way we could help but there is not.”

The telephone companies are aware that cramming is a major problem on their third-party billing systems. While telephone companies regularly tell their regulators and the media that their cramming complaint rates are low, internal documents reviewed by Committee staff show that the companies understand cramming is a major customer service problem. The companies have received hundreds of thousands of complaints using words like “fraud,” “scam,” “theft,” “hoodwinked,” “shocked,” “disgusted,” “upset,” “stealing,” “bad business,” “taking advantage,” “disappointed,” and “unethical” to describe their experiences with third-party billing. Furthermore, telephone companies deal with only a small fraction of the actual number of their dissatisfied, angry customers, because most customers either never realize they are being charged or they complain directly to third-party vendors. Over an eight month period in 2010, for example, more than 200,000 people directly called a set of related third-party vendors to cancel their services because they “did not understand,” “did not remember,” or “did not authorize” the charges. Over the same period, those third-party vendors only received 2,746 cramming complaints forwarded from telephone companies.

III. OVERVIEW OF THIRD-PARTY BILLING ON LANDLINE TELEPHONES

There are two types of third-party billing on landline telephones: (1) third-party billing where a vendor, such as a satellite television network or a large long distance provider, contracts directly with a telephone company to place charges on its customers' bills; and (2) third-party billing where the telephone company contracts with a "billing aggregator," or "clearinghouse," which maintains business relationships with hundreds of other smaller third-party vendors.

The Committee's investigation has focused on the latter arrangement because most third-party charges come through aggregators, and because consumer cramming complaints reviewed by Committee staff overwhelmingly relate to third-party charges placed through aggregators. As will be discussed in the section on "Illegitimate Third-Party Vendors," many third-party vendors that bill through aggregators appear to be created solely to exploit the weaknesses of the landline telephone third-party billing system.

A. *The Third-Party Billing Ecosystem*

When the Committee opened the investigation, Committee staff's understanding was that three types of companies play a role in third-party billing: third-party vendors, billing aggregators, and telephone companies.

Third-Party Vendors: Hundreds of different third-party vendors charge their customers for services through telephone bills. These companies claim to offer an array of services, including long distance, voicemail, online backup, online photo storage, roadside assistance, and electronic facsimile. To gain access to the telephone companies' third-party billing systems, they enter into contracts with billing aggregators. They also register directly with telephone companies and receive a carrier identification code ("sub-CIC") number.

Billing Aggregators: The FTC has explained that billing aggregators open "the gate to the telephone billing and collection system" and "act as intermediaries between the [third-party] vendors and the local phone companies" by "contracting with the local phone companies...to have the local telephone companies collect...charges from consumers."³⁰ Once the charges are collected by the phone companies, the billing aggregators, after taking their fee, pass the revenues back to their client vendors. A handful of aggregators manage third-party vendors' access to landline telephone bills. Aggregator names that appear commonly on phone bills are: ESBI, ILD Teleservices, OAN, Payment One, the Billing Resource, Transaction Clearing, and USBI.

Telephone Companies: Telephone companies control access to their customers' telephone bills and distribute the revenue generated from third-party charges. To place charges on telephone bills, a third-party vendor must first acquire a sub-CIC number and approval from a telephone company. Once a third-party vendor's charges appear on

³⁰ Federal Trade Commission, *Telephone "Crammers" Settle FTC Charges: Billing Aggregators Debited Phone Bills for Charges Consumers Didn't Authorize* (Aug. 6, 2001).

telephone customers' bills, the telephone companies, after collecting their fees, pass the revenue back to the billing aggregators, which then distribute the revenue to the third-party vendors. Committee staff has found that many telephone companies – from large national carriers like AT&T and Verizon to small independent carriers – place third-party charges on their customers' bills.³¹

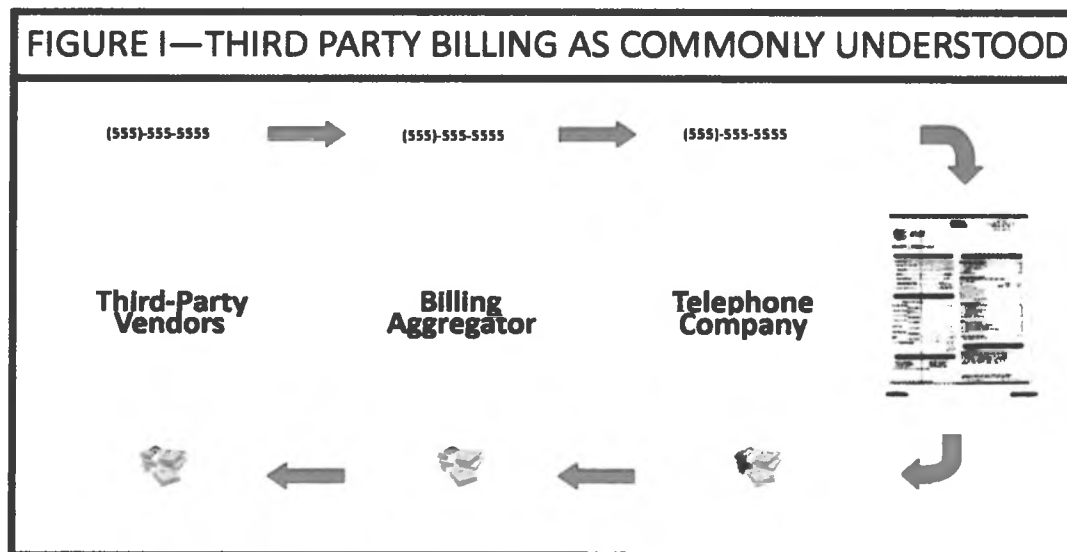
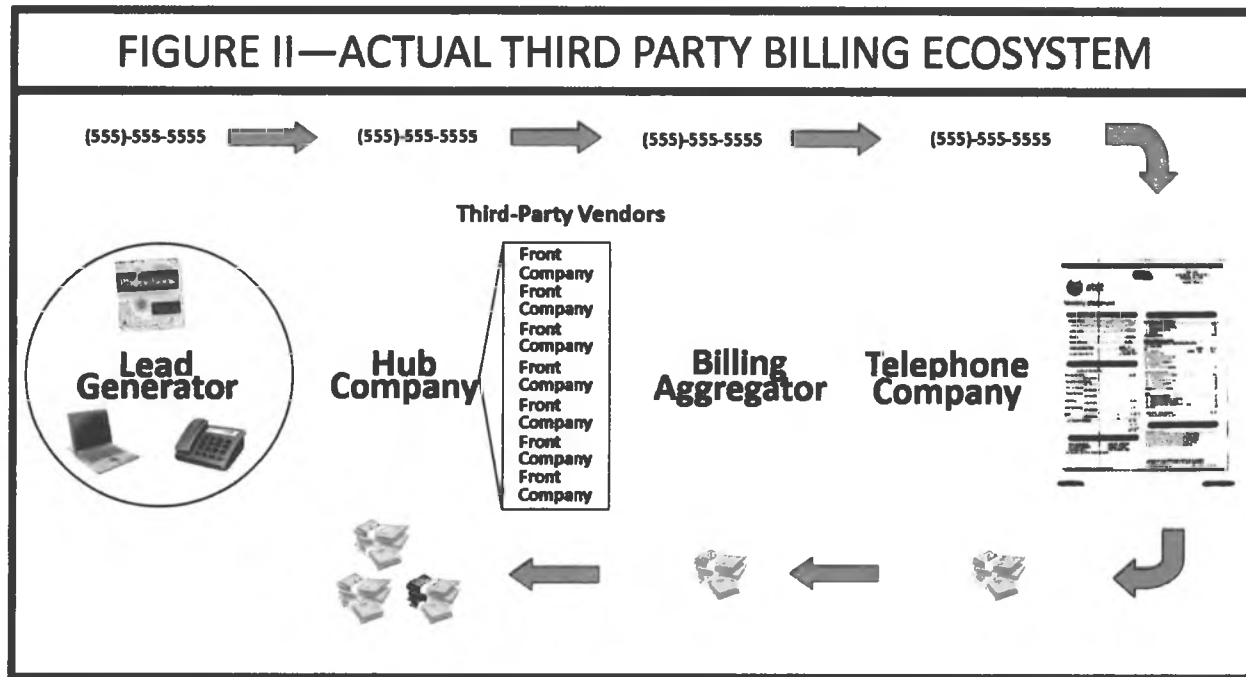


Figure I illustrates the third-party charge process as it is usually described by the involved parties. The third-party vendor allegedly sells a consumer a service and obtains the consumer's "authorization" to bill his or her telephone number. The vendor passes the number to a billing aggregator, which in turn passes the number on to the telephone company that provides the consumer's landline telephone service. The vendor's charge then begins appearing on the customer's telephone bill. Once a customer pays his or her bill, the telephone company collects the portion of the payment that covers the third-party charges and, after taking its fees for placing the third-party charges, distributes the revenue to the billing aggregator, which then distributes to the corresponding third-party vendor.

As Committee staff conducted the investigation, it became apparent that the actual third-party billing ecosystem is more complicated. Many third-party vendors are actually "front companies" for "hub companies" that handle every aspect of the vendors' business. In other

³¹ A number of smaller telephone companies do not allow third-party charges on their customers' bills. For example, the Shenandoah Telephone Company (Shentel) recently wrote Chairman Rockefeller that it eliminated third-party billing in 2007 after receiving cramming complaints from its customers. Letter from David E. Ferguson, Vice President – Customer Services, Shenandoah Telephone Company, to Senator John D. Rockefeller IV (July 5, 2011). The Western Telecommunications Alliance told Committee staff that some of its members terminated third-party billing "out of respect for their customers' dissatisfaction with being" crammed and due to "spending an inordinate amount of time and resources trying to get those charges removed from their customers' bills." E-mail message from Western Telecommunications Alliance to Commerce Committee Staff (July 11, 2011).

words, many third-party vendors do not actually provide the services they claim to provide in their applications to the telephone companies. Committee staff found dozens of examples of third-party vendors that were in fact controlled by hub companies.



The apparent purpose of hub companies is to game the third-party billing system. If a large number of consumers complain to telephone companies or law enforcement authorities about a particular third-party vendor, the hub company can simply shift additional enrollments to other third-party vendors it controls. When one larger company operates through multiple smaller third-party vendors, it is more difficult for telephone companies and other authorities to determine how much cramming is occurring and who is responsible for it. Part V of this report provides detailed information about hub companies Committee staff examined during this investigation.

Complicating matters further, Committee staff found evidence that hub companies outsource marketing and enrollment to companies called “lead generators.” Lead generators are paid to obtain customers’ “authorizations” to bill their telephone numbers. They pass the allegedly authorized telephone numbers onto the hub companies, which then pass the numbers to the billing aggregators under the names of different front companies. This arrangement invites abuse because lead generators are apparently paid based upon how many consumers they enroll, rather than for providing services or maintaining relationships with customers. Their practices will be discussed further in the next section of this report.

B. The Cost and Scope of Third-Party Billing

To understand the scope of third-party billing, the Committee requested financial information about third-party billing from eight providers of landline telephone service – AT&T, Verizon, Qwest, CenturyLink, Windstream, FairPoint, Frontier, and Cincinnati Bell. Based upon

third-party billing. In a complaint to the Better Business Bureau (BBB), an AT&T customer shared the following sentiment, which is also expressed in thousands of other complaints:

I am concerned for many like myself who really have to decide whether they are going to pay their bills or eat for the month. When I have tried [to contact] these fly by night companies who are bil[k]ing me with AT&T's blessing, I get the runaround or disconnected. This is very frustrating and it needs to stop. I never agreed to have AT&T allow third party billers to charge me for services I never ordered and do not want.³⁵

A. How Cramming Occurs

For cramming to occur, three separate actions are required: (1) a third-party vendor obtains the telephone number of a consumer who has allegedly purchased a service, (2) the third-party vendor submits that telephone number to a telephone company through a billing aggregator, and (3) the telephone company places the allegedly "authorized" charge for the third-party vendor on the consumer's telephone bill. Because telephone companies do not have their own processes to determine if a consumer has "authorized" a charge, once a company engaged in cramming has obtained a consumer's telephone number, it is a simple process to have the charge placed on the consumer's telephone bill. As a result, at its most basic level, cramming is about obtaining telephone numbers.

Crammers obtain telephone numbers in one of two ways. They either obtain a consumer's telephone number without ever interacting with the consumer; or they dupe a consumer, through abusive marketing, into providing his or her telephone number and "authorization." When they are asked to provide proof that a consumer has "authorized" a charge, crammers routinely provide information that is inaccurate or insufficient to show that a consumer knowingly purchased the service.

1. No Consumer Involvement

In the 1990s, the GAO observed that "[s]ome vendors apparently have simply lifted names and numbers from telephone directories to charge businesses for nonexistent services."³⁶ Through its investigation, Committee staff has obtained evidence showing that, over a decade later, third-party vendors continue to engage in similar practices. A third-party vendor needs nothing more than information that is publicly available, or that can be purchased from "lead generators," to enroll consumers in its so-called services. Unlike credit cards, which consumers know to protect, telephone numbers are widely available. Once crammers have obtained this information, it is a simple process to submit those numbers to telephone companies.

³⁵ Better Business Bureau, Complaint Activity Report, Case No. 27102339 (June 29, 2009) (AT&T Doc. CST009711).

³⁶ General Accounting Office, *Overview of the Cramming Problem* (GAO/T-RCED-00-28) (Oct. 25, 1999).

Telephone customers frequently submit complaints to telephone companies, consumer advocates, and regulatory offices with proof that they did not provide their telephone numbers to the third-party vendors that placed charges on their bills. The following examples are representative of thousands of complaints reviewed by Committee staff.

Deceased Relatives Many telephone customers complained that third-party vendors provided the names of deceased relatives when asked who authorized the charges on their telephone bills. A telephone customer stated, “they informed me my deceased son, he died nine years ago, had signed me up for this service,”³⁷ while another stated, “they told me it [the service] was ordered by Jean W.—he has been deceased for 36 years.”³⁸ Another frustrated customer stated, “They informed me that my husband...had ordered the service and I would have to know his security information. When I explained that my husband died 13 years ago, they told me that I must have ordered it in his name.”³⁹

Incorrect Personal Information Telephone customers repeatedly complained that the information that third-party vendors provided as proof of authorization was incorrect. A Verizon customer complained that “it was done in our daughter’s name but with her actual name reversed, wrong e-mail address, wrong birth date, but with our correct home phone number and home address. Neither we nor she ever signed up for this service.”⁴⁰

A Connecticut resident complained that a third-party vendor called Billviaphone.com had his address wrong and had informed him that “Michael...had signed up online.”⁴¹ He explained that, “[t]here’s no Michael here, just Mark & Nancy.”⁴² In another complaint, a manager from the Oklahoma Corporation Commission contacted AT&T on behalf of an Oklahoma resident. She was “concerned” about the proof of enrollment that had been provided because it was not the information for the person who had been charged.⁴³

Unpublished Numbers Numerous businesses and government agencies told Committee staff they have incurred crammed charges on telephone lines that are dedicated to alarm systems, elevators, modems, and other lines that are not assigned to any employees. They stated that they do not believe their employees could have enrolled those telephone lines in any services because the telephone numbers for the lines are unpublished and unknown to employees. For example, a large, multistate bank sent Committee staff a spreadsheet showing the following examples of cramming since May 2010:

³⁷ Consumer complaint to Arkansas Attorney General (Dec. 14, 2009) (AT&T Doc. CST029520).

³⁸ Consumer complaint to Kansas Attorney General (Nov. 1, 2009) (AT&T Doc. CST030067).

³⁹ Consumer complaint to Oregon PUC (July 2, 2008) (Qwest Doc. QSC0015024).

⁴⁰ Consumer complaint to Verizon (Aug. 20, 2009) (Verizon Doc. VZ_003_002040).

⁴¹ Consumer e-mail to Better Business Bureau of Connecticut (Aug. 21, 2009) (AT&T Doc. CST009842).

⁴² *Id.*

⁴³ E-mail from Oklahoma Corporation Commission to AT&T employees (Feb. 9, 2010) (AT&T Doc. CST0219835).

- alarm lines incurred charges for directory listings, “eBusiness Marketing Materials,” “online business,” electronic facsimile, long distance plans, and Internet radio;
- an ATM line incurred charges for “Internet services;”
- remote call forwarding lines incurred charges for “Instant 411,” online coupons, directory listings, photo storage, electronic facsimile, monthly ringtones, IT support, Internet TV, and music downloads;
- a modem line incurred charges for voicemail;
- a data line incurred charges for music downloads;
- emergency call lines incurred charges for electronic facsimile and online diet services;
- equipment monitoring lines incurred charges for voicemail;
- a VoIP test line incurred charges for music downloads; and
- a facsimile line incurred charges for online entertainment news.

Another bank told Committee staff that it believes that much of the \$20,000 worth of cramming it incurred in the first several months of 2011 occurred on unpublished telephone numbers for modems, alarms, facsimile machines, and other telephone lines that are not assigned to individual employees. An office property company reported that it has incurred charges on telephone lines for elevators and alarms. The U.S. Naval Computer and Telecommunication Station in San Diego stated that the crammed charges it has incurred on central office trunk lines must be “100% fraud” because Naval personnel do not know the telephone numbers associated with those lines, the numbers are unpublished, and the numbers do not appear on caller identification records because they are not connection points for telephone calls.⁴⁴

Fake Internet Enrollments Telephone customers have repeatedly complained that they were told they enrolled for third-party vendors’ services via websites, even though they did not have a computer or access to the Internet. An AT&T Arkansas customer explained, “I was told it was ‘triggered’ online. I have no computer...and have never been on-line.”⁴⁵

This type of complaint frequently came from senior citizens or their caregivers. A Qwest customer complaining on behalf of her father was told “that it was an online order of some sort,” but she explained that “her father who lives in an assisted living facility...does not own, or [know] how to use a computer.”⁴⁶

In a particularly egregious example, a man complained on behalf of his 82 year-old mother-in-law about a third-party vendor called Talent & More LLC,⁴⁷ which charged her telephone number for a “web-hosting personal profile” allegedly marketed to “casting agents”

⁴⁴ Committee staff telephone interview with United States Navy personnel (May 2, 2011).

⁴⁵ Consumer complaint to Arkansas Attorney General (Dec. 18, 2009) (AT&T Doc. CST029539).

⁴⁶ Consumer complaint to Oregon PUC (Apr. 24, 2008) (Qwest Doc. QSC0014820).

⁴⁷ Letter to the Office of the Connecticut Attorney General (July 22, 2009) (AT&T Doc. CST 2622056).

1. *Time and Money*

The unauthorized charges that are crammed onto telephone customer's bills are typically between \$10 and \$50. These charges, although relatively minor if they occur only once, can quickly amount to significant losses for telephone customers. To maximize revenue, crammers charge consumers on a recurring monthly basis for their "services," so that the charges will continue as long as consumers fail to discover them.

Residences and small businesses affected by cramming have generally experienced losses in the hundreds and thousands of dollars.⁵⁹ Larger organizations, like government agencies and corporations, sometimes experience unauthorized third-party charges worth tens of thousands of dollars a year.⁶⁰ Because large organizations often have thousands of telephone lines in hundreds of locations, they are particularly susceptible to cramming.

For example, the United States Postal Service would have incurred over \$500,000 worth of unauthorized charges if it had not hired a company to audit its telephone bills, while a large food chain told Committee staff that it incurs approximately \$100,000 worth of unauthorized charges on a yearly basis.⁶¹ Even AT&T experiences cramming on its telephone lines. Committee staff confirmed that third-party vendors associated with one hub company crammed at least 80 of AT&T's own telephone lines with charges for services such as voice mail, sometimes for periods as long as 18 months.⁶²

Battling unauthorized third-party charges also costs telephone customers significant amounts of time, effort, and money. Telephone customers shared the following experiences in complaints, which are similar to those of thousands of other customers:

- A Qwest customer stated, "this is the 5th time that I have had charges added to my bill...[e]very time I have spent at least a half hour of my time getting these services removed...I'm sick of this."⁶³
- An AT&T customer expressed his frustration after he tried unsuccessfully to have third-party charges removed from his bill. He stated, "[t]his is the 2nd or 3rd time within about 4 years that something like this has happened to us with AT&T . . . where they arbitrarily

⁵⁹ See Appendix A, "Cramming Case Studies," for summaries of telephone customers' experiences with third-party billing and cramming.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² 86 separate e-mails from AT&T employees to billing aggregator ESBI regarding cramming on 86 AT&T corporate telephone lines (dated Mar. 2, 2009 – Nov. 4, 2010) (produced to Committee by daData, Inc., without Bates numbers).

⁶³ State of Utah, Division of Public Utilities, Informal Complaint Report, Index No. 3343 (Aug. 3, 2010) (Qwest Doc. QSC0015631).

telephone companies. She receives a monthly check worth a few hundred dollars for serving as “president” of the company.¹⁰⁶

3. *Low Rates of Usage*

Committee staff obtained evidence from multiple third-party vendors showing that few, if any, of their “customers” were using the services for which the companies were charging them. These findings are consistent with those of other law enforcement inquiries into cramming. Low usage rates are strong evidence that consumers did not knowingly purchase the services and were not aware they were being charged for them.

“Voicemail” Services MySnS’s third-party vendors each charged telephone customers for “voicemail” services that were accessible only by dialing specific 1-800 telephone numbers. The Committee obtained MySnS’s telephone bill for December 2010, which showed that approximately 925 unique numbers dialed the 1-800 telephone numbers dedicated to “voicemail” services during the month.¹⁰⁷ At the time, at least 97,000 telephone customers were being charged for these services.¹⁰⁸ At best, less than 1% of the telephone customers charged for “voicemail” services used it in December 2010.

“Online Photo Storage” Services daData provided usage data for Coast to Coast Photo, Photo Cubbie, Residential Photo, and USA Photo House, which provided “online photo storage” and “100 prints per month” for \$14.95 per month. Of the 64,250 telephone customers that these third-party vendors enrolled in 2009 and 2010,¹⁰⁹ less than 2% loaded a digital picture to the websites.¹¹⁰

“Casual Online Gaming” Services With assistance from MORE International’s counsel, a counsel for the Committee enrolled in the “casual online gaming services” offered by EZPhoneBill, a third-party vendor associated with MORE, to determine whether enrolled telephone customers were using the company’s services. Committee staff had noticed that few, if any, “customers” appeared to be using its online gaming website, games.ezphonebill.com. Before Committee counsel accessed the website, the front page listed “No scores logged yet!” for its “All Time Top Scores,” even though it had enrolled more than 20,000 telephone customers in the service and generated almost \$1 million dollars by charging those customers \$14.95 per month.¹¹¹

¹⁰⁶ Committee Staff Telephone Interview (Feb. 9, 2011).

¹⁰⁷ MySnS Corporate Telephone Invoice (Dec. 11, 2010) (produced to Committee on Apr. 15, 2011).

¹⁰⁸ The number of enrolled customers is likely much higher, as MySnS only provided enrollment data for a subset of the third-party vendors that used the 1-800 numbers for voicemail services in December 2010.

¹⁰⁹ daData response to Questions 1(b), 1(j), and 1(k) (Apr. 1, 2011) (daData Doc. DAT158722).

¹¹⁰ Letter from Margaret Krawiek, Counsel to daData, to Senator John D. Rockefeller IV (Apr. 1, 2011).

¹¹¹ Letter from Linda Goldstein, Counsel to MORE International, to Erik Jones, Counsel to Senate Commerce Committee (Feb. 3, 2011).

5. *Committee Staff Calls to the Third-Party Vendors' "Customers"*

The Committee obtained the contact information for thousands of the telephone customers who had been charged by third-party vendors that were related to daData, MySnS, and MORE International. At random, Committee staff called consumers who had allegedly purchased services from the following third-party vendors: BLVD Network, Total Protection Plus, MyInfoGuard, Coast to Coast Voice, Nationwide Assist Fax, TriVoice International, Agora Solution, MyBillingServices, Xoom Telecommunications, and EZPhoneBill.

Committee staff called approximately 1700 randomly selected "customers," and spoke to over 500 of them about their experiences. Not a single individual or business owner reported that they had authorized the third-party vendors' charges on their telephone bills. Telephone customers either reported that they had already found the unauthorized charges and had them removed, or they were surprised to learn that their telephone bills included third-party charges.

Staff calls to "customers" of Total Protection Plus, for example, resulted in clear evidence of cramming. This daData-controlled vendor allegedly "offers customers electronic fax capabilities with online data back-up voice messaging with ID theft protection, and stand-alone voicemail access."¹¹⁶ daData informed the Committee that the Total Protection Plus "service" was marketed to individuals. The company provided the Committee the names, telephone numbers, and other information about customers who had allegedly purchased the service.

Although these documents identified the telephone numbers that were enrolled in Total Protection Plus as "Home Phone" numbers, Committee staff called dozens of the numbers and discovered that they belonged to government agencies and businesses. For example, some of the numbers belonged to a Taco Bell, a Wal-Mart, a Publix grocery store, the Broward County Sheriff's Office, an emergency room, a Capital One bank, the Jacksonville Aviation Authority, a juvenile detention center, Prince George's County Community Center, and the West Virginia Department of Highways. Documents daData produced to the Committee show numerous instances in which business and government offices complained that their telephone numbers had been enrolled in Total Protection Plus.

6. *Enrollments and Financials*

The third-party vendors related to daData, MySnS, and MORE International have enrolled millions of telephone customers in their "services" and have generated millions of dollars through recurring monthly charges. Over the past two years, daData-related third-party vendors enrolled over 800,000 telephone customers and generated more than \$50 million in revenue.¹¹⁷ As of April 2011, approximately 350,000 telephone customers were being charged by daData-related vendors on a monthly basis.¹¹⁸ Between 2007 and 2010, MySnS-related vendors enrolled 1,201,460 telephone customers and generated \$13 million in revenue.¹¹⁹

¹¹⁶ Lustigman Feb. 17, 2011 Letter, *supra* note 85, at 4.

¹¹⁷ daData response to Questions 1(b), 1(j), and 1(k) (Apr. 1, 2011) (daData Doc. DAT158722).

¹¹⁸ *Id.*

¹¹⁹ Letter from Joel Dichter, Counsel to MySnS, to Senator John D. Rockefeller IV (Jan. 19, 2011).

Cindy Smith

From: Thomas Presley
Sent: Wednesday, February 29, 2012 6:26 PM
To: Cindy Smith
Subject: SB 138 Hearing Request
Attachments: SB138 Ver.R.PDF; SB138-Sponsor statement.pdf; SB138-Sectional Analysis.pdf; SB138 Back up material-7.13.11 Testimony of Elliot Burg and VT Cramming Bill.pdf; SB138 backup material- US Senate Committee Findings.PDF; SB138-Exhibit II - Sample Enterprise Bill.pdf; SB138-Exhibit II -Sample Residential Bill.pdf; SB138-Fact Sheet.pdf; SB138 letter of support.pdf; Memo re SB 138 changes to Ver.R.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Cindy,

I am emailing you to request a hearing for SB 138 – a bill that prohibits unauthorized third-party charges to landline telephone bills. Attached you will find the following:

- SB 138 Version R
- SB 138 Sponsor Statement
- SB 138 Sectional Analysis
- SB 138 back up – testimony from VT Attorney General on cramming
- SB 138 back up – US Senate Committee Report on cramming
- SB 138 back up – Samples of home/enterprise telephone bills
- SB 138 Fact sheet
- SB 138 Letters of support
- SB 138 memo re: changes to Version R

SB 138 has two committee recommendations: Senate Labor and Commerce and Judiciary. It was moved out of Labor and Commerce yesterday.

Thank you for taking the time to review and consider SB 138. Please don't hesitate to contact me if you have any questions or concerns.

Thomas Presley

Office of Senator Bill Wielechowski
907.465.6252

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ALASKA STATE LEGISLATURE

Session

State Capitol, Rm. 101
Juneau, AK 99801
(907) 465-2435
Fax: (907) 465-6615

Interim

716 W. 4th Ave, Ste. 540
Anchorage, AK 99501
(907) 269-0120
Fax: (907) 269-0122

Senator_Bill_Wielechowski@legis.state.ak.us



Chair
State Affairs Committee

Co-chair
Joint Armed Services Committee

Vice Chair
Resources Committee
Judiciary Committee

Member
Administrative Regulation Review

SENATOR BILL WIELECHOWSKI

S.B. 138 Protecting Alaskans From Unethical Billing Practices

Fact Sheet

- According to an investigation by the U.S. Senate Committee on Commerce, Science and Transportation, telephone companies have placed more than \$10 billion worth of third-party charges on their customers' landline telephone bills over the past five years.
- Unauthorized third-party charges have been found on bills for residences, small businesses, nonprofits, corporations, government agencies, and educational institutions.
- The unauthorized charges "crammed" on telephone customer's bills are typically between \$10 and \$50. These charges, although relatively minor can quickly amount to significant losses for telephone customers.
- The intent of SB138 is to ensure that authorization for third-party charges and services is clearly obtained prior those charges being included on telephone bills.
- Obvious examples of cramming have been found on bills for deceased persons, the elderly, lines for fire alarms, elevators, and bank safes.
- Committee report shows evidence of third-party vendors operating out of fake offices with presidents who have no knowledge of their "companies."
- California, Illinois, Indiana, Kansas, Maryland, Minnesota, New Jersey, New York, Vermont, and Virginia have all passed laws banning cramming.



Alaska Public Interest Research Group
P.O. Box 101093 • Anchorage, AK 99510 • www.akpirg.org

**In Support of SB 138:
Protect Consumers from Tricks, Traps, and Hidden Fees**

Unbeknownst to most consumers, it's not just the telephone company that can charge money through a telephone bill. What's more, most charges made by third-parties on telephone bills are scams—unauthorized charges tacked on and hidden in the small print in a practice often referred to as “cramming”.

Across the nation, the practice nets about \$2 billion each year in largely unauthorized or fraudulent fees, often through fly-by-night operations created solely to exploit the system, operating out of P.O. Boxes or non-existent offices.

Unfortunately, the systems set-up by telephone companies have failed to solve the problem. In fact, telephone companies profit from cramming by charging fees to the third-parties, generating substantial revenue.

Here in Alaska, we have an opportunity to nip this problem in the bud. SB 138 would help end the practice of “cramming” unauthorized third party fees onto telephone bills for landlines, and for those wireless companies over which the Regulatory Commission of Alaska has authority.

Tricks, traps, and hidden fees harm consumers and do nothing to support Alaska's economy. On behalf of our members, we strongly urge your support.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Wallace".

Matt Wallace
Executive Director
Alaska Public Interest Research Group

Alaska Public Interest Research Group is a non-partisan, non-profit, citizen oriented statewide organization researching, educating and advocating on behalf of consumers and the public interest.

Craig F. Graziano
Office of Consumer Advocate, Iowa Department of Justice
Prepared Testimony
Judiciary Committee, Alaska Senate
March 26, 2012

Thank you, Mr. Chairman and Members of the Committee. My name is Craig Graziano. I am an attorney with the Office of Consumer Advocate in the Iowa Department of Justice. I also chair the Consumer Protection Committee for the National Association of State Utility Consumer Advocates. I am very pleased to address you today regarding the experience in Iowa with respect to the cramming of unauthorized charges onto consumer phone bills.

In Iowa, we have had a statute and regulation on the books since 1999. They prohibit unauthorized changes in telecommunications service, including both third-party and first-party "cramming."¹ The statute authorizes the Iowa Utilities Board to assess civil monetary penalties up to \$10,000 per violation.

The statute excludes wireless billings. As a result, our experience is largely confined to wireline billings. That is not to say the problem is confined to wireline billings. On the contrary, there is evidence nationally of its spread to wireless billings.²

Our office has had a steady enforcement effort in place for a decade, and I always go back to a statement our consultant made in our rule-making proceeding many years ago. She said: "The key point is to put in place a set of rules that will halt a fraudulent, unfair and deceptive practice. We can call them slamming and cramming and whatever we want, but we're dealing with classic consumer fraud, trying to get people to pay for something they haven't in fact bought."

Over the years, we have filed hundreds of petitions against scores of companies. Most of the cases have settled upon terms including a modest civil monetary penalty, typically \$1,500 today. We think the penalties take the profit out of the offending practices. They also have a beneficial sentinel effect that extends beyond the individual company and throughout the industry. Since our effort began, the volume of complaints has declined markedly. Some types of complaints appear to have dried up entirely. Previously frustrated consumers have often expressed appreciation for our efforts.

Our experience shows that the problem is complicated. We've regularly seen complaints regarding recurring charges for such things as long distance, online yellow page, voicemail and

¹Iowa Code § 476.103; 199 Iowa Admin. Code 22.23.

²See S. Hrg. 112-171, "Unauthorized Charges on Telephone Bills: Why Crammers Win and Consumers Lose," 112 Cong., 1st Sess. (July 13, 2011), pp. 9-10 (Florida Attorney General reached settlements with the four major wireless providers regarding unauthorized charges on wireless bills); *Verizon Wireless Data Usage Charges* (Consent Decree), 25 F.C.C.R. 15105 (FCC. 2010) (FCC reached consent decree with Verizon Wireless requiring refunds of data usage charges exceeding \$50 million, \$25 million voluntary payment to U.S. Treasury and compliance plan designed to eliminate cramming). There were news reports last month of thousands of complaints about charges for "mobile purchases" stemming from allegedly unsolicited and unwanted text messages from a company known as Love Genie Tips. "Look out for third-party charges on cellphone bill," *Palm Beach Post* (Feb. 24, 2012).

web hosting services. We've also seen complaints about charges for services that have little or nothing to do with telecommunications, such as a diet plan. In earlier years, we saw many complaints regarding allegedly bogus charges for individual long distance, collect, directory assistance and other types of calls. We have often seen complaints involving allegedly defective third-party verification recordings and allegedly bogus Internet sign-ups.

I've selected a few illustrative complaints. They only scratch the surface.

In one case,³ a collect call was supposedly accepted on a fax line at a school at 4:00 a.m. on Sunday.

In a second case,⁴ a series of calls from a sex hotline was supposedly received at the home of a 65-year old grandmother who lived alone. The company provided a voice recording supposedly showing that the call had been accepted by a male who identified himself as "Marcus Welby."

In a third case,⁵ the consumer advised that a voice recording had been "doctored" to make it appear an authorization had been given when in fact an authorization had not been given. The consumer wrote:

The tape is fraudulent. Kevin will swear that the recorded conversation never took place. The giveaway is that Kevin is project manager and head of the drafting department. He has never been or ever uses the term "administrative assistant" when referring to himself The tape [also] refers to "internet dial-up services." Why would we order "dial-up," when we have had high speed DSL for years?

In a recent federal court case in California, another company acknowledged that many of the voice recordings had been "spliced" or "otherwise falsified," apparently by telemarketers, most of whom were located overseas. Among other techniques, the telemarketers would digitally record the consumer's voice when the verifier was not on line, and then play the consumer's recorded voice in response to the verifier's questions when the consumer was not on line, in such a way that the call would classify as a valid sale. According to the evidence, there were tens of thousands of fraudulently manufactured sales, and by one study, 44 per cent of the recordings that had supposedly passed the TPV company's screens should have failed.⁶

In a fourth Iowa case,⁷ the company had supposedly obtained a birth date as validation of an alleged Internet order. The consumer denied having placed the order. He advised that he graduated from high school the year before the supposed birth date. He also advised that the e-

³C-2007-0086.

⁴C-2005-0204.

⁵C-2009-0184.

⁶*FTC v. Inc21.com*, 745 F.Supp.2d 975, 991 (N.D. Cal. 2010), *appeal pending*, No. 11-15330 (9th Cir.).

⁷C-2009-0286.

mail address supposedly supplied by him as a part of the order was similarly incorrect. According to the company, the order nevertheless *passed* its validation test, because the IP address from which the order came was within 100 miles of the consumer's street address.

The Federal Communications Commission later issued an order proposing a forfeiture of \$3,000,000 against this same company for alleged cramming violations of the same character.⁸ What all of this tells us is that the company – and both the FCC's experience and our Iowa experience confirm there are other companies doing the same thing – instituted a supposed validation system that does not validate. Contrast a PIN number system in which, if I put in a wrong PIN number, the system bounces back "invalid PIN number," and the transaction is rejected rather than approved.

Our experience suggests that many consumers never notice the unauthorized charges and hence that complaints are the tip of an iceberg. In 2005, for example, we had eleven complaints against two companies, each disputing a charge between \$5.00 and \$8.00 for a single collect call. An investigation by the Federal Trade Commission later revealed a "massive" fraudulent billing scheme that collected more than \$30 million in bogus collect call charges from millions of consumers.⁹

Before closing, I'd like to share two additional observations. First, it has long been my view that the states are the best forum in which to seek to stop the problem. They are close to the complainants. They often have the resources both to assist the victims and to institute enforcement proceedings. There is also a history on the role of the states. In the 1990s, state public utility commissions and state attorneys general, in actions affecting nearly 400,000 consumers, ordered carriers to pay at least \$13.4 million in restitution and at least \$4.1 million in penalties for cramming and slamming violations. That's according to the U.S. Government Accountability Office.¹⁰ For reasons such as these, I think efforts such as yours are precisely what is needed most.

Lastly, it is important to be wary when you write exceptions into your statute, so as not to exclude the very things you are trying to reach. Twelve years ago, the Iowa Utilities Board wrote a rule excluding "acceptance of collect calls" from the Iowa definition of cramming. For many years, both the Board and our office thought this language excluded billings for collect calls from the definition of cramming in cases in which the calls were accepted and the charges thus authorized, but, and this is the important point, that billings for collect calls that were not accepted and for which the charges were not authorized fell within the definition of cramming and were therefore prohibited. I think that view accords with most views on the topic, including those of the Federal Trade Commission in the case of the massive \$30 million collect call fraudulent billing scheme that I mentioned a moment ago. Last year, however, the Iowa Supreme Court held that the rule as written has the effect of removing collect call charges

⁸*VoiceNet Telephone, LLC*, FCC 11-91, 26 F.C.C.R. 8874, 2011 WL 2433349 (FCC 2011).

⁹"Phone Bill 'Cramming' Defendant Settles FTC Charges," <http://www.ftc.gov/opa/2007/10/nationwide.shtm> (FTC 2007)

¹⁰U.S. Government Accountability Office, "*Telecommunications: State and Federal Actions to Curb Slamming and Cramming*," Report No. GAO/RCED-99-193 (July 1999), <http://www.gao.gov/archive/1999/rc99193.pdf>, p. 14.

altogether from the Iowa definition of cramming, whether or not the calls were accepted and the charges thus authorized.¹¹ Again, you want to be careful when you write exceptions so as not to end up excluding the very things you are trying to reach.

In summary, I think the goal should be to eradicate unauthorized charges on phone bills. I'd like to thank you again for inviting my testimony. I'd be happy to attempt to answer any questions.

¹¹*Evercom Systems, Inc. v. Iowa Util. Bd.*, 805 N.W.2d 758 (Iowa 2011).



AARP Alaska
3601 C Street
Suite 1420
Anchorage, AK 99503

T 1-866-227-7447
F 907-341-2270
TTY 1-877-434-7598
www.aarp.org/ak

March 23, 2012

The Honorable Hollis French, Chair
Senate Judiciary Committee
Alaska State Capitol, Room 417
Juneau, AK 99801-1182

RE: SB 138 (Wielechowski, Davis, Egan)—Support

Dear Chair French:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Judiciary Committee to support SB 138, authored by your Committee Vice-Chair Senator Bill Wielechowski and Senators Bettye Davis and Dennis Egan and co-sponsored by Senators Johnny Ellis and Joe Thomas.

Essentially, SB 138 would prohibit "cramming." Cramming is the practice of submitting or including unauthorized charges on a consumer's telephone bill. Examples of cramming include charges that are added without a clear description of the service provided (such as "monthly fee" and "service charge") and charges for services that the customer did not request or authorize (such as voice mail, caller ID, pay-per-call services, and club memberships)

SB 138 will help curb this deceptive marketing practice.

AARP recommends an "AYE" vote on SB 138.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Bill Wielechowski
Senator John Coghill
Senator Lesil McGuire
Senator Joe Paskvan



Senator Hollis French, Chair
Senate Judiciary Committee
Alaska State Legislature
Juneau, Alaska

March 22, 2012

RE: CSSB 138

Dear Senator French,

Alaska Communications discourages further action on CSSB 138. However, if further action is taken by the Senate Judiciary Committee, Alaska Communications recommends a few amendments, which are attached to this letter.

If enacted, CSSB 138 would place new burdens on telecommunications providers that provide third party billing services. Alaska Communications opposes this legislation because there is no evidence of a problem in this area that needs fixing. We are not aware of any consumer rebellion tied to third party billing, we do not have a large in-box filled with complaints, and we are not aware of this being an issue for other telecommunications providers in Alaska. For these reasons, we see no need for legislation such as CSSB 138.

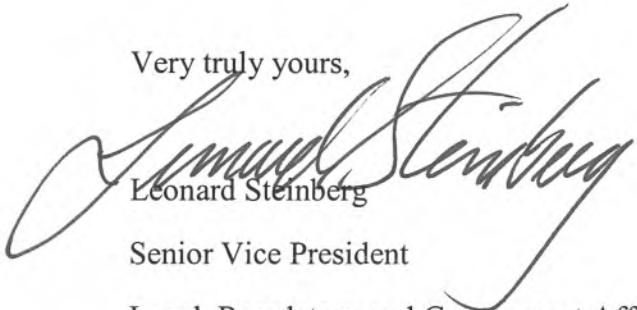
Alaska Communications does bill customers for third parties at the same time it bills for its own services. Customers do short pay bills and when they inform us of the reason we allocate the funds submitted appropriately. Too often, however, customers fail to explain why they bill is short paid or how to allocate the funds they submit. In the absence of any information from the customer, Alaska Communications applies a rational allocation of the funds between itself and the third parties. This can lead to nonpayment of telephone bills through no fault of the telephone provider.

Alaska Communications takes its responsibility to provide quality services very seriously. Customers too, however, need to be responsible and explain why they have short paid a bill and

how to allocate any funds submitted. Therefore, although Alaska Communications sees no need for this legislation at all, we submit the attached proposed amendment providing for customer responsibility for your consideration.

Please let me know if you would like additional information.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read "Leonard Steinberg". The signature is written in a cursive style with a large initial "L" and "S".

Leonard Steinberg

Senior Vice President

Legal, Regulatory and Government Affairs

CS for SB138 – Suggested Amendments

"An Act relating to the inclusion of the charges of a vendor of goods or services on the bills of certain telecommunications carriers; and adding an unlawful act to the Alaska Unfair Trade Practices and Consumer Protection Act."

***Section 1.**

Section 42.05.715 (b) add new subsection (5):

(5) Telecommunications carriers may recover the reasonable costs of implementing bill changes and other related costs associated with this section from the person or billing agent covered by this section.

Section 42.05.715(c) add new subsection (1):

(1) To invoke the non-discontinuance of service protection described in this subsection, a customer must inform the telecommunications carrier in writing that a billing dispute exists. A customer who makes a partial payment to the telecommunications carrier by subtracting a disputed amount must inform the telecommunications carrier in writing of that fact and instruct the telecommunications carrier on how to apply the payment. A customer's failure to prescribe payment application allows the telecommunications provider to apply payments in accordance with its standard practices. In this circumstance, payment delinquencies could prompt the discontinuation of telecommunications services.

***Section 3.**

Section 45.50.476(c)(4) add new subsection (C)

(C) Telecommunications carriers have no obligation to independently verify the accuracy of the information provided by the vendor of goods and services under this subsection.