Slamming

SUMMARY OF TELEPHONE SLAMMING PREVENTION ACT OF 1998

[Ms. Collins (for herself, and Mr. Durbin)]

★ ★ ★

1) Clarification of Verification Procedures: The bill amends current law, which allows the FCC to determine the verification procedures that telecommunications carriers can use when executing a change in subscriber service, to place some restrictions on the approved verification methods. Specifically, this provision will eliminate the "welcome package" method of verification. It will still allow the FCC to determine the appropriate forms of verification and the time and manner in which such verification must be retained by carriers.

2) Liability for Charges: The bill also allows subscribers who have been slammed, and who have not yet paid their telephone bill to the unauthorized carrier, to pay their original carrier for their phone usage, at the rate they would have been charged by their original carrier. The provision will not change existing law and FCC regulations that make the slamming carrier liable to the original carrier for any charges it collects from a slammed subscriber. This provision is designed to take away the financial incentive for slamming.

3) Additional Penalties: The bill also increases the civil penalties for slamming and creates criminal penalties.

The civil penalties provision will require the FCC to assess a minimum of $50,000 for the first slamming offense, and $100,000 for any subsequent offense, unless the Commission determines that there are mitigating circumstances. Currently, the penalty typically assessed by the FCC is only $40,000 for each offense.

In addition, this provision will allow the Commission, at its discretion, to assess civil penalties against carriers that make unauthorized carrier changes on behalf of their agents or resellers. It will require the Commission to promulgate regulations on the oversight responsibilities of the underlying facilities-based carriers for their agents or resellers. This will make it clear to carriers, who sell access to their telephone lines, that they have some responsibility for the actions of their agents or resellers.

Currently, slamming is not a crime. The criminal penalties provision will make intentional slamming a misdemeanor for the first offense (not more than one year imprisonment), and a felony for subsequent intentional slamming offenses (not more than five years imprisonment). Criminal fines for intentional slamming are the same as those for any other federal crime: a maximum of $100,000 for a misdemeanor and $250,000 for a felony. In addition, anyone convicted of the crime of intentional slamming will not be allowed to be a telecommunications service provider, and any company substantially controlled by a person convicted of intentional slamming will also be disqualified from providing such services. After five years, however, the

FCC shall have the option to reinstate such individuals or companies disqualified under this provision, if it is in the public interest to do so.

4) State Actions: The bill gives the states the right to take action against slammers on behalf of its residents, and makes it clear that nothing in this section preempts the states from taking action against intra-state slammers. This provision is necessary because some state supreme courts have ruled that FCC regulatory authority preempts the states from acting in this area.

5) Reports on Slamming Complaints: The bill requires all telecommunications carriers, including local exchange carriers, to report on the number of subscriber slamming complaints against each carrier. The provision allows the FCC to determine how often these reports would have to be submitted. This provision would not require carriers to refer complaints on an individual basis, only a summary report that could be used by the FCC to determine which companies are engaging in patterns and practices of slamming.

6) FCC Report on Slamming and Enforcement Actions: The bill establishes a requirement that FCC submit a report to Congress on its slamming enforcement actions. The FCC already provides this information in its Common Carrier Scorecard, so this provision does not establish a new report. It is designed to make it clear to the FCC that Congress considers slamming enforcement important.

7) FCC Report on Adequacy of FCC License Process: This bill requires the FCC report to Congress on whether current licensing requirements and procedures are sufficient to prevent fraudulent telecommunications providers from receiving an FCC license. Currently, the FCC does not review telecommunications provider applications prior to issuing FCC licenses, allowing fraudulent companies into the telecommunications marketplace.

#

Slamming Bill Passes Senate

Legislation Bans Methods, Sets Fines

By MIKE MILLS
Washington Post Staff Writer

The Senate yesterday unanimously passed legislation aimed at cracking down on "slamming," the practice of switching consumers' long-distance telephone companies without permission.

The legislation would impose new penalties on slammers, with fines ranging from $40,000 for a first-time civil offense to $250,000 for certain repeat felony offenders.

It also seeks to eliminate common slamming methods, such as contest entry forms that, when signed by unsuspecting consumers, authorize a switch of their long-distance carriers.

Several anti-slamming bills are pending in the House, but none has made it to the floor.

The Senate bill responds to increasing complaints from consumers who are frustrated not only by the cost and hassle of being slammed but also by the way their complaints are handled and what they feel is lax punishment of perpetrators.

The Federal Communications Commission received 20,000 complaints about slamming in 1997, a 56 percent increase from the previous year. The agency had been planning to announce tougher anti-slamming rules this month, but this legislation would give the FCC and states more power to combat the practice.

"The message will get out to the slammers that the cost of playing poker has gone up dramatically, and if they want to gamble they will lose a lot," said Sen. Richard J. Durbin (D-Ill.), an early advocate of stronger anti-slamming laws. "The FCC has been toothless in dealing with them, and we haven't taken it as seriously as we should have."

The bill, sponsored by Sens. John McCain (R-Ariz.) and Ernest F. Hollings (D-S.C.), would forgive any

See SLAMMING, C12, Col. 6

SLAMMING, *From C9*

extra charges that consumers incur from carriers that slam them. In addition to requiring verbal, electronic or written consent for each customer who changes carriers, the bill also would make companies notify customers within 15 days of changing their service.

Local and long-distance carriers would have to report all complaints to the FCC. The agency also would be required to post an annual list of the 10 worst slamming offenders.

Slamming has been a growing problem since the mid-1980s, when Americans first were free to choose competing companies to handle all their long-distance calls without dialing extra digits. Local phone companies such as Bell Atlantic Corp., which set up the connections, generally rely on the long-distance companies to tell them which service customers want.

In the 1980s FCC rules let long-distance companies request a service change based on a customer's verbal instructions to a telemarketer. That led to abuses, so the FCC changed the rules to require written confirmation from the customer. The slamming continues, however, as unscrupulous companies fake those signatures or hide authorization of a change in the fine print of a sweepstakes agreement that a person signs.

FOR MORE INFORMATION
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The Washington Post
WEDNESDAY, MAY 13, 1998

Riv Seeks o Kee Two o Co ro Boar

By David A. Vise
Washington Post Staff Writer

The Washington Post
Wednesday, May 13, 1998

Alice M. Rivlin, President Clinton's choice to become chairman of the D.C. financial control board, wants current members Constance B. Newman and Joyce A. Ladner to remain on the panel to help her improve city services and move toward the restoration of home rule, people familiar with the matter said yesterday.

Rivlin has told people she intends to accept Clinton's appointment next month once various legal issues are resolved. But she is wasting no time trying to assemble a team. Already, Rivlin has spoken with Newman about becoming vice chairman of the panel and has made it clear that she wants Ladner to stay on the board to continue focusing her attention on D.C. public schools, sources said.

Newman said she is undecided about whether to serve a second term. Ladner said she remains reluctant to return, but current control board Chairman Andrew F. Brimmer and school officials are urging her to do so.

White House and congressional officials said they are confident that an array of legal issues raised by Rivlin's simultaneous service as vice chairman of the Federal Reserve Board and chairman of the control board can be overcome.

"We are entirely confident that if the president were to appoint Alice Rivlin or any other federal employee to the control board, any questions about eligibility or conflicts could be resolved by some combination of legal interpretation, recusals or legislation," said Linda Ricci, spokeswoman for the federal Office of Management and Budget.

There is an echo of history in Rivlin's desire to have Newman and Ladner on the control board for a second term. In 1995, when the control board was created, Rivlin, then the White House budget director, called to ask Newman, Ladner and others to serve on the panel.

Brimmer said Rivlin persuaded him to serve as control board chairman three years ago after he initially opposed the idea. Brimmer said Rivlin convinced him that his financial skills and credibility on Wall Street were vitally needed to help the city through its financial crisis.

Brimmer said he has urged Rivlin to choose Newman as vice chairman of the panel, which is in charge of running virtually the entire city government. Newman, the number two official at the Smithsonian Institution, is popular with District officials and committed to restoration of self-government after the city balances its budget for three more years.

"I believe Connie would stay if she were made vice chair . . . and it could be made a meaningful post," Brimmer said. "That would provide continuity."

Newman emphasized yesterday that she views Rivlin as a "perfect" choice to chair the board. Newman, who has a demanding job at the Smithsonian and is an avid photographer, has overseen personnel and procurement reform as a control board member.

Asked whether she will volunteer again as a control board member, Newman said she is "undecided" and will make a decision soon based on "instinct."

"I've been around a long time, and I have a feeling about when something is right," Newman said. "I am not certain."

Although Ladner said yesterday that she does not want to serve on the control board again, Arlene Ackerman, superintendent of D.C. public schools, said she hopes Ladner will remain on the panel. Ackerman described Ladner as an education expert who is providing her with guidance and support.

Brimmer said he also hopes Ladner will reconsider her decision and remain on the board. Brimmer said Ladner is an "anchor in the turbulent waters" surrounding public schools.

"If Joyce does not stay, then that will be a real blow from the point of view of school reform," Brimmer said.

Rivlin, who did not return a phone call for comment yesterday, is an expert on the District government. Her pending appointment has the support of an unusually broad array of city officials, community leaders and activists because she has made it clear that her top priorities are returning power to locally elected officials and overhauling the city's bureaucracy.

Brimmer and the other control board members are serving three-year terms that expire early next month. Administration officials have said Clinton will appoint Rivlin and other control board members at that time. Edward A. Singletary and Stephen D. Harlan, who serve on the panel currently, have told administration officials that they do not wish to serve another term.

"It is somebody else's time at bat," Harlan said yesterday.

Administration lawyers are reviewing numerous issues that arise from the prospect of Rivlin serving on the Federal Reserve, which sets interest rate policy for the nation, and the control board. Brimmer, a former Fed member, said the Federal Reserve's central role in setting interest rates would require Rivlin to remove herself from control board deliberations concerning District government borrowings on Wall Street or from the U.S. Treasury.

Brimmer suggested that the formal task of "certifying" borrowings could be carried out by the control board vice chairman and that overall decisions about borrowings could be made jointly by members of the panel other than Rivlin. He said that if Newman were named vice chairman, she could play a crucial role in the board's oversight of District financial transactions.

Brimmer also said Fed rules require board members to devote all their time to Fed duties. In addition, administration lawyers are analyzing various rules, policies and laws that may prohibit federal employees from serving on the control board.

Rivlin was advised by the Fed's general counsel earlier this spring that she could not serve as control board chairman because of Fed rules. But White House officials reviewed the matter and concluded that the legal issues could be addressed. Rep. Thomas M. Davis III (R-Va.), chairman of the House Government Oversight subcommittee on the District, said he would sponsor any legislation necessary to permit Rivlin to serve in both jobs, and Clinton administration officials said they will address any legal issues that arise so that Rivlin can serve as Fed vice chairman and control board chairman.

"My expectation is they will find a way," Brimmer said.

Slamming / 4W

Senate Backs Halt to Phone Service Switching

By ALISON MITCHELL

Decisive action on the No. 1 complaint by telephone users.

WASHINGTON, May 12 — The Senate tonight overwhelmingly approved a measure that authorizes stiff fines and penalties against telephone companies that switch the long-distance phone service of customers without their permission.

The legislation, intended to crack down on the practice known in the industry as "slamming," passed 99 to 0, giving senators of both parties a popular consumer vote to campaign on in an election year.

Senator after senator described the illegal practice as the top consumer issue in their states. "Telephone slamming is growing like wildfire," said Senator Susan Collins, Republican of Maine. "Nationwide, slamming is the No. 1 telephone-related complaint."

The measure is one of several related to technology that will be considered by the Senate this week. Another bill would allow more foreigners with technological skills to immigrate to the United States.

The Federal Communications Commission first developed safeguards to deter slamming in 1985, after the breakup of the Bell telephone system. It required long-distance carriers to obtain the signed consent of consumers before their long-distance services could be changed.

As the long-distance telephone market grows more competitive, the rules and verification procedures have become more stringent. The commission already imposes fines of up to $40,000 for each violation by companies that unlawfully switch a customer's long-distance service, and it regulates promotional campaigns aimed at getting a customer to change telephone companies.

Just last month, Federal regulators took their strongest action yet, essentially shutting down a small long-distance operator, the Fletcher Companies, and fined it $5.7 million. The regulators said the methods used by Fletcher to induce people to change their telephone service included the distribution of fraudulent lottery entry forms carrying permission to switch long-distance providers in their fine print.

Despite actions by the commission, senators say, aggressive telemarketers have continued to mislead consumers, changing their phone service without their permission. The commission has reported that slamming complaints rose to 44,000 in 1997 from 16,000 in 1996.

The legislation provides procedures for telephone companies to follow in making carrier changes and gives consumers new ways to seek redress if their phone carriers are changed against their will. It also grants Federal regulators and courts the power to impose high fines, compensatory and punitive damages.

"It isn't about re-regulation," said Senator John D. Rockefeller 4th, Democrat of West Virginia. "It's about treating consumers fairly."

The measure requires that when a telephone customer selects a new telephone exchange service, the carrier selected must notify the consumer in writing within 15 days. It also requires the commission to set a time period of not more than 120 days for a carrier to resolve a complaint of an unauthorized change of telephone service.

The bill provides Federal regulators and the courts with new powers to determine fault and impose penalties and damages. Unless the commission finds mitigating circumstances, a carrier that fails to follow procedures for showing that it has a consumer's permission is punishable by a fine of not less than $40,000 for a first offense and not less than $15,000 for further offenses. The commission is also authorized to award damages that amount to three times the cost to the consumer of the unauthorized phone change.

The legislation also requires the Federal Communications Commission to make a series of reports to Congress, including notifying lawmakers of the 10 carriers with the highest number of slamming complaints. Similar legislation is pending in the House of Representatives.

The New York Times

WEDNESDAY, MAY 13, 1998

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The Washington Post
WEDNESDAY, MAY 13, 1998

Slamming

105TH CONGRESS
2D SESSION

H. R. 3749

To amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

13 COSPONSORS
1 DEM
12 REPS

APRIL 29, 1998

Mr. BASS (for himself and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on Commerce

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A BILL

To amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED PROTECTION FOR CONSUMERS.

(a) VERIFICATION OF AUTHORIZATION.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—No telecommunications carrier or reseller of telecommunications services shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

"(2) VERIFICATION.—

"(A) IN GENERAL.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier or reseller shall, at a minimum, require the subscriber—

"(i) to acknowledge the type of service to be changed as a result of the selection;

"(ii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iii) to affirm that the consumer is the subscriber or is authorized to select the provider of that service for the telephone number in question;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; and "(v) to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) ADDITIONAL REQUIREMENTS.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form; and

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate.

"(3) INTRASTATE SERVICES.—Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"(4) SECTION NOT TO APPLY TO WIRELESS.—This section does not apply to a provider of commercial mobile service, as that term is defined in section 332(d)(1) of this Act.".

(b) RESOLUTION OF COMPLAINTS.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

"(c) NOTICE TO SUBSCRIBER.—Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier or reseller selected shall notify the subscriber in writing, not more than 15 days after the change is processed by the telecommunications carrier or the reseller—

"(1) of the subscriber's new carrier; and

"(2) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(d) RESOLUTION OF COMPLAINTS.—

"(1) PROMPT RESOLUTION.—

"(A) IN GENERAL.—The Commission shall prescribe a period of time, not in excess of 120 days after a telecommunications carrier or reseller receives notice, for the telecommunications carrier or reseller to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service.

"(B) UNRESOLVED COMPLAINTS.—If a telecommunications carrier or reseller fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunications carrier or reseller shall—

"(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission concerning the unresolved complaint, the subscriber's rights under this section, and all other remedies available to the subscriber concerning unauthorized changes;

"(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

"(iii) provide the subscriber a copy of any evidence in the carrier's or reseller's possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or executed in accordance with the verification procedures prescribed under subsection (a).

"(2) RESOLUTION BY COMMISSION.—The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time, involved in the process. The Commission shall issue an order resolving any such complaint at the earliest date practicable, but in no event later than—

"(A) 150 days after the date on which it received the complaint, with respect to liability issues; and

"(B) 90 days after the date on which it resolves a complaint, with respect to damages issues, if such additional time is necessary.

"(3) DAMAGES AWARDED BY COMMISSION.—In resolving a complaint under paragraph (1)(B), the Commission may award damages equal to the greater of $500 or the amount of actual damages. The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(e) PENALTY.—

"(1) IN GENERAL.—Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a fine of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

"(2) FAILURE TO NOTIFY TREATED AS VIOLATION OF SUBSECTION (a).—If a telecommunications carrier or reseller fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

"(f) RECOVERY OF FINES.—The Commission may take such action as may be necessary—

"(1) to collect any fines it imposes under this section; and

"(2) on behalf of any subscriber, any damages awarded the subscriber under this section.

"(g) CHANGE INCLUDES INITIAL SELECTION.—For purposes of this section, the initiation of service to a subscriber by a telecommunications carrier or a reseller shall be treated as a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.".

(c) STATE RIGHT-OF-ACTION.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (b), is amended by adding at the end thereof the following:

"(h) ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that a telecommunications carrier or reseller has engaged or is engaging in a pattern or practice of changing telephone exchange service or telephone toll service provider without authority from subscribers in that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such unauthorized changes, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.

"(i) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits unauthorized changes in, a subscriber's selection of a provider of telephone exchange service or telephone toll service.".

(d) REPORT ON CARRIERS EXECUTING UNAUTHORIZED CHANGES OF TELEPHONE SERVICE.—

(1) REPORT.—Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service.

(2) ELEMENTS.—The report shall include the following:

(A) A list of the 10 telecommunications carriers that, during the 1-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers.

(B) The telecommunications carriers, if any, assessed fines under section 258(e) of the Communications Act of 1934 (as added by subsection (c)), during that period, including the amount of each such fine and whether the fine was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

SEC. 2. REPORT ON TELEMARKETING PRACTICES.

(a) IN GENERAL.—The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing practices used by telecommunications carriers or resellers or their agents or employees for the purpose of soliciting

Slamming — GAO

FTC Sets Conditions to Support Digital-Intel Agreement on Chip

By JON G. AUERBACH
Staff Reporter of THE WALL STREET JOURNAL

Citing concerns over Intel Corp.'s control of the microprocessor market, the Federal Trade Commission required **Digital Equipment** Corp. to find other partners to make its speedy Alpha chip as a condition for approving a patent settlement between Intel and Digital.

In an unusual action, the FTC approved the patent settlement but said it could withdraw that approval as soon as two months from now if Digital fails to meet terms, including the completion of an agreement to license Alpha to Intel rival **Advanced Micro Devices** Inc. Also, Digital is required to sign up **International Business Machines** Corp., or another company approved by the FTC, to produce the chips.

Digital confirmed it had reached a memorandum of understanding with AMD already, and is in negotiations with IBM to fulfill the settlement conditions.

The FTC said it is trying to ensure the survival of the Alpha chip, an ultra-fast processor that the agency called the "most significant threat to Intel's continued market dominance." Intel controls about 90% of the processor market. The Alpha has 1% market share, but is used in some of the most power-hungry computers, a lucrative market Intel is keen to crack.

Digital sued Intel last year, alleging it had stolen Alpha patents and used them in its ubiquitous Pentium microprocessors. Digital and Intel reached a proposed settlement of that suit under which Intel agreed to buy Digital's Alpha manufacturing plant for $700 million and grant it discounts and other considerations that Digital insiders say will be worth at least an additional $200 million in coming years.

An Intel spokesman declined to comment, saying the agreement is between Digital and the FTC. But the language of the complaint underscores the FTC's worries about Intel's market grip. The agency is separately investigating a wide range of Intel's market practices.

The FTC said it worried that the proposed settlement would allow Intel to "delay production of Alpha microprocessors, impede the development of new generations of Alpha microprocessors and otherwise undermine the competitiveness of Alpha."

To keep the Alpha viable, the FTC required Digital to give AMD a license to design, manufacture and market the chip. It was unclear how heavily AMD will back the Alpha. An AMD spokesman said he couldn't comment on any Alpha plans because the companies are still negotiating terms of the license.

Linley Gwennap, an analyst with the Sebastopol, Calif., research firm Micro Design Resources, doesn't believe the FTC action will have much effect in keeping the Alpha alive. "The FTC can make sure there is someone making the chips, but they can't make sure there will be any customers," he said.

Another wrinkle is **Compaq Computer** Corp.'s proposed purchase of Digital. Compaq is the world's largest personal-computer maker, and most of its products run on Intel chips. It has said it will back the Alpha, but hasn't indicated how aggressively.

—Don Clark contributed to this article.

GAO Delivers Blistering Report on FCC As Enforcer in Stopping 'Slamming'

By ELIZABETH DAERR
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Government auditors said the Federal Communications Commission isn't moving aggressively enough to crack down on companies that illegally switch consumers' long-distance phone service.

In a scathing report delivered to Congress yesterday, the General Accounting Office said states have been better at enforcing regulations against "slamming" than the FCC, the lead body supervising the long-distance industry.

The GAO's assistant comptroller general, Eljay Bowron, told the Senate Permanent Subcommittee on Investigations that the FCC does little to prevent fraudulent carriers from entering the long-distance phone-service business. He also said that once dishonest carriers get into the business, state regulatory agencies are likelier than the FCC to respond.

In 1997, the GAO reported, the FCC fined nine companies $1.2 million for slamming phone customers. By comparison, the GAO noted, in one month of that year the California Public Utilities Commission fined one company $2 million, ordered it to reimburse customers for $2 million and suspended the company from operation.

FCC Chairman William Kennard said his agency is working on new regulations designed to eliminate the economic incentive for slamming. One change would absolve a slammed customer from paying the long-distance carrier if the consumer catches an unauthorized switch within a certain time period.

THE WALL STREET JOURNAL
FRIDAY, APRIL 24, 1998

Airbus, Shrugging Off Asian Crisis, Forecasts Robust Jet Sales

By Charles Goldsmith
Staff Reporter of The Wall Street Journal

LONDON—Brushing off Asia's economic crisis, Airbus Industrie said it forecast demand over the next 20 years of 13,600 new large jet aircraft valued at $1.2 trillion to satisfy an average traffic growth of 5% a year.

Separately, the European plane maker fiercely maintained that it was Boeing Co. and not Airbus that launched the current brutal price competition that is facing both manufacturers. Boeing has consistently blamed European government supports to Airbus as a major factor in the price war.

"There has been pricing process in this industry," Airbus's sales chief, John Leahy, told a news conference here on Thursday, "but it started in Seattle, it's continued in Seattle," where Boeing has headquarters. "If our friends in Seattle are going to drastically reduce their price, we are going to respond to the pricing pressure. We did not begin the pricing pressure." Given Boeing's greater manufacturing capacity, said Mr. Leahy, Airbus's senior vice president for sales, "it's hard to see what benefit we would have in starting a price war."

Airbus's 1998 global market forecast said that overall demand between now and 2017 will total 16,700 new or used jets with 70 or more seats, about half of that to meet traffic growth and half to replace aging aircraft. That demand will include 9,400 single-aisle planes and 7,300 wide-bodies, including 1,330 planes with 400 seats or more, thus fitting Airbus's plans to build a new 555-seat superjumbo jet to compete with Boeing's 747 jumbo model.

Of the overall forecast demand, some 13,600 will be new planes and 3,100 will be used aircraft, said the European plane maker. The value of the new planes will be $1.2 trillion in 1998 dollars, or an average of $60 billion per year compared with combined 1997 deliveries for Airbus and Boeing worth $38.5 billion.

IF BOEING IS 'going to drastically reduce their price, we are going to respond to the pricing pressure.'
—Airbus's sales chief

Despite Asia's recent economic turmoil, Airbus's latest forecast is little changed from last year's exercise, when it predicted 20-year demand for 13,500 planes valued at $1.1 trillion. The forecast is based on 271 airlines from around the world.

According to Mr. Leahy, Asia's current economic downturn is "having little effect on long-term demand for air travel." He predicted that the Asia market "will be soft for two years, maybe three at the outside," before returning to strong growth once again; in China alone, he said, there will be demand by 2017 for 4.5 times the number of airline seats now required.

Airbus's forecast says that by 2017 the Asia-Pacific region will overtake North America in terms of overall traffic and fleet: Asia-Pacific will account for 33% of the world fleet in 2017, compared with 25% today, while North America's share of the world fleet will decline to 29% from 38%; Europe's fleet share will increase slightly to 27% from 25%.

Boeing's 1998 market outlook won't be issued until late May at the earliest; its 1997 edition said that the world's airlines would by 2016 add 16,160 new jets worth $1.1 trillion. Boeing projects less demand than does Airbus, however, for jets of more than 400 seats, and this is a major factor in the U.S. plane maker's refusal so far to stretch its 747 model.

Business Talks On Mideast Are Suspended

By Daniel Pearl
Staff Reporter of The Wall Street Journal

The Middle East business summits designed to reap the fruits of Israeli-Arab peace accords are being suspended because of lack of progress in reaching final peace agreements.

The Geneva-based World Economic Forum, which organized the first four annual summits, sent letters this week to conference participants saying this year's summit would be held only when "everyone is convinced" it could help economic integration in the region.

The decision puts additional pressure on Israel and the U.S., which has fought hard to keep the summits going, to make some progress during Palestinian-Israeli talks in London May 4. The talks are aimed at achieving a pullout of Israeli troops from parts of the West Bank. They are also expected to center on resolving security concerns that have stalled development of two regional economic projects: an airport and an industrial park to help Palestinians in Gaza.

Gregory Blatt, director of the Middle East summits for the World Economic Forum, said his letter wasn't intentionally timed to affect the London talks. But he said, "It's a signal that we're sitting and waiting for progress," and added that it still could be possible to organize a 1998 summit if there is a breakthrough.

To others, though, the suspension of the summit acknowledges that Israeli and Arab business leaders no longer have many regional economic projects to discuss, or much desire to talk publicly.

"It's a pure clinical case of something that's sick and dying: regional cooperation," says Dov Hoch, Israel-based consultant on Arab-Israeli business ventures. "This is the tombstone."

Qatar hosted the November 1997 summit, in part to attract foreign investors and in part because peace talks were still making progress when Qatar signed up as host two years earlier. Interviewed during the Qatar summit, World Economic Forum President Klaus Schwab said that "there will be one for sure" in 1998, and that if necessary the event would move to Turkey or Europe. But during their annual meeting in Davos, Switzerland, World Economic Forum officials found little enthusiasm for a Middle East summit in a non-Arab country.

Mr. Blatt said he consulted with U.S. officials about the 1998 summit, but not on the letter, which runs against the U.S. position that economic talks should continue regardless of Middle East politics. Judith Barnett, deputy assistant secretary for Africa and the Near East, said, "We're hopeful this will go back on track. It's good for people in the region, and it's good for business."

THE WALL STREET JOURNAL
FRIDAY, APRIL 24, 1998

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TEW

FAX FROM U.S. REP. CHARLES E. SCHUMER'S WASHINGTON, D.C., OFFICE

DATE: 2/26

TIME: 2:30

TO: TOM

FROM: Bill McGeveran, Legislative Assistant

FAX NUMBER: 456-7431

NUMBER OF PAGES (including this page): 11

Please call 202-225-6616
if fax is incomplete

****

Comments:
TOM - We're getting ready to do an event in the next few weeks — stay in touch & I'll get you more updated info.

Attached: - Our release & memo from last event (12/96)
- FCC materials
- Fact sheets on 3 bills pending

PRINTED ON RECYCLED PAPER

FOR RELEASE: Sunday, Dec. 22, 1996
11:00 a.m.

CONTACT: Josh Isay
(212) 996-6708
Beeper 800-SKYPAGE
PIN #1371401

SCHUMER WARNS CONSUMERS ABOUT RISING THREAT OF TELEPHONE "SLAMMING" RIP-OFF

ANNOUNCES LEGISLATION TO CRACK DOWN ON SLAMMING

NEW YORK -- Congressman Charles E. Schumer (D-Brooklyn and Queens) today issued a holiday warning to consumers: beware of telephone rip-offs where your long-distance service is switched from one company to another without your knowledge

Schumer joined several New Yorkers who have been victimized by this practice, known as "slamming." Many consumers who are slammed don't even realize they've been victimized -- and often end up with large phone bills from fly-by-night operators.

"Unfortunately, the motto for a lot of long-distance phone companies should be 'reach out and rip off someone,'" Schumer said.

Schumer said his office has seen a recent surge in complaints from constituents ripped off by slamming. The number of slamming complaints to the Federal Communications Commission has tripled since 1994. In fact, according to the FCC, slamming was the fastest-growing category of complaints last year, and now generates twice as many complaints as any other category.

Schumer called for stiffer penalties for slamming, and announced plans to introduce legislation when Congress reconvenes next month that would crack down on the practice.

"These slammers belong in the slammer," Schumer said. "Right now, they generally pay a small fine out of their huge profits, and then go right back to their swindling."

Schumer's proposal would make it a federal crime to forge authorization documents -- one of the most outrageous forms of slamming, and one of the most common. The current federal criminal penalty for forgery is a base of six years, with increased sentences for aggravating factors.

-- MORE --

"Forgery is a serious crime, and it should be treated as a serious crime," Schumer said. "Your signature may be fake, but the sky-high bill you pay is all too real."

Schumer's package would also increase the FCC's ability to charge fines for slamming, and to bar repeated offenders from registering a new long-distance company under a new name.

In addition, the FCC is preparing to release regulations tightening the requirements on phone companies to verify a consumer's choice of long-distance carrier. If the procedures are too weak, then Schumer promised to include stronger procedures in his legislation.

Consumers should be sure to examine their phone bill each month to verify that their long-distance company is correct, Schumer said. If you have been slammed, you should call your local phone company and the company that slammed you, and notify them both that you did not authorize the change.

New Yorkers who want to protect themselves from being slammed in the future can write to NYNEX and "freeze" their service with their current provider. They can contact NYNEX at 1-800-722-2300.

Schumer noted that long-distance telephone volume skyrockets during the Christmas season, making slammers' exorbitant rates even more costly. According to AT&T, Christmas Day ranks second behind Mother's Day in long distance volume, and Christmas Eve is close behind. Similarly, MCI expects 10% to 20% more phone calls this Christmas Day than a typical Wednesday.

"I have two words for New Yorkers phoning their loved ones this season: callers beware," Schumer said.

# # #

TO: Chuck
FROM: Bill
DATE: Dec. 20, 1996

RE: **Slamming press conference**
Sunday, Dec. 22, 11:00 a.m.
City Hall steps

If you read the press release, you should have the basic idea. This is some extra detail. The sound bites are printed on a separate page in larger type.

OVERVIEW OF PROBLEM:

"Slamming" is the illegal practice of switching a consumer's long-distance telephone carrier without the person's knowledge.

The overwhelming majority of slamming complaints are against small,fly-by-night companies. Using unscrupulous methods (see below), these companies inform your local phone company (NYNEX for New Yorkers) that a customer wants to switch from his or her current carrier to them. The new company has essentially stolen you as a customer. In many cases, their rates are much higher and/or their service is inferior.

There are also a few complaints against AT&T, MCI, Sprint, etc., but you want to keep the focus on small, crooked operations (one of our victims was slammed by Sprint). Complaints against the big companies are usually the result of individual telemarketers who are paid on commission and submit phony switches to get more money. Also, the big carriers sometimes outsource their telemarketing to firms that turn out to be unscrupulous.

Some methods of slamming include:

• **Forgery.** Some companies just take your name from a list, write it in script on the signature line of an authorization form, and then send the form to your local phone company to switch you. I spoke to one prosecutor (needs to stay anonymous) who said over half his complaints are forgeries.

• **Fast-talking telemarketers.** They call up and get the person to say "yes" to an artfully worded question. Customers don't realize they are authorizing switches, but it is tape-recorded. Used especially against the elderly and immigrants.

• **Phony contests.** Companies set up those cardboard boxes with little sweepstakes entry forms -- called "route boxes." They promise a prize (and sometimes they actually run the contest!), but when you sign your name on the entry form you also authorize a switch hidden in the fine print.

Slamming

SLAMMING/CRAMMING UPDATE (5/6/98)

- Durbin is currently working off of the Collins/Durbin bill (S1740) and plans to make amendments to the McCain bill (S1618) on the floor next week.

- Last November, Durbin said in a press release (11/3/97) that he is drafting legislation on cramming. Durbin's LA told me today that he is still planning to do something on cramming -- it's still pending.

- Attached are press releases on slamming and Durbin's (S1137) dear colleague from last July. Durbin's office did not prepare any other dear colleagues or section by sections. Let me know if you would like me to call Collins' office for a section by section and dear colleague on the recent bill, S1740.

Summary of press releases:

1. Durbin press release (4/23/98)
   Recent press release: Durbin cited a new report from the National Fraud Information Center on cramming and slamming at a hearing of the Senate Governmental Affairs Permanent Subcommittee on Investigations. The report found that cramming and slamming were the number one and number two sources of complaints to the National Fraud Information Center. "Slamming and cramming are the evil twins of today's massively competitive telecommunications market," Durbin said.

2. Durbin press release (11/3/97)
   Durbin cites a new Harris Poll (conducted for the National Consumers League) at a slamming hearing of the Senate Judiciary Subcommittee on Administrative Oversight and the Courts. Durbin's opening statement attached. Durbin mentions that he is drafting cramming legislation.

3. Durbin press release S1137 (9/8/97)
   Durbin announces S1137. Main provisions: (1) statutory damages and right to sue in state or federal court; (2) State Attorneys General right to bring suit; (3) criminal fines and jail time for repeat offenders.

4. Durbin dear colleague S1137 (7/10/97)
   "The [FCC] has promulgated regulations which prohibit slamming, and the Commission enforces these regulations through broad based administrative investigations. In addition, there is a law which allows an injured long distance carrier to recover from the long distance carrier who profited from the slamming. Yet, there is no law which empowers a telephone consumer who has been slammed to recover her or his damages or to hold the slammer accountable for its deceptive and often fraudulent actions."

5. McCain press release S1618 (2/9/98)
McCain, Hollings, Snowe, and Frist introduce the Consumer Anti-Slamming Act of 1998. "Last year alone over 20,000 consumers filed slamming complaints with the FCC, the largest category of complaints the FCC received." Main provisions: (1) verbal, written, or electronic consent; (2) carriers must provide consumers with information to file a complaint; (3) expedited complaint procedure at FCC; (4) $40,000 penalty for first offense, no less than $150,000 for repeat offenses.

6. DeFazio press release HR2120 (7/1/97)
DeFazio announces HR2120. Different from other bills in that it creates a larger role for state public utility commissions to oversee the marketing practices of long distance phone companies, which are currently only regulated by the FCC.

7. DeFazio press release (4/23/97)
DeFazio sends a letter to the FCC urging it to adopt provisions of HR2120. Letter attached.

8. DeFazio dear colleague and slamming summary

For Immediate Release
Contact: Melissa Merz
(202) 224-7028
April 23, 1998

DURBIN, COLLEAGUES SEEK CRACKDOWN ON PHONE SLAMMING

Washington, D.C. — Saying "it's time to quarantine this consumer epidemic," U.S. Sen. Dick Durbin today called for new penalties against companies who engage in "slamming," the practice of switching a telephone customer's long-distance service without the customer's consent.

The practice was the subject of a hearing today in the U.S. Senate Governmental Affairs Permanent Subcommittee on Investigations where senators heard evidence about one individual who allegedly bilked long-distance subscribers of more than $20 million. The panel also learned how easy it was to establish a fictitious company, gain a license and resell long-distance service.

Durbin, a subcommittee member, also cited a new quarterly report from the National Fraud Information Center which found that "cramming" — padding a customer's phone bill with unsolicited services — and slamming were the number one and number two sources of complaints, respectively, to the Center. The Center is a project of the National Consumers' League (NCL). Slamming was the top consumer complaint to the Illinois attorney general's office in 1995, and the second most common complaint in 1996 and 1997.

"Slamming and cramming are the evil twins of today's massively competitive telecommunications market," Durbin said. "Everywhere I go, I hear from people and businessowners who have lost time, money and patience because of these fraudulent practices. It's time to quarantine this consumer epidemic."

To combat slamming. Durbin has joined U.S. Sen. Susan Collins — chairwoman of the Permanent Subcommittee on Investigations — in introducing the bipartisan Telephone Slamming Prevention Act.

The bill — which includes provisions of earlier anti-slamming legislation introduced by Durbin — allows the Federal Communications Commission (FCC) to restrict practices companies may use to sign up unsuspecting customers for their services. The legislation also allows slamming victims to bypass a slammer and pay phone charges to their original carrier at that carrier's rate.

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In addition, the bill increases civil penalties for slamming, imposes criminal penalties for the first time and requires all telecommunications carriers to provide a summary of the number of subscriber slamming complaints against the carrier.

Durbin also may offer certain provisions of the Telephone Slamming Prevention Act as amendments to other anti-slamming legislation expected to be considered in the Senate in the coming weeks.

During the hearing, Durbin and other members heard from the General Accounting Office (GAO), which presented a new report on slamming, and from FCC Chairman William Kennard. The GAO report included a case study of one individual who operated several long-distance companies engaged in slamming and billed thousands of subscribers more than $20 million in long-distance charges.

The GAO also testified how easy it is to get an FCC license and get into the telecommunications business. GAO investigators were able to test the FCC licensing process by filing a tariff for "PSI Communications," a fictitious company. Using the FCC's instructions and a sample tariff, the investigators submitted false information in the application.

The investigators also submitted a blank computer disk that was supposed to contain the tariff rates to be charged by PSI Communications and failed to submit the required $600 filing fee. Within a few days, PSI Communications was listed by the FCC on the Internet as a licensed long distance carrier. With this license, PSI Communications is now able to contract with a facilities-based carrier and resell long-distance service to subscribers. Durbin noted the license allowing the company onto the long-distance market opened to door to slamming if the company was so inclined.

"Telephone slamming is not merely an inconvenience or a nuisance," Durbin said. "It is an act of fraud that costs long-distance consumers millions of dollars a year. Long-distance consumers should be given the tools to stand up for themselves and fight back against slammers."

-30-

For Immediate Release
Contact: Melissa Merz
(202) 224-7028
November 3, 1997

DURBIN SEEKS CONSUMER PROTECTIONS AGAINST TELEPHONE SLAMMING; CHICAGO WOMAN TESTIFIES AT HEARING

Washington, D.C. — Citing a new survey which found one in three Chicagoans responding to a poll has been "slammed" or knows a slamming victim, U.S. Sen. Dick Durbin today called for tougher consumer protections against companies who switch a telephone customer's long- distance service or add extra services to a bill without the customer's knowledge or consent.

Speaking at a hearing of the U.S. Senate Judiciary Subcommittee on Administrative Oversight and the Courts, Durbin noted slamming was the top consumer complaint to the Illinois attorney general's office in 1995, and last year's second most common complaint. Geryl Kramer, a Chicago businesswoman who lost hundreds of dollars after her long-distance service was switched without her consent, joined Durbin at the hearing.

"Telephone slamming is not merely an inconvenience or a nuisance," said Durbin, who requested today's hearing as the senior Democrat on the subcommittee. "It is an act of fraud that costs long-distance consumers millions of dollars a year. Long-distance consumers should be able to stand up for themselves and fight back against slammers to let them know their actions will not pay."

Durbin has introduced legislation in the U.S. Senate to strengthen consumer protections against slamming. The Slamming Protection Act would create three obstacles to telephone slamming. First, it would allow consumers to sue the long-distance carrier in state or federal court and establish minimum damages of $2,000 — or $6,000 if the slamming was done willfully and knowingly. Second, the legislation provides state attorneys general with the right to bring suit against slammers on behalf of the citizens of their state. Third, the bill creates criminal fines and jail time for repeat and willful slammers.

Durbin added he is drafting legislation to combat a practice known as "cramming," in which local telephone service extras such as call waiting and voicemail are added to a customer's bill without the customer's permission.

"Slamming and cramming are sprouting up all over Illinois and the nation faster than weeds can take over a lawn," Durbin said. "Consumers need the right tools to fight back."

During the hearing, Durbin cited a recent Harris Poll conducted for the National Consumers League which found that 36 percent of respondents in Chicago reported they had personally been slammed or know a slamming victim. The poll also found that slammers appeared to be targeting minorities — 39 percent of African-American and 42 percent of Hispanic respondents reported having been slammed versus 28 percent of whites.

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Slamming Protection Act of 1997, S. 1137 (7/31/97)

The Slamming Protection Act of 1997 is designed to empower long-distance consumers and the States to strike back against "slamming," the practice of changing a telephone customer's long distance carrier without the customer's knowledge or consent. Last year 16,000 consumers filed complaints with the Federal Communications Commission. Slamming is the FCC's number one source of complaints.

Although long-distance consumers can currently bring an action in federal court or file a complaint with the FCC, these measures have had little effect. The Slamming Protection Act will deter slamming by providing penalties that will make slamming too risky and too expensive for the practice to remain profitable.

The Slamming Protection Act (SPA) has three main provisions:

- The measure creates a right of action for long-distance consumers to bring suit against the slammer in state or federal court. Most importantly, however, SPA establishes statutory damages of $2,000, or $6,000 if the slamming was done willfully and knowingly. These substantial penalties are designed to have a significant deterrent effect and to be large enough to encourage consumers to bring such actions. Ideally, a consumer will represent themselves in small claims court, avoid the cost of an attorney, and receive at least $2,000 or $6,000 in damages. Moreover, if long-distance consumers who have been injured by slamming join together in a class action, the slammers will have to pay heed to the threat of considerable penalties for their unethical and often fraudulent activities;

- The measure provides State Attorneys General with the right to bring suit against slammers on behalf of the citizens of their states. Currently, in some jurisdictions the States are virtually helpless in their fight against slammers. First, there is no existing federal cause of action which allows the States to hold slammers accountable. And second, a number of courts have held that similar state laws are preempted by federal law. Some States, therefore, are left without recourse to prevent their citizens from being injured by slammers; and

- The measure creates criminal fines and jail time for repeat slammers. Slamming takes choices away from consumers without their knowledge and distorts the long distance competitive market by rewarding companies that engage in misleading marketing practices. SPA's criminal penalties will guarantee that slammers can no longer defraud long distance consumers with impunity.

SENATOR RICHARD J. DURBIN (11/3/97)
OPENING STATEMENT
"OVERSIGHT OF ADMINISTRATIVE PROCEDURE & ANTI-SLAMMING" HEARING BEFORE THE SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS
NOVEMBER 3, 1997; 2:00 p.m.

Thank you Mr. Chairman for calling this hearing on the very important topic of telephone slamming. I know that you did so as a favor to me, and I sincerely appreciate your graciousness.

"Slamming" is the practice of changing a telephone customer's long-distance carrier without the customer's knowledge or consent. And it runs rampant throughout the country.

In the past few years, slamming has been the Federal Communications Commission's single largest source of consumer complaints. In 1995 and 1996, more than a third of all the consumer complaints filed with the FCC's Common Carrier Bureau involved slamming. Last year 16,000 long- distance telephone consumers filed slamming complaints with the FCC. Since 1994, the number of slamming complaints has tripled.

Yet, this is only the tip of the iceberg -- the Los Angeles Times reports that more than 1 million American telephone consumers have been slammed in the last two years.

In my home state of Illinois slamming was the number one source of consumer complaints to the Attorney General's office in 1995, and the number two source of complaints in 1996.

As I am sure one of our witnesses, Linda Golodner, President of the National Consumers League will note, NCL has just published the results of a Harris Poll conducted in Chicago, Detroit, and Milwaukee which supplies us with some troubling statistics about slamming. 30 percent of adults in these markets said they or someone they knew had been slammed. Slamming was most egregious in Chicago where 36 percent of adults said that they personally had been slammed. Moreover, slammers appear to be targeting people of color. 39 percent of African Americans and 42 percent of Latinos had been slammed, as compared to 28 percent of Whites. Slamming is obviously a serious problem that must be stopped.

Slamming is not merely an inconvenience or a nuisance. It is an act of fraud that costs long- distance telephone consumers millions of dollars a year.

Moreover, slamming is not limited to the long distance market. I have heard numerous reports that slamming is occurring more and more often in unauthorized switching of a telephone customer's local carrier. Perhaps even more disturbingly, I have recently learned of a new insidious act called "cramming." Cramming occurs when telephone service extras such as call-waiting and voicemail are added to a customer's bill without their permission. I'm convinced that in the long run, cramming will be a much larger problem than slamming.

Ultimately, the fraudulent acts of slamming may frustrate the purpose of the 1996 Telecommunications Act. We crafted the 1996 Act with one overall theme -- establishing competition in the local and long distance markets. Slamming distorts the market and creates perverse incentives for market participants. Indeed, the end result of slamming is that fraudulent and deceptive business practices are rewarded with new customers, and good faith business practices are punished.

Moreover, slamming has already caused telephone customers to become angry and disillusioned by the entire telecommunications industry.

We need tougher laws on the books to combat slamming. Long-distance telephone consumers should be able to stand up for themselves and fight back against slammers to let them know that their actions will not pay. I believe that my bill, the Slamming Protection Act, will finally empower consumers to stamp out slamming.

My bill will help end slamming in three ways:

- First, it creates a right of action for long-distance telephone consumers to sue the slammer in state or federal court. The Slamming Protection Act establishes minimum statutory damages of $2,000 -- or $6,000 if the slamming was done willfully and knowingly. These substantial penalties are designed to have a significant deterrent effect and to be large enough to encourage consumers to bring such actions;
- Second, the Slamming Protection Act provides State Attorneys General with the right to bring suit against slammers on behalf of the citizens of their states. There is no existing federal right of action to allow the States to hold slammers accountable. And a number of courts have held that similar state laws are preempted by federal law. Some States, therefore, are left without recourse to prevent their citizens from being injured by slammers; and

- Finally, the Slamming Protection Act creates criminal fines and jail time for repeat and willful slammers. These criminal penalties will guarantee that slammers can no longer defraud consumers with impunity.

In addition, in an effort to obtain Judiciary jurisdiction of the issue of slamming, I have introduced a separate bill, The Telephone Consumer Fraud Protection Act, which is comprised largely of the criminal provisions of the Slamming Protection Act. I am, however, still committed to all the provisions of the Slamming Protection Act.

In conclusion, I'd like to thank the witnesses for coming here to Washington to share your views and experiences on this issue with the Subcommittee. I encourage you to be candid in your opinions regarding the problem of slamming generally and regarding my bill. I believe that we all recognize that this is a problem that calls for an immediate and effective solution -- working together, we can do just that.

Thank you.

FOR IMMEDIATE RELEASE
CONTACT: Chris Widmayer
312/353-4178 or
800/759-8888 (1061807 pin)
Friday, August 8, 1997

DURBIN ANNOUNCES LEGISLATION ALLOWING CONSUMERS TO STRIKE BACK AGAINST "TELEPHONE SLAMMING"

Chicago — Since 1995, more than one million telephone customers have fallen victim to a high- priced con game — telephone slamming. U.S. Sen. Dick Durbin today announced new legislation to give these consumers the ability to fight back against the illegal practice of slammers.

"Telephone slamming is not merely an inconvenience or a nuisance," Durbin said. "It is an act of fraud that costs long-distance consumers millions of dollars a year. Long-distance consumers should be able to stand up for themselves and fight back against slammers to let them know their actions will not pay."

When have you been slammed? When your long-distance service has been changed without your consent or knowledge. Some telephone customers pay as much as three times the amount of their regular long-distance bill as a result of this practice. Consumers are also penalized by lost time and the hassle of trying to correct their phone bill.

The Durbin Slamming Protection Act of 1997 would create three obstacles to telephone slamming. First, it would allow consumers to sue the long-distance carrier in state or federal court. The Slamming Protection Act establishes minimum damages of $2,000 -- or $6,000 if the slamming was done willfully and knowingly. Second, the legislation provides State Attorneys General with the right to bring suit against slammers on behalf of the citizens of their state. Lastly, the Slamming Protection Act creates criminal fines and jail time for repeat and willful slammers.

"Slamming takes choices away from consumers and rewards companies that engage in misleading practices," Durbin said. "The Slamming Protection Act will send a message to slammers that they can no longer act with impunity."

Durbin was joined at the news conference by James Baumhart, President and CEO of the Better Business Bureau of Chicago and Northern Illinois, Robert Ruiz, Chief of the Public Interest Bureau of the Cook County State's Attorneys Office, and consumers who have been victims of slamming. The victims included Geryl Kramer, a Chicago business owner who was the impetus for the legislation, and Better Business Bureau President James Baumhart.

- 30 -

105.224

July 10, 1997

Dear Colleague:

I am writing to ask your support for the Slamming Protection Act of 1997 (SPA). "Slamming" is the practice of changing a telephone customer's long distance carrier without the customer's knowledge or consent. Telephone customers have the right to use any long distance carrier they choose and to change carriers whenever they wish. Slamming takes choices away from consumers without their knowledge and distorts the long distance competitive market by rewarding companies that engage in misleading marketing practices. Slamming has become such a pervasive problem that in 1995, over a third of the consumer complaints filed with the Federal Communications Commission's Common Carrier Bureau involved slamming.

The Commission has promulgated regulations which prohibit slamming, and the Commission enforces these regulations through broad based administrative investigations. In addition, there is a law which allows an injured long distance carrier to recover from the long distance carrier who profited from the slamming. Yet, there is no law which empowers a telephone consumer who has been slammed to recover her or his damages or to hold the slammer accountable for its deceptive and often fraudulent actions.

The SPA will give telephone consumers the right and means to stand up for themselves against the, currently, untouchable long distance carrier. Moreover, the SPA will give State Attorneys General the right to protect the telephone customers of their state from intrastate slamming.

The problem of slamming was vividly brought to my attention by Ms. Geryl Kramer, a small business owner in Chicago. Ms. Kramer had an established and mutually beneficial relationship with her long distance carrier. Without her knowledge or consent, however, her long distance carrier was changed -- she was slammed. She spent countless hours attempting to resolve the situation with four different long distance carriers who were involved in the misappropriation. She was completely unsuccessful and, understandably, upset and frustrated. Beyond being exasperated by the audacity of the slammer, Ms. Kramer was left toothless by the absence of a means for obtaining reparations for her injury. Having explored every other avenue, Ms. Kramer came to me seeking a solution to the problem of slamming. I believe the SPA is that solution.

I hope you will co-sponsor this important initiative. If you have any questions or would like to co-sponsor, please call Joel Wiginton (4-4022) of my staff. Thank you.

Sincerely,

Richard J. Durbin
United States Senator

MONDAY, FEBRUARY 9, 1998
FOR IMMEDIATE RELEASE
CONTACT:
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McCAIN, HOLLINGS, SNOWE, AND FRIST INTRODUCE ANTI-SLAMMING BILL

WASHINGTON, D.C. -- Senators John McCain (R-AZ), Chairman of the Committee on Commerce, Science, and Transportation; Ernest Hollings (D-SC), Ranking Member of the Committee; Olympia Snowe (R-ME); and Bill Frist (R-TN) today introduced the Consumer Anti-Slamming Act of 1998.

The legislation would put an end to the unauthorized changing of a consumer's long-distance carrier by prohibiting a telephone company from changing a consumer's telephone service unless the company obtains a verbal, written or electronic consent to the change from the subscriber. It also would provide greater protection to consumers in the event of a disputed switch in carriers by requiring carriers to provide consumers with the information to file a complaint.

"Slamming has to stop once and for all, and this bill means to stop it," McCain said. "The reality we face is that unless Congress supplements by law what the FCC can do by regulation, this already bad problem will only get worse. I am grateful to Senator Hollings for his support in this important effort."

"This legislation will offer consumers greater protection from the fraudulent practice of changing a customer's telephone service without their knowledge or consent. It also gives the FCC greater enforcement authority to pursue complaints against companies accused of slamming. Senator McCain and I have made it a priority to do everything we can to prevent consumers from being slammed," Hollings said.

Last year alone over 20,000 consumers filed slamming complaints with the Federal Communications Commission (FCC), the largest category of complaints the FCC received. Consumers who are slammed often receive lower-quality service or higher rates. Sometimes they are not even aware that they have been slammed until they get their bills. Also, consumers often find it difficult to secure compensation for any additional damages they may have incurred.

The bill also provides an expedited complaint procedure at the FCC with stiff penalties of not less that $40,000 for the first offense, and not less that $150,000 for any repeated offense.

(bill summary attached)

SUMMARY OF MCCAIN-HOLLINGS SLAMMING BILL

Prohibits a telecommunications carrier from changing a subscriber's local or long distance service unless the carrier follows the verification procedures prescribed by the FCC.

Requires the FCC to prescribe verification rules to require the telecommunications carrier to keep an oral, written or electronic record of a subscriber authorizing a change in their carrier.

Requires a telecommunications carrier to send a written notification to the consumer informing them of the changed service.

Provides greater protection to consumers in the event of a disputed switch in carriers by requiring carriers to provide consumers with the information and procedures necessary to file a complaint at the FCC. The legislation also requires carriers to provide consumers with any evidence in its possession alleging that the change in the subscriber's carrier was authorized.

Provides for expedited complaint procedures at the FCC with stiff penalties of not less than $40,000 for the first violation and not less than $150,000 for any subsequent violations. Authorizes FCC to compensate subscribers as well.

Provides authorities to States to seek injunctive relief and damages against "slammers."

Authorizes the FCC to recover any fines that are not paid by carriers.

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NEWS FROM REPRESENTATIVE PETER DeFAZIO

4th Congressional District, Oregon
Contact: Jeff Stier 202-225-6416

FOR IMMEDIATE RELEASE
July 1, 1997

DEFAZIO SLAMS SLAMMING

WASHINGTON, D.C.--U.S. Rep. Peter DeFazio, D-Springfield, was joined Wednesday by members of the Oregon Public Utility Commission and consumer advocacy organizations to announce legislation he will introduce in Congress to prevent long distance phone companies from switching a consumer's long distance provider without written consent from the consumer. DeFazio said his legislation is a response to a rash of consumer complaints in Oregon and around the nation.

"A funny thing happens when huge industries get deregulated," DeFazio said. "Consumers get shafted."

Many long distance phone companies use an aggressive marketing strategy known as "slamming," or switching a customer's long distance phone company without authorization. The Oregon Department of Justice and the Oregon Public Utility Commission both report significant increases in the number of consumer complaints about the practice.

For example, the Oregon Department of Justice's consumer complaints division received 56 slamming complaints in 1994 and 228 in 1996. The Oregon PUC received only 56 complaints in 1994, 215 complaints in 1996 and 250 complaints so far this year.

Currently, the Federal Communications Commission allows long distance companies to use a consumer's verbal consent during a telemarketing call to serve as verification for a change in long distance service. According to DeFazio, consumers are sometimes misled by deceptive marketing scripts and may not realize they are authorizing a change in service. In addition, many companies use deceptive or confusing marketing promotions to obtain a consumer's signature on a form authorizing a change in service.

DeFazio's bill would require long distance phone companies to obtain written consent to change a consumer's long distance carrier. It also requires the FCC to keep track of slamming complaints and provides a larger role for state regulators to oversee the marketing practices of long distance phone companies, which are now regulated solely by the FCC.

"Telecommunications deregulation was supposed to unleash a new entrepreneurial energy in America," DeFazio said. "Instead it seems to have created opportunities for some unscrupulous entrepreneurs to take advantage of defenseless consumers."

DeFazio's legislation is supported by the Oregon PUC, Oregon State Council of Senior Citizens, Oregon Citizens Utility Board, Oregon Consumer's League, American Association of Retired Persons, National Association of State Utility Consumer Advocates, National Association of Regulatory Utility Commissioners, and the Consumer Federation of America.

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NEWS FROM REPRESENTATIVE PETER DeFAZIO

4th Congressional District, Oregon
Contact: Kathie Eastman 202-225-6416

FOR IMMEDIATE RELEASE
April 23, 1998

DEFAZIO URGES STRONG ACTION AGAINST SLAMMING

WASHINGTON, D.C.--U.S. Rep. Peter DeFazio (D-Oregon), in a letter sent to the Federal Communications Commission (FCC) today, urged the agency to adopt provisions from legislation he introduced last year to combat telephone slamming. DeFazio's legislation would prevent long distance phone companies from switching a consumer's long distance provider without written consent from the consumer.

"Telecommunications deregulation was supposed to unleash a new entrepreneurial energy in America," DeFazio said. "Instead it seems to have created opportunities for some unscrupulous entrepreneurs to take advantage of defenseless consumers. It's about time the FCC took tough action to protect consumers."

Many long distance phone companies use an aggressive marketing strategy known as "slamming," or switching a customer's long distance phone company without authorization. Earlier this week, the FCC for the first time revoked a long-distance carriers's operating licenses and ordered the company to pay $5.7 million in fines for violating FCC rules on switching customer's long distance telephone service.

Currently, the Federal Communications Commission allows long distance companies to use a consumer's verbal consent during a telemarketing call to serve as verification for a change in long distance service. Consumers are sometimes misled by deceptive marketing scripts and may not realize they are authorizing a change in service. In addition, many companies use deceptive or confusing marketing promotions to obtain a consumer's signature on a form authorizing a change in service.

FCC Chairman William Kennard this week also said the FCC will vote shortly on new rules to combat slamming. DeFazio applauded the move and urged the FCC to adopt tough policies like those outlined in legislation he introduced last summer.

"I'm pleased the FCC is taking the slamming problem seriously and I'll be anxiously awaiting the FCC's new regulations," DeFazio said. "I strongly urge the agency to take the toughest action to combat this unscrupulous practice."

DeFazio's bill would require long distance phone companies to obtain written consent to change a consumer's long distance carrier and reimburse consumers for switching fees and new long distance charges. It also requires the FCC to keep track of slamming complaints and provides a larger role for state regulators to oversee the marketing practices of long distance phone companies, which are now regulated solely by the FCC.

DeFazio's legislation is supported by the American Association of Retired Persons, National Association of State Utility Consumer Advocates, National Association of Regulatory Utility Commissioners, the Consumer Federation of America and the Telecommunications Research and Action Center.

For more information about slamming, please check out IMPORTANT ISSUES

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LETTER to SECRETARY WILLIAM E. KENNARD--FEDERAL COMMUNICATIONS COMMISSION

Congress of the United States
House of Representatives
Washington, DC 20515

April 23, 1997

The Honorable William E. Kennard
Commissioner
The Federal Communications Commission
1900 M Street N.W.
Washington, DC 20554

Dear Commissioner:

I urge the commission to adopt tougher enforcement rules to stop telephone slamming. The data collected by your agency speaks for itself -- slamming complaints are on the rise despite the commission's past efforts to protect consumers. I commend the commission for taking steps to curb slamming, but stronger measures are necessary.

As the first Member of Congress to introduce a comprehensive anti-slamming proposal, I recommend the commission adopt the provisions contained in my bill, H.R. 2120. This bill is supported by AARP, the Consumer Federation of America, the National Association of State Utility Consumer Advocates and the public utility commissions of Oregon, Florida, Colorado and Idaho.

My proposal would require all long distance carriers to initiate a switch only after they have received a signed consent form from the consumer. Carriers that cannot produce a signed authorization form would be held liable for all switching fees and long distance charges from the time of the actual slam until the date the consumer switches back to their original carrier.

My bill also gives state public utility commissions a larger role in tracking the number of slamming complaints. The FCC would investigate if the number of complaints go above a certain threshold. In addition, long distance carriers would be required to include in each customer's bill instructions for registering a slamming complaint with the state public utility commission.

These provisions would protect consumers and dramatically reduce the number of slamming complaints that have overwhelmed the commission and state agencies. I urge you to seriously consider this no-nonsense approach to protect consumers without impeding the proprietary interests of carriers.

Thank you for your prompt attention to my suggestions. Please do not hesitate to call me or my staff for further discussion on this important matter.

Sincerely,

PETER DeFAZIO
Member of Congress

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Representative Peter DeFazio
OREGON'S 4TH CONGRESSIONAL DISTRICT

LETTER TO MEMBERS OF THE 105th CONGRESS

Congress of the United States
House of Representatives
Washington, DC 20515

STOP SLAMMING: THE UNAUTHORIZED SWITCHING OF YOUR LONG DISTANCE SERVICE

Dear Colleague:

According to the FCC, the fastest growing consumer complaint in telecommunications is slamming- - the unauthorized switching of a customer's long distance service. Intense competition has forced manycompanies to pursue deceptive marketing strategies to steal customers from other carriers to expand market share.

HOW IT WORKS:

Consumers find out they have been slammed after their long distance bill doubles in cost or when they lose their calling benefits.

- Many people get slammed by aggressive telemarketers who record their voice as saying "yes" to a question or by using deceptive scripts that mislead the customer into approving the switch without realizing it. Promotional checks are sent randomly to consumers that switch a person automatically when endorsed.
- Slammers also use deceptive contest entry forms in supermarkets, malls or restaurants promising free trips, cash prizes, frequent flyer miles or a new car. Details about the switch are usually found in the fine print of the entry form or on the back. When consumers sign it, they get switched.

COMPLAINTS ARE ON THE RISE:

The FCC received 11,278 complaints in 1995 and 16,500 in 1996.

My bill would address the problem of slamming in the following ways:

- Require a written consent form signed and dated by the consumer to activate a switch. All promotional offers, contest entry forms or endorsement checks must be separate from the written change authorization form.
- Any carrier that cannot produce a written authorization form for each subscriber will be liable for all switching fees and long distance charges from the time of the actual slam until the date the consumer switches back to their original carrier.
- Give state public utility commissions the option to administer a slamming complaint system to track the number of slamming complaints for each carrier. Long distance carriers would be required to include in each consumer's bill instructions for registering a slamming complaint with the PUC.

CONSUMER GROUPS AND REGULATORY COMMISSIONS SUPPORTING THE BILL ARE:

- AMERICAN ASSOCIATION OF RETIRED PERSONS (AARP)
- CONSUMER FEDERATION OF AMERICA (CFA)
- NATIONAL ASSOCIATION OF STATE CONSUMER ADVOCATES (NASUCA)
- PUBLIC UTILITY COMMISSIONS OF OREGON, FLORIDA, COLORADO, IDAHO
- TELECOMMUNICATIONS RESEARCH ACTION CENTER (TRAC)

Please join me in protecting consumers in a deregulated telecommunications market. If you would like to cosponsor this legislation, or request additional information, please call Jessica Zufolo at 5-6416.

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Representative Peter DeFazio
OREGON'S 4TH CONGRESSIONAL DISTRICT

SUMMARY ON TELEPHONE SLAMMING ISSUE

Increased competition in the long distance industry has led to aggressive marketing strategies to increase or maintain a long distance carrier's customer base. The most aggressive strategy is "slamming" or switching a customers' long distance service without authorization. Consumers discover they have been slammed after they notice unusually high charges on their bill or a loss in calling benefits.

THE FCC'S SYSTEM FOR VERIFYING A SWITCH IN SERVICE (LETTER OF AGENCIES, LOA)

To complete a switch, the FCC requires that long distance customers either sign a "Letter of Agency" (LOA) form that verifies their desire to switch carriers, or provide their verbal consent, which must be recorded by the long distance carrier.

HOW SLAMMING WORKS

Many slamming victims allege they were unaware they were agreeing to a change in their service during what many describe as confusing, if not deceptive, marketing calls. Seniors and non-native English speakers seem to be particularly vulnerable. In addition to confusing or deceptive telemarketing calls, consumers are sometimes lured by contest entry forms at a supermarket, mall or a restaurant promising cash prizes or frequent flyer miles. The consumer's long distance service gets switched once they sign the entry form or cash the promotional check. Details about the switch are often found in the fine print.

The Oregon Dept. of Justice received 56 slamming complaints in 1994, 212 in 1995, 228 in 1996 and 111 since January 1997. The Oregon Public Utility Commission (OPUC) received 56 slamming complaints in 1994, 267 in 1995, 215 in 1996 and 250 since January 1997.

OUTLINE OF FEDERAL LEGISLATION TO CURB SLAMMING REQUIRING WRITTEN SUBSCRIBER AUTHORIZATION FOR ALL SWITCHES

- Require a written consent form signed and dated by the consumer to activate a legal switch. All promotional offers, contest entry forms or endorsement checks must be separate from the written change authorization form.

- Any carrier that cannot produce a written authorization form for each subscriber will be liable for violating the act's requirements. A violation will force carriers to pay for all switching fees and long distance charges from the time of the actual slam until the date the consumer switches back to their original carrier or after six months from the date of the slam, whichever is shorter.

SLAMMING COMPLAINT SYSTEM

- The FCC is required to implement a slamming complaint system, which states have the option of administering. Long distance carriers are required to include in each customer's telephone bill instructions for registering a slamming complaint.

- The FCC is required to establish the maximum number of allowable slamming complaints for each state. When that limit is exceeded, the FCC is required to investigate the individual carriers involved.

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Slamming

Slamming

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: TELEPHONE CRAMMING / SLAMMING

DATE: MAY 5, 1998

SUMMARY

"Cramming" is the practice of billing local telephone customers for products or services they did not order.

I. BACKGROUND

- In April, Chairman Kennard told a congressional hearing that "cramming," the practice of billing local telephone customers for products or services they did not order, is likely to become the next big consumer issue in telecommunications. Unlike "slammers," who switch a consumer's long-distance service without permission, "crammers" often aren't even offering phone service, but their charges appear on phone bills anyway.

- By registering as telephone "common carriers," crammers can skirt most oversight by the Federal Trade Commission. Oversight then must be provided by the FCC, which deregulated billing and collection services by local phone companies in the 1980s and is being accused by lawmakers of lax enforcement of slamming and cramming.

- One consumer was charged after his 12-year-old daughter called a toll-free astrology line. Apparently, the company asked her to state her name, recorded it, and used it as "evidence" that the family ordered a voice mail service.

II. RECENT ACTIONS

- On April 23, the Senate Governmental Affairs Permanent Subcommittee on Investigations held a hearing on "slamming" -- the practice of switching a telephone customer's long-distance service without the customer's consent.

- At the Senate hearing, Senator Dick Durbin cited a new quarterly report from the National Fraud Information Center which found that "cramming" and "slamming" were the number one and number two sources of complaints, respectively, to the Center. The Center is a project of the National Consumers' League (NCL). Slamming was the top consumer complaint to the Illinois attorney general's office in 1995, and the second most common complaint in 1996 and 1997.

- Senators Collins (R-ME) and Durbin (D-IL) have introduced a bill that would make intentional, repeated slamming a criminal offense. The bill allows the FCC to restrict practices companies may use to sign up unsuspecting customers for their services. The legislation also allow slamming victims to bypass a slammer and pay phone charges to their original carrier at that carrier's rate. In addition, the bill increases civil penalties for slamming, imposes criminal penalties for the first time and requires all telecommunications carriers to provide a summary of the number of subscriber slamming complaints against the carrier.

- In April, the General Accounting Office (GAO) issued a report that concluded: "We have found nothing in FCC practices that would effectively curtail unscrupulous individuals from entering the telecommunications industry."

- In April, the FCC filed its first cramming complaint against three Los Angeles-based companies and their officers under a recent statute that protects consumers from the 900-number pay-per-call industry.

- In March, the Illinois attorney general filed suit against eight alleged crammers.

- On April 27, FCC Chairman William Kennard announced that he was working with the industry to develop a voluntary code of best practices aimed at eliminating "cramming."

III. ACTIONS IN THE STATES

- Illinois is considering legislation to give consumers added protection against telephone "slamming" or "cramming." The bill bans the use of sweepstakes boxes as a way to switch or add phone service. It also mandates that consumers and businesses be notified within six days after a new phone service has been added or whether the service has been switched. There would also be a toll-free number which consumers could call to cancel or switch service.

Slam

-watch for Sen. Gorton
- 'universal service'

Telecommunications Fraud Bills	Date	Sponsor	Summary
S1740 Telephone Slamming Prevention Act of 1998	3/10/98	Sen. Collins 1 Cosponsor 1 Dem (Durbin)	Increases penalties, requires reports from telecommunications carriers to FCC on the number of slamming complaints, calls for FCC report on slamming violations and licensing procedures
S1618 To amend the Communications Act of 1934 to improve consumer protection against slamming	2/9/98	Sen. McCain 5 Cosponsors 3 Dems 2 Reps	Requires verification of authorization, requires written notification to subscribers w/in 15 days of change in telecommunications carrier, increases penalties, calls for FCC report on slamming telemarketing practices
HR3050 Slamming Prevention and Consumer Protection Act of 1997	11/13/97	Rep. Dingell 0 Cosponsors	Prohibits negative option selection (requires affirmative request of subscriber for carrier changes), requires clear disclosure of request to change service provider, prescribes FTC regulations.
S1340 Telephone Consumer Fraud Protection Act of 1997	10/29/97	Sen. Durbin 0 Cosponsors	Establishes criminal penalties for telephone service slamming
S1137 Slamming Protection Act	7/31/97	Sen. Durbin 0 Cosponsors	Increases penalties for slamming -- up to $2,000 in damages, or $6,000 if slamming was willful and knowing. People convicted on slamming charges face a $1,000 fine and jail sentence of up to 30 days for a first offense, $10,000 fine and up to nine months for subsequent offense.
S1051 Interstate Slamming Prevention Act of 1997	7/22/97	Sen. Campbell 0 Cosponsors	Increases penalties for slamming, provides additional protections against slamming (such as a toll-free complaint #), calls for FCC report on slamming violations
HR2120 To amend the Communications Act of 1934 to strengthen procedures for preventing slamming	7/9/97	Rep. DeFazio 6 Cosponsors 3 Dems 3 Reps	Requires verification procedures, establishes State commissions to administer slamming complaint system and certifications, requires notice to subscribers of availability of slamming complaint system in subscribers' phone bill, requires Commission to study the rates of slamming and subject carriers to violation penalties.
HR2112 Telephone Slamming Prevention and Internet Connection Act	7/8/97	Rep. Franks 13 Cosponsors 10 Dems 3 Reps	Doubles fines for slamming from $110,000 per incident to $220,000. Funds collected from increased fines dedicated to FCC's program to provide Internet service to schools, libraries, and hospitals.
S665 To monitor the progress of the Telecommunications Act of 1996	4/29/97	Sen. Kerrey 1 Cosponsor 1 Dem	Requires annual reports on telecommunications competition from the National Telecommunications and Information Administration, the FCC, DOJ, state utility commissions and other federal agencies.
S1410 To enhance protections against unauthorized changes in telephone service providers	3/7/97	Sen. Reed 0 Cosponsors	Requires oral or written verification of subscriber's selection of telecommunication provider, increases remedies, calls for FCC report on electronic verification of subscriber authorization

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105th CONGRESS
2d Session

S. 1740

To amend the Communications Act of 1934 to improve the protections against the unauthorized change of subscribers from one telecommunications carrier to another, and for other purposes.

IN THE SENATE OF THE UNITED STATES

March 10, 1998

Ms. Collins (for herself and Mr. Durbin) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend the Communications Act of 1934 to improve the protections against the unauthorized change of subscribers from one telecommunications carrier to another, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Telephone Slamming Prevention Act of 1998''.

SEC. 2. IMPROVEMENTS OF PROTECTIONS AGAINST UNAUTHORIZED CHANGES OF PROVIDERS OF TELEPHONE SERVICE.

(a) Clarification of Verification Procedures.--Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

``(a) Prohibition.--

``(1) In general.--No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

``(2) Verification.--The procedures prescribed by the Commission to verify a subscriber's selection of a telephone exchange service or telephone toll service provider shall--

``(A) preclude the use of negative option letters of agency as a verification method; and

``(B) require the retention of the verification of a subscriber's selection in such manner and form and for such time as the Commission considers appropriate.''.

(b) Liability for Charges.--Subsection (b) of such section is amended--

(1) by striking ``(b) Liability for Charges.--Any telecommunications carrier'' and inserting the following:

``(b) Liability for Charges.--

``(1) In general.--Any telecommunications carrier'';

(2) by designating the second sentence as paragraph (3) and inserting at the beginning of such paragraph, as so designated, the following:

``(3) Construction of remedies.--''; and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following:

``(2) Subscriber payment option.--

``(A) In general.--A subscriber whose telephone exchange service or telephone toll service is changed in violation of the procedures prescribed under subsection (a) may elect to pay the carrier previously selected by the subscriber for any such service received after the change in full satisfaction of amounts due from the subscriber to the carrier providing such service after the change.

``(B) Payment rate.--Payment for service under subparagraph (A) shall be at the rate for such service charged by the carrier previously selected by the subscriber concerned.''.

(c) Additional Penalties.--Such section is further amended by adding at the end the following:

``(c) Civil Penalties.--

``(1) In general.--Unless the Commission determines that there are mitigating circumstances, any telecommunications carrier who submits or executes a change in a provider of telephone exchange service or telephone toll service in violation of the procedures prescribed under subsection (a) shall be fined a minimum of $50,000 for the first offense and shall be fined a minimum of $100,000 for any subsequent offense.

``(2) Penalties for activities of agents and resellers.--The Commission may assess penalties for violations of the procedures prescribed under subsection (a) in the case of a carrier that submits or executes unauthorized changes on behalf of its agents or resellers if the carrier meets such conditions as the Commission shall prescribe in regulations.

``(d) Criminal Penalties.--Any person who submits or executes a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures prescribed under subsection (a)--

``(1) shall be fined in accordance with title 18, United States Code, imprisoned not more than 1 year, or both; but

``(2) if previously convicted under this subsection at the time of a subsequent offense, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both, for such subsequent offense.

``(e) Disqualification From Certain Activities.--

``(1) Disqualification of persons.--Subject to paragraph (3), any person convicted under subsection (d), in addition to any fines or imprisonment under that subsection, may not carry out any activities covered by section 214.

``(2) Disqualification of companies.--Subject to paragraph (3), any company substantially controlled by a person convicted under subsection (d) may not carry out any activities covered by section 214.

``(3) Reinstatement.--

``(A) In general.--The Commission may terminate the application of paragraph (1) or (2) of this subsection to a person or company, as the case may be, if the Commission determines that the termination would be in the public interest.

``(B) Effective date.--The termination of the applicability of paragraph (1) or (2) to a person or company, as the case may be, under subparagraph (A) may not take effect earlier than 5 years after the date on which the applicable paragraph applied to the person or company.

``(f) Actions by States.--Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of unauthorized changes in providers of telephone exchange service or telephone toll service of residents in such State in violation of the procedures prescribed under subsection (a), the State may bring a civil action on behalf of its residents to enjoin such practices, to recover damages equal to the actual monetary loss suffered by such residents, or both. If the court finds the defendant executed such changes in willful and knowing violation of such procedures, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount awardable under the preceding sentence.

``(g) No Preemption of State Law.--Nothing in this section shall preempt the availability of relief under State law for unauthorized changes of providers of intrastate telephone exchange service or telephone toll service.

``(h) Reports on Complaints.--

``(1) Reports required.--Each telecommunications carrier shall submit to the Commission, as frequently as the Commission shall require, a report on the number of complaints of unauthorized changes in providers of telephone exchange service or telephone toll service that are submitted to the carrier by its subscribers. Each report shall specify each provider of service complained of and the number of complaints relating to such provider.

``(2) Utilization.--The Commission shall use the information submitted in reports under this subsection to identify telecommunications carriers that engage in patterns and practices of unauthorized changes in providers of telephone exchange service or telephone toll service.''.

(d) Treatment of Regulations.--The Federal Communications Commission may treat the regulations prescribed under section 258 of the Communications Act of 1934 before the date of enactment of this Act as regulations prescribed under such section 258, as amended by this section, but only to the extent that the regulations prescribed before such date of enactment are not inconsistent with the requirements of such section, as so amended.

(e) Report on Slamming Violations.--

(1) In general.--Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on its enforcement actions against carriers for violations of the procedures prescribed under section 258(a) of the Communications Act of 1934, as in effect on the day before the date of enactment of this Act.

(2) Elements.--The report shall--

(A) set forth the number of complaints against each telecommunications carrier that was subject to more than 100 complaints in 1997 for violation of the procedures referred to in paragraph (1); and

(B) describe the penalties assessed against each such carrier for violations of such procedures.

SEC. 3. REVIEW OF ADEQUACY OF LICENSING REQUIREMENTS AND PROCEDURES.

Not later than 6 months after the date of enactment of this Act, the Federal Communications Commission shall submit to Congress a report that--

(1) assesses the adequacy and effectiveness of the licensing requirements and procedures of the Commission under section 214 of the Communications Act of 1934 (47 U.S.C. 214) in determining whether or not a carrier is suitable for licensing under that section; and

(2) identifies additional actions that the Commission could take under that section in order to ensure that new licenses are not issued under that section to persons or carriers that have previously lost their licenses for violations of section 258 of that Act (47 U.S.C. 258) or have otherwise engaged in egregious violations of such section 258.

<all>

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105th CONGRESS
2d Session

S. 1618

To amend the Communications Act of 1934 to improve the protection of consumers against ``slamming'' by telecommunications carriers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 9, 1998

Mr. McCain (for himself, Mr. Hollings, Ms. Snowe, Mr. Frist, Mr. Reed, and Mr. Bryan) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend the Communications Act of 1934 to improve the protection of consumers against ``slamming'' by telecommunications carriers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED PROTECTION FOR CONSUMERS AGAINST ``SLAMMING'' BY TELECOMMUNICATIONS CARRIERS.

(a) Verification of Authorization.--Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

``(a) Prohibition.--

``(1) In general.--No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

``(2) Verification.--

``(A) In general.--In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier shall, at a minimum, require the subscriber--

``(i) to acknowledge the type of service to be changed as a result of the selection;

``(ii) to affirm the subscriber's intent to select the provider as the provider of that service;

``(iii) to affirm that the subscriber is authorized to select the provider of that service for the telephone number in question;

``(iv) to acknowledge that the selection of the provider will result in a change in providers of that service;

``(v) to acknowledge that the individual making the oral communication is the subscriber; and

``(vi) to provide such other information as the Commission considers appropriate for the protection of the subscriber.

``(B) Additional requirements.--The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall--

``(i) preclude the use of negative option marketing;

``(ii) provide for verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form; and

``(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate.

``(3) Intrastate services.--Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

``(4) Section not to apply to wireless.--This section does not apply to a provider of commercial mobile service, as that term is defined in section 332(d)(1) of this Act.''.

(b) Resolution of Complaints.--Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

``(c) Notice to Subscriber.--Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier selected shall notify the subscriber in writing, not more than 15 days after the change is executed, of the change, the date on which the change was effected, and the name of the individual who authorized the change.

``(d) Resolution of Complaints.--

``(1) Prompt resolution.--

``(A) In general.--The Commission shall prescribe a period of time, not in excess of 120 days, for a telecommunications carrier to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service.

``(B) Unresolved complaints.--If a telecommunications carrier fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunications carrier shall--

``(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission concerning the unresolved complaint, the subscriber's rights under this section, and all other remedies available to the subscriber concerning unauthorized changes;

``(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

``(iii) provide the subscriber a copy of any evidence in the carrier's possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or execute in accordance with the verification procedures prescribed under subsection (a).

``(2) Resolution by commission.--The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time, involved in the process. The Commission shall issue an order resolving any such complain at the earliest date practicable, but in no event later than--

``(A) 150 days after the date on which it received the complaint, with respect to liability issues; and

``(B) 90 days after the date on which it resolves a complaint, with respect to damages issues, if such additional time is necessary.

``(3) Damages awarded by commission.--In resolving a complaint under paragraph (1)(B), the Commission may award damages equal to the greater of $500 or the amount of actual damages. The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

``(e) Penalty.--

``(1) In general.--Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a fine of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

``(2) Failure to notify treated as violation of subsection (a).--If a telecommunications carrier fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

``(f) Recovery of Fines.--The Commission may take such action as may be necessary--

``(1) to collect any fines it imposes under this section; and

``(2) on behalf of any subscriber, any damages awarded the subscriber under this section.''.

(c) State Right-of-Action.--Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (b), is amended by adding at the end thereof the following:

``(g) Actions by States.--

``(1) Authority of states.--Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that a telecommunications carrier has engaged or is engaging in a pattern or practice of changing telephone exchange service or telephone toll service provider without authority from subscribers in that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such unauthorized changes, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

``(2) Exclusive jurisdiction of federal courts.--The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

``(3) Rights of commission.--The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right--

``(A) to intervene in the action;

``(B) upon so intervening, to be heard on all matters arising therein; and

``(C) to file petitions for appeal.

``(4) Venue; service of process.--Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is any inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

``(5) Investigatory powers.--For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

``(6) Effect on state court proceedings.--Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

``(7) Limitation.--Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

``(8) Definition.--As used in this subsection, the term `attorney general' means the chief legal officer of a State.

``(h) State Law Not Preempted.--Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits unauthorized changes in, a subscriber's selection of a provider of telephone exchange service or telephone toll service.''.

SEC. 2. REPORT ON TELEMARKETING PRACTICES.

(a) In General.--The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing practices used by telecommunications carriers or their agents or employees for the purpose of soliciting changes by subscribers of their telephone exchange service or telephone toll service provider.

(b) Specific Issues.--As part of the report required under subsection (a), the Commission shall include findings on--

(1) the extent to which imposing penalties on telemarketers would deter unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service;

(2) the need for rules requiring third-party verification of changes in a subscriber's selection of such a provider; and

(3) whether wireless carriers should continue to be exempt from the verification and retention requirements imposed by section 258(a)(2)(B)(iii) of the Communications Act of 1934 (47 U.S.C. 258(a)(2)(B)(iii)).

(c) Rulemaking.--If the Commission determines that particular telemarketing practices are being used with the intention to mislead, deceive, or confuse subscribers and that they are likely to mislead, deceive, or confuse subscribers, then the Commission shall initiate a rulemaking to prohibit the use of such practices within 120 days after the completion of its report.

<all>

[DOCID: f:h3050ih.txt]

105th CONGRESS
1st Session

H. R. 3050

To establish procedures and remedies for the prevention of fraudulent and deceptive practices in the solicitation of telephone service subscribers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 13, 1997

Mr. Dingell introduced the following bill; which was referred to the Committee on Commerce

---

A BILL

To establish procedures and remedies for the prevention of fraudulent and deceptive practices in the solicitation of telephone service subscribers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Slamming Prevention and Consumer Protection Act of 1997''.

TITLE I--IMPROVED COMMUNICATIONS ACT REMEDIES FOR SLAMMING

SEC. 101. COMPLETION AND ENFORCEMENT OF FCC RULES.

Section 258 of the Communications Act of 1984 (47 U.S.C. 258) is amended by adding at the end the following:

``(c) Subscriber Changes.--The Commission's regulations under this section shall require any carrier that submits or executes a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service in violation of the verification procedures prescribed by the Commission shall refund to the subscriber (or discharge the subscriber from liability for) any charges imposed for such service by such carrier during the 3-month period after the change in the subscriber's selection is effected.

``(d) Negative Option Selection Prohibited.--The Commission's regulations under this section shall prohibit any change in selection, or any verification of a change in selection, without the affirmative request of the subscriber. A subscriber's failure to refuse a change in selection, or failure to refuse to verify a change in selection, shall not be deemed to be an affirmative request.

``(e) Completion of Rulemaking.--The Commission shall complete all actions necessary, including any reconsideration, to prescribe rules to implement and enforce this section within two years after the date of enactment of the Telecommunications Act of 1996.

``(f) Private Right of Action.--

``(1) In general.--A subscriber whose selection of a provider of telephone exchange service or telephone toll service is changed in violation of the procedures prescribed under subsection (a) may, within one year after the change, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State an action--

``(A) for an order to revoke the change;

``(B) for an award of damages in an amount equal to the greater of--

``(i) the actual monetary loss resulting from the change; or

``(ii) an amount not to exceed $500; or

``(C) for relief under both subparagraphs (A) and (B).

In any such action in which the plaintiff substantially prevails the court may assess reasonable costs, including attorneys' fees, against the defendant.

``(2) Increased award.--If the court finds that the defendant executed the change in willful and knowing violation of the procedures prescribed under subsection (a), the court may, in its discretion, increase the amount of the award under paragraph (1) to an amount equal to not more than three times the maximum amount awardable under subparagraph (B) of that paragraph.

``(g) No Preemption of State Law.--Nothing in this section shall preempt the availability of relief under State law for unauthorized changes of providers of intrastate telephone exchange service or telephone toll service.''.

TITLE II--REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH SLAMMING

SEC. 201. FEDERAL TRADE COMMISSION REGULATIONS.

(a) In General.--

(1) Regulations required.--The Commission shall prescribe rules in accordance with this subsection to prohibit unfair and deceptive acts and practices in any advertisement for or solicitation of any change in a subscriber's selection of a provider of telephone exchange service or telephone toll service. Such rules shall require that the person offering or soliciting any change in the subscriber's selection of the provider of a telephone exchange service or telephone toll service--

(A) clearly and conspicuously disclose--

(i) that the offer or solicitation seeks authority to change the subscriber's selection of the provider of a telephone exchange service or telephone toll service; and

(ii) the cost of the use of telephone exchange service or telephone toll service, including the total cost or the cost per minute and any other fees for that service, including any cost imposed for changing the subscriber's selection of service providers;

(B) not submit or execute a change in a subscriber's selection of the provider of any telephone exchange service or telephone toll service in violation of the verification procedures prescribed by the Federal Communications Commission pursuant to section 258 of the Communications Act of 1934;

(C) in the case of an advertisement or solicitation which offers a prize or award or a service or product at no cost or for a reduced cost, clearly and conspicuously disclose the odds of being able to receive such prize, award, service, or product at no cost or reduced cost, or, if such odds are not calculable in advance, disclose the factors determining such odds; and

(D) comply with such additional standards as the Commission may prescribe to prevent unfair or abusive practices.

(2) Access to information.--The Commission shall by rule require a common carrier that uses any person other than an employee of such carrier to solicit changes in the provider of any telephone exchange service or telephone toll service to make available to the Commission any contracts, records, and financial information maintained by such carrier relating to the use of such person to make such solicitations.

(3) Evasions.--The rules issued by the Commission under this section shall include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to telephone exchange service or telephone toll service subscribers under this title.

(4) Treatment of rules.--A rule issued under this subsection shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Rulemaking.--The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) Enforcement.--Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule respecting unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this title.

SEC. 202. ACTIONS BY STATES.

(a) In General.--Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice which violates any rule of the Commission under section 201(a), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such pattern or practice, to enforce compliance with such rule of the Commission, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) Notice.--The State shall serve prior written notice of any civil action under subsection (a) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) Venue.--Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(d) Investigatory Powers.--For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) Effect on State Court Proceedings.--Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(f) Limitation.--Whenever the Commission has instituted a civil action for violation of any rule or regulation under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(g) Actions by Other State Officials.--

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State for protection of consumers and who are designated by the Commission to bring an action under subsection (a) against persons that the Commission has determined have or are engaged in a pattern or practice which violates a rule of the Commission under section 201(a).

SEC. 203. ADMINISTRATION AND APPLICABILITY OF TITLE.

(a) In General.--Except as otherwise provided in section 202, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act, except for purposes of this title.

(b) Actions by the Commission.--The Commission shall prevent any person from violating a rule of the Commission under section 201 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

SEC. 204. DEFINITIONS.

For purposes of this title:

(1) The terms ``telephone exchange service'' and ``telephone toll service'' have the meaning provided in section 3 of the Communications Act of 1934.

(2) The term ``attorney general'' means the chief legal

officer of a State.
    (3) The term ``State'' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.
    (4) The term ``Commission'' means the Federal Trade Commission.

<all>

II

105TH CONGRESS
1ST SESSION

S. 1340

Entitled the "Telephone Consumer Fraud Protection Act of 1997".

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 1997

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

Entitled the "Telephone Consumer Fraud Protection Act of 1997".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Consumer Fraud Protection Act of 1997".

SEC. 2. CRIMINAL PENALTIES.

Title 18 of the United States Code is amended in the appropriate place to provide the following:

(1) PERSONS.—Any person who submits to a subscriber a request for a change in a provider of telephone exchange service or telephone toll service

in willful violation of the procedures established in 47 C.F.R. §§ 64.1100 or 64.1150:

(A) shall be fined not more than $1,000, imprisoned not more than 30 days, or both, for the first offence; and

(B) shall be fined not more than $10,000, imprisoned not more than 9 months, or both, for any subsequent offense.

(2) TELECOMMUNICATIONS CARRIERS.—Any telecommunications carrier who submits to a subscriber a request for a change in a provider of telephone exchange service or telephone toll service, or executes such a change, in willful violation of 47 C.F.R. §§ 64.1100 or 64.1150:

(A) shall be fined not more than $50,000 for the first such conviction; and

(B) shall be fined not more than $200,000 for any subsequent conviction.

SEC. 3. A STUDY BY THE ATTORNEY GENERAL.

The Attorney General shall conduct a study and report to Congress on the fraudulent and criminal behavior of telecommunications carriers and their agents in the solicitation, marketing, and assignment of wire services. The Attorney General's study shall examine the fraudulent methods by which a telecommunications consumer's local, long distance, and other telecommunications services are changed without her or his knowledge or consent. The Attorney General's study shall also examine the negative impact and costs that such fraudulent activity is having on consumers and the marketplace.

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105TH CONGRESS
1ST SESSION

S. 1137

To amend section 258 of the Communications Act of 1934 to establish additional protections against the unauthorized change of subscribers from one telecommunications carrier to another.

IN THE SENATE OF THE UNITED STATES

JULY 31, 1997

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend section 258 of the Communications Act of 1934 to establish additional protections against the unauthorized change of subscribers from one telecommunications carrier to another.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Slamming Protection Act".

SEC. 2. ADDITIONAL PROTECTIONS AGAINST UNAUTHORIZED CHANGES OF PROVIDERS OF TELEPHONE SERVICE.

Section 258 of the Communications Act of 1984 (47 U.S.C. 258) is amended by adding at the end the following:

"(c) CRIMINAL PENALTIES.—

"(1) PERSONS.—Any person who executes a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures prescribed under subsection (a)—

"(A) shall be fined not more than $1,000, imprisoned not more than 30 days, or both, for the first offense; and

"(B) shall be fined not more than $10,000, imprisoned not more than 9 months, or both, for any subsequent offense.

"(2) TELECOMMUNICATIONS CARRIERS.—Any telecommunications carrier who executes a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures prescribed under subsection (a) shall be fined not more than $50,000 for the first offense and shall be fined not more than $100,000 for any subsequent offense.

"(d) PRIVATE RIGHT OF ACTION.—

"(1) IN GENERAL.—A subscriber whose provider of telephone exchange service or telephone toll service is changed in violation of the procedures prescribed under subsection (a) may, within one year after discovery of the change, bring in an appropriate court an action—

"(A) for an order to revoke the change;

"(B) for an award of damages in an amount equal to the greater of—

"(i) the actual monetary loss resulting from the change; or

"(ii) an amount not to exceed $2,000; or

"(C) for relief under both subparagraphs (A) and (B).

"(2) INCREASED AWARD.—If the court finds that the defendant executed the change in willful and knowing violation of the procedures prescribed under subsection (a), the court may, in its discretion, increase the amount of the award under paragraph (1) to an amount equal to not more than three times the maximum amount awardable under subparagraph (B) of that paragraph.

"(e) ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of unauthorized changes in providers of telephone exchange service or telephone toll service of residents in such State in violation of the procedures prescribed under subsection (a), the State may bring a civil action on behalf of its residents to enjoin such practices, to recover damages equal to the actual monetary loss suffered by such residents, or both. If the court finds the defendant executed such changes in willful and knowing violation of such procedures, the court may, in its discretion, increase the amount of the award to an amount equal to not more than three times the amount awardable under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to award declaratory relief, or orders affording like relief, commanding the defendant to comply with the procedures prescribed under subsection (a). Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) NOTICE TO COMMISSION.—A State shall serve prior written notice of any civil action under this subsection upon the Commission with a copy of its complaint, except in any case where prior notice is not feasible, in which case the State shall serve such notice immediately after instituting such action.

"(4) RIGHTS OF COMMISSION.—Upon receiving notice of an action under this subsection, the Commission shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all such matters arising therein; and

"(C) to file petitions for appeal.

"(5) VENUE; SERVICE OF PROCESS.—Any civil action under this subsection may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(f) CLASS ACTIONS.—For any class action brought with respect to the violation of the procedures prescribed under subsection (a), the total damages awarded may not exceed an amount equal to three times the total actual damages suffered by the members of the class, irrespective of the minimum damages provided for in subsection (d).

"(g) NO PREEMPTION OF STATE LAW.—Nothing in this section shall preempt the availability of relief under State law for unauthorized changes of providers of intrastate telephone exchange service or telephone toll service.".

○

S 1051 IS

105th CONGRESS

1st Session

S. 1051

To amend the Communications Act of 1934 to enhance protections against unauthorized changes of telephone service subscribers from one telecommunications carrier to another, and for other purposes.

IN THE SENATE OF THE UNITED STATES

July 22, 1997

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

A BILL

To amend the Communications Act of 1934 to enhance protections against unauthorized changes of telephone service subscribers from one telecommunications carrier to another, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Interstate Slamming Prevention Act of 1997'.

SEC. 2. ENHANCEMENT OF PROTECTIONS.

(a) LIABILITY FOR ADDITIONAL CHARGES- Subsection (b) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended--

(1) by striking `(b) LIABILITY FOR CHARGES- Any telecommunications carrier' in the first sentence and inserting the following:

`(b) LIABILITY FOR CHARGES-

`(1) CHARGES COLLECTED AFTER VIOLATION- Any telecommunications carrier'; and

(2) by striking the second sentence and inserting the following:

`(2) FEES FOR CHANGING BACK- Any telecommunications carrier described in paragraph (1) shall also be liable to the carrier previously selected by the subscriber concerned for any fees associated with changing the subscriber back to the carrier previously selected, in accordance with such procedures as the Commission may prescribe.

`(3) RELATION TO OTHER AUTHORITY- The remedies provided by this subsection are in addition to any other remedies available by law.'.

(b) ADDITIONAL PENALTIES- Such section 258 is further amended by adding at the end the following:

`(c) ADDITIONAL PENALTIES- Any telecommunications carrier that violates the verification procedures described in subsection (a) shall be subject to such additional fines and penalties, including a forfeiture penalty under section 503(b)(1)(B) of this Act, as the Commission shall prescribe.'.

(c) ADDITIONAL PROTECTIONS- Such section 258 is further amended by adding at the end the following:

`(d) ADDITIONAL PROTECTIONS- In order to provide subscribers with additional protections against changes in providers of telephone exchange service or telephone toll service in violation of the verification procedures described in subsection (a), the Commission may prescribe the following:

`(1) A requirement that telecommunications carriers establish toll-free telephone numbers in order to permit subscribers to register complaints regarding the execution of such changes in service, including the requirement that calls to such numbers be answered in not more than two minutes.

`(2) A requirement that telecommunications carriers provide the Commission such information relating to the complaints made to such carriers regarding such changes in service as the Commission considers appropriate.'.

(d) DEADLINE FOR RULEMAKING- The Federal Communications Commission shall prescribe the regulations required by section 258 of the Communications Act of 1934, as amended by this section, not later than April 30, 1998.

(e) REPORTS TO CONGRESS-

(1) INITIAL REPORT- Not later than October 31, 1998, the Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service. The report shall include the following:

(A) A list of the ten telecommunications carriers that, during the one-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers.

(B) The telecommunications carriers, if any, assessed fines or penalties under section 258(c) of the Communications Act of 1934, as added by subsection (c) of this section, during that period, including the amount of each fine or penalty, and whether the fine or penalty was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

(C) Whether or not subscribers should be authorized to bring a private cause of action against telecommunications carriers that change subscriber selections of providers of telephone exchange service or telephone toll service in violation of the procedures prescribed under section 258(a) of the Communications Act of 1934 and, if so, the advisability of establishing minimum statutory penalties for violations addressed by such causes of action.

(D) Whether or not the fines and penalties imposed by the Commission under section 258(c) of the Communications Act of 1934, as so added, are sufficient to deter telecommunications carriers from changing subscriber selections of providers of telephone exchange service or telephone toll service in violation of such procedures.

(2) UPDATE- Not later than one year after the date on which the Commission submits the report required by paragraph (1), and each year thereafter, the Commission shall submit to Congress an update of the previous report under this subsection which sets forth the information specified in subparagraphs (A) and (B) of that paragraph for one-year period preceding the date of the report concerned.

END

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105th CONGRESS
1st Session

H. R. 2120

To amend the Communications Act of 1934 to strengthen and expand the procedures for preventing the slamming of interstate telephone service subscribers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

July 9, 1997

Mr. DeFazio (for himself, Ms. DeGette, Mr. Franks of New Jersey, Mr. Frank of Massachusetts, Mr. Shays, Mr. Blumenauer, and Mr. Smith of Oregon) introduced the following bill; which was referred to the Committee on Commerce

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A BILL

To amend the Communications Act of 1934 to strengthen and expand the procedures for preventing the slamming of interstate telephone service subscribers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Telephone Consumer Slamming Prevention Act of 1997''.

SEC. 2. LONG DISTANCE SLAMMING PROHIBITION.

Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended--

(1) in the first sentence of subsection (a), by inserting ``the requirements of this section and'' after ``in accordance with''; and

(2) by adding at the end the following new subsections:

``(c) Verification Procedures Required With Respect to Subscriber Selections of Interstate Carrier.--

``(1) Written carrier selections required.--No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of interstate telephone service unless the carrier to which the subscriber will be changed (or such carrier's agent) has obtained from the subscriber a written change authorization that--

``(A) clearly and simply describes the nature of

the subscription change;
``(B) is signed and dated by the subscriber;
``(C) is solicited in accordance with the requirements of paragraph (2); and
``(D) is in a form (including typeface and language used) that is prescribed or approved by the Commission.
``(2) Solicitation procedures.--A written change authorization shall--
``(A) not (i) be a part of, or attached to, any other document, (ii) be included together with any billing for telephone service, (iii) contain any promotional offer or inducement; or (iv) represent that endorsement entitles the subscriber to any benefit other than the change in carrier selection; and
``(B) be provided to the subscriber in duplicate, and permit the subscriber to retain the duplicate.
``(d) Liability to Subscribers for Unauthorized Changes of Interstate Telephone Service.--Any telecommunications carrier that violates the requirements of subsection (c) shall be liable to the subscriber in an amount equal to the sum of the following charges:
``(1) Switching fees.--Any fees imposed for changing the subscriber's service to or from the unauthorized carrier.
``(2) Long distance charges.--Any charges for interstate telephone service used by the subscriber during the period that begins upon the occurrence of the unauthorized change in service that constituted the violation and ends upon the earlier of (A) the date that the service of the subscriber is changed from the unauthorized carrier pursuant to a valid change authorization under subsection (c), or (B) the expiration of the 6-month period beginning on the date of the unauthorized change in service.
``(e) Administration of Slamming Complaint System.--
``(1) State option to administer.--
``(A) In general.--If a State has made a certification under subparagraph (B) to the Commission (and has not thereafter terminated the effectiveness of such certification), the State commission for such State shall administer a slamming complaint system for subscribers of interstate telephone service in such State that meets the requirements pursuant to subsection (f).
``(B) Certification requirements.--A certification under this subparagraph for a State is a certification by the State commission for the State , submitted to the Commission in the form and manner prescribed by the Commission, that the State commission has established and will maintain a slamming complaint system for the State that meets the requirements pursuant to subsection (f). A certification shall be effective for purposes of this subsection upon submission to the Commission, notwithstanding any review or approval by the Commission. The Commission may prescribe the form and manner for States to terminate the effectiveness of such certifications.
``(2) Administration by commission.--The Commission shall, for each State not described in paragraph (1)(A), maintain and administer a slamming complaint system for subscribers of interstate telephone service in such State that meets the requirements pursuant to subsection (f).
``(f) Slamming Complaint System Requirements.--A slamming complaint system for a State meets the requirements pursuant to this subsection if the system--
``(1) makes available a procedure for any subscriber of

interstate telephone service in such State to register a complaint that the subscriber's selection of a provider of such service has been changed without the written authorization of the subscriber required under subsection (c), and maintains a record of such complaint;

``(2) with respect to each such complaint, provides for the determination (in such manner as the Commission shall provide) of whether a violation of the requirement under subsection (c) occurred and of liability under subsection (d);

``(3) maintains a record of each determination of a violation of the requirement under subsection (c) involving a subscriber of interstate telephone service in the State, including the telecommunications carrier to which interstate telephone service was illegally changed;

``(4) on a monthly basis--

``(A) determines, for each telecommunications carrier providing interstate telephone service within the State, the number of such violations determined to have occurred involving the illegal change of service to such carrier; and

``(B) in the case only of a system administered by a State commission pursuant to subsection (e)(1), provides the information under subparagraph (A) to the Commission; and

``(5) complies with any regulations as the Commission may prescribe to carry out this subsection.

``(g) Notice to Subscribers of Availability of Slamming Complaint System.--The Commission shall require each telecommunications carrier providing interstate telephone service (or the billing agent for such carrier) to include, in each subscriber's phone bill for such service, a statement--

``(1) informing the subscriber that a complaint regarding an unauthorized change in the subscriber's selection of a provider of such service may be registered under the applicable slamming complaint system for the State of the subscriber;

``(2) providing a phone number for contacting such slamming complaint system; and

``(3) providing the location of the carrier's principal office (including the street address, city, State or province (or other region), country, and zip or postal code).

``(h) Performance Limits.--

``(1) Establishment by commission.--Not later than one year after the date of enactment of this subsection, the Commission shall conduct a study of the number and rates of incidence of changes in subscribers' selections of providers of interstate telephone service occurring without the authorization of the subscriber. Pursuant to the study, the Commission shall establish performance limits that are the maximum acceptable rates of unauthorized changes. The Commission may, from time to time, review and adjust the performance limits established under this paragraph.

``(2) Comparison of number of violations to performance limits.--After the establishment of the performance limits under paragraph (1), the Commission shall compare the information for each month for each telecommunications carrier providing interstate telephone service within each State that is submitted by State commissions (pursuant to subsection (f)(4)(B)) and collected by the Commission (pursuant to subsection (f)(4)(A) for States to which subsection (e)(2) applies) to the applicable performance limit established under paragraph (1).

``(i) Forfeiture Penalty for Exceeding Performance Limit.--

``(1) In general.--If the Commission determines that, for any month, for any single telecommunications carrier, the number of violations of the requirements under subsection (c) determined to have occurred which involve changing the interstate telephone service of subscribers of interstate telephone service in a State to such carrier exceeds the applicable performance limit for such State established under subsection (h)(1), such carrier shall be considered to have willfully failed to comply with this Act and shall be liable to the United States for a forfeiture penalty under section 503(b)(1)(B).

``(2) Considerations in determining amount of penalty.--In taking into account the extent and gravity of a violation under paragraph (1) for purposes of determining the amount of the forfeiture penalty pursuant to section 503(b)(2)(D), the Commission shall consider--

``(A) the number of violations of the requirements of subsection (c) determined to have occurred in excess of the number of violations necessary to exceed the applicable performance limit; and

``(B) the ratio of the number of violations determined to have occurred to the number of violations necessary to exceed the applicable performance limit.

``(j) Effect on Other Law.--

``(1) Consumer protection laws.--Nothing in this section shall relieve any telecommunications carrier, local exchange carrier, or any other person from the obligation to comply with any Federal, State, or local statute or regulation relating to consumer protection or unfair trade.

``(2) State authority.--Nothing in this section shall preclude any State from enacting and enforcing additional and complementary oversight and regulatory systems or procedures, or both, so long as such systems and procedures do not significantly impede the enforcement of this section or other Federal statutes.''.

SEC. 3. LIMITATION OF EXISTING SLAMMING LIABILITY PROVISION TO INTRASTATE SERVICE.

Section 258(b) of the Communications Act of 1934 (47 U.S.C. 258(b)) is amended by striking ``described in subsection (a)'' and inserting ``prescribed pursuant to subsection (a) for changing a subscriber's selection of a provider of intrastate telephone service'' after ``subsection (a)''.

SEC. 4. EFFECTIVE DATE AND REGULATIONS.

(a) Effective Date.--The amendments made by this Act shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this Act.

(b) Regulations.--The Commission shall prescribe such regulations as may be necessary to carry out the amendments made by this Act, which shall include prescribing a standard form for written change authorizations that meets the requirements of section 258(c) of the Communications Act of 1934 (as added by section 2 of this Act) for use for such purpose. Such final regulations shall be issued and shall take effect not later than the effective date under subsection (a).

<all>

I

105TH CONGRESS
1ST SESSION

H. R. 2112

To amend the Communications Act of 1934 to increase the forfeiture penalty for telephone service slamming and to require providers of such service to report slamming incidents, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 1997

Mr. FRANKS of New Jersey (for himself, Mr. DEFAZIO, Mr. OBERSTAR, Mr. CLEMENT, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Commerce

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A BILL

To amend the Communications Act of 1934 to increase the forfeiture penalty for telephone service slamming and to require providers of such service to report slamming incidents, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Slamming Prevention and Internet Connection Act".

SEC. 2. INCREASED FORFEITURE PENALTY AND SUPPORT FOR UNIVERSAL SERVICE.

Section 503(b)(2)(B) of the Telecommunications Act of 1937 (47 U.S.C. 503(b)(2)(B)) is amended—

(1) by striking "(B) If" and inserting "(B)(i) Except as provided in clause (ii), if"; and

(2) by adding at the end the following new clause:

"(ii)(I) In the case only of any common carrier subject to the provisions of this Act who willfully or repeatedly fails to comply with section 258 or the verification procedures prescribed pursuant to subsection (a) of such section, clause (i) of this subparagraph shall be applied by substituting—

"(aa) '$200,000' for '$100,000'; and

"(bb) '$2,000,000' for '$1,000,000'.

"(II) Notwithstanding section 504(a), any forfeitures pursuant to subclause (I) shall be payable to the Administrator (as such term is defined in section 54.5 of the Commission's regulations (47 CFR 54.5)) for use only in providing Federal universal service support for schools and libraries and for health care providers in accordance with subparts F and G, respectively, of part 54 of the Commission's regulations (47 CFR part 54).".

SEC. 3. REPORTING OF SLAMMING INCIDENTS.

Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end the following new subsection:

"(c) REPORTING.—The Commission shall, by regulation, require each telecommunications carrier to report regularly to the Commission regarding each incident, of which the carrier has knowledge or has received a complaint, of a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service without the authorization of the subscriber. The regulations shall require the reporting of information sufficient to identify the incident, including the service affected, the subscriber, the carriers from which and to which service was changed, and the approximate date of the change. The Commission shall make bona fide efforts to enter into agreements with State commissions concerning reciprocal reporting of such incidents.".

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II

105TH CONGRESS
1ST SESSION

S. 665

To monitor the progress of the Telecommunications Act of 1996.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 1997

Mr. KERREY introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To monitor the progress of the Telecommunications Act of 1996.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunication Act Progress Report Act".

SEC. 2. TELECOMMUNICATIONS ACT PROGRESS REPORT.

Within six months after the date of enactment of this Act and each year thereafter, the National Telecommunications and Information Administration, in consultation with the Federal Communications Commission, the Department of Justice, other relevant executive branch agencies and Regulatory Utility Commissions within the states shall issue an annual report to the Congress on telecommunications services in America. The report shall review available information and consider at a minimum the level of competition, the provision of universal service in telecommunications markets, mergers among telecommunications providers and their effect, employment in the American telecommunications industry and the affordability of residential rates for telecommunications services. The report shall make legislative and policy recommendations to the Congress and the President.

S 1410 IS

105th CONGRESS

1st Session

S. 1410

To amend section 258 of the Communications Act of 1934 to enhance the protections against unauthorized changes in subscriber selections of telephone service providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

November 7, 1997

Mr. REED introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend section 258 of the Communications Act of 1934 to enhance the protections against unauthorized changes in subscriber selections of telephone service providers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS- Congress makes the following findings:

(1) As the telecommunications industry has moved toward competition in the provision of long distance telephone services, consumers have increasingly elected to change the carriers that provide their long distance telephone services. As many as 50,000,000 consumers now change long distance telephone service providers each year.

(2) The fluid nature of the market for long distance telephone services has also allowed an increasing number of unauthorized changes of telephone service providers to occur. Such changes have been called `slamming', a term which denotes any practice in which a consumer's long distance telephone service provider is changed without the consumer's knowledge or consent.

(3) Slamming accounts for the largest number of consumer complaints received by the Common Carrier Bureau of the Federal Communications Commission. As many as 1,000,000 consumers are subject to the unauthorized change of telephone service providers each year.

(4) The increased costs which consumers face as a result of the unauthorized change of

telephone service providers threaten to deprive consumers of the financial benefits created by a competitive marketplace in telephone services.

(5) The burdens placed upon consumers by unauthorized changes of telephone service providers will expand exponentially as competition enters into the markets for intraLATA and local telephone services.

(6) The Telecommunications Act of 1996 sought to combat unauthorized changes of telephone service providers by requiring that a provider who changes a subscriber without authorization pay the previously selected carrier an amount equal to all charges paid by the subscriber after the change. The Federal Communications Commission has proposed regulations to implement this requirement. Implementing these regulations will eliminate many of the financial incentives to execute unauthorized changes of telephone service providers. However, under current and proposed regulations consumers have, and will continue to face, difficulty in securing proof of unauthorized changes. Thus, enforcement of the regulations will be impeded by a lack of tangible proof of consumer consent to the change of telephone service providers.

(7) The interests of consumers require that telephone service providers maintain evidence of their verification of consumer consent to changes in telephone service providers. This evidence should take the form of a consumer's written consent or a recording of a consumer's oral consent obtained by the telephone service provider or a third party.

(8) Both Congress and the Federal Communications Commission should continue to examine electronic means by which consumers could most readily change telephone service providers while ensuring that such changes would result only from consumer action evidencing express consent to such changes.

(9) By providing consumers with a private right of action in State court, if State law permits, against those who have executed unauthorized changes of telephone service providers, Congress insures in a constitutional manner that neither Federal nor State courts will be overburdened with litigation, while also providing the proper forum for such actions given that competition will soon come to all segments of the telephone service market.

(10) The majority of consumers who have been subject to the unauthorized change of telephone service do not seek redress through the Federal Communications Commission. In light of the general responsibilities of the States for consumer protection, as well as the prosecutions against unauthorized changes already undertaken by the States, it is essential that the States be allowed to pursue actions on behalf of their citizens, while also preserving the proper role of the Federal Communications Commission in regulating the telecommunications industry.

(b) PURPOSES- The purposes of this Act are--

(1) to protect consumers from unauthorized changes of telephone service providers;

(2) to allow the efficient prosecution of legal actions against telephone service providers who defraud consumers by transferring telephone service providers without consumer consent; and

(3) to facilitate the ready selection of telephone service providers by consumers.

SEC. 2. ENHANCEMENT OF PROTECTIONS AGAINST UNAUTHORIZED CHANGES IN SUBSCRIBER SELECTIONS OF TELEPHONE SERVICE PROVIDERS.

(a) VERIFICATION OF AUTHORIZATION-

(1) IN GENERAL- Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended--

(A) by striking `(a) PROHIBITION- No telecommunications' and inserting the following:

`(a) PROHIBITION-

`(1) IN GENERAL- No telecommunications';

(B) in paragraph (1), as so designated, by inserting after the first sentence the following: `Such procedures shall require the verification of a subscriber's selection of a provider in written or oral form (including a signature or voice recording) and shall require the retention of such verification in such manner and form and for such time as the Commission considers appropriate.'; and

(C) by adding at the end the following:

`(2) VERIFICATION-

`(A) IN GENERAL- For purposes of paragraph (1), the verification of a subscriber's selection of a telephone exchange service or telephone toll service provider shall take the form of a written or oral communication (in the same language as the solicitation of the selection) in which the subscriber--

`(i) acknowledges the type of service to be changed as a result of the selection;

`(ii) affirms the subscriber's intent to select the provider as the provider of that service;

`(iii) affirms that the subscriber is authorized to select the provider of that service for the telephone number in question;

`(iv) acknowledges that the selection of the provider will result in a change in providers of that service;

`(v) acknowledges that only one provider may provide that service for that telephone number; and

`(vi) provides such other information as the Commission considers appropriate for the protection of the subscriber.

`(B) REQUIREMENTS FOR ORAL VERIFICATIONS- An oral verification of a change in telephone service providers under this paragraph--

`(i) may not be made in the same communication in which the change is solicited;

`(ii) may be made only to a qualified and independent agent (as determined in accordance with regulations prescribed by the Commission) of the provider concerned; and

`(iii) shall include a prompt and clear disclosure by the agent that the purpose of the telephone call is to verify that the subscriber has consented to the change.

`(C) CONFIRMATION OF CHANGE- A provider submitting or executing a change in telephone service providers shall notify the subscriber concerned by mail of the change not later than 5 business days after the date on which the change is executed. The confirmation shall be provided in the language in which the change was solicited.

`(D) AVAILABILITY OF VERIFICATIONS- A provider shall make available to a subscriber a copy of a verification under this paragraph upon the request of the subscriber or an authorized representative of the subscriber.'.

(2) REGULATIONS- The Federal Communications Commission shall complete the adoption of the regulations required under section 258(a) of the Communications Act of 1934 by reason of the amendments made by paragraph (1) not later than 270 days after the date of enactment of this Act.

(b) ADDITIONAL REMEDIES- Such section is further amended by adding at the end the following:

`(c) PRIVATE RIGHT OF ACTION-

`(1) PRIVATE RIGHT- A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State--

`(A) an action based on a violation of subsection (a) or the regulations prescribed under such subsection to enjoin such violation;

`(B) an action to recover for actual monetary loss from such a violation or to receive $1,000 in damages for each such violation, whichever is greater; or

`(C) both such actions.

`(2) TREBLE DAMAGES- If the court finds that the defendant willfully or knowingly violated subsection (a) or the regulations prescribed under such subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (1)(B).

`(3) COSTS OF LITIGATION- The court, in issuing any final order in an action brought pursuant to this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing plaintiff whenever the court determines that such award is appropriate.

`(d) ACTIONS BY STATES-

`(1) AUTHORITY OF STATES-

`(A) IN GENERAL- Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in an activity or practice of activities with respect to residents of that State in violation of subsection (a) or the regulations prescribed under such subsection, the State may bring a civil action on behalf of its residents to enjoin such activities, an action to recover for the greater of actual monetary loss or $1,000 in damages for each violation, or both such actions.

`(B) TREBLE DAMAGES- If the court finds the defendant willfully or knowingly violated such subsection or regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the subparagraph (A).

`(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS-

`(A) IN GENERAL- The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection.

`(B) ADDITIONAL RELIEF- Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of subsection (a) or regulations prescribed under such subsection, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

`(3) RIGHTS OF COMMISSION-

`(A) NOTICE- The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

`(B) RIGHTS- The Commission shall have the right--

`(i) to intervene in any action covered by subparagraph (A);

`(ii) upon so intervening, to be heard on all matters arising therein; and

`(iii) to file petitions for appeal.

`(4) VENUE; SERVICE OF PROCESS- Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant or victim is found, wherein the defendant is an inhabitant or transacts business, or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

`(5) INVESTIGATORY POWERS- For purposes of bringing a civil action under this subsection, nothing in this subsection shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

`(6) EFFECT ON STATE COURT PROCEEDINGS- Nothing in this subsection shall be construed to prohibit any official authorized by State law from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

`(7) LIMITATION- Whenever the Commission has instituted a civil action for violation of subsection (a) or there regulations prescribed under such subsection, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

`(8) DEFINITION- In this subsection, the term `attorney general' means the chief legal officer of a State.'.

SEC. 3. REPORT ON ELECTRONIC MEANS FOR VERIFYING SUBSCRIBER AUTHORIZATIONS OF SELECTIONS OF TELEPHONE SERVICE PROVIDERS.

Not later than December 31, 1999, the Federal Communications Commission shall submit to Congress a report on the technological feasibility and practicability of permitting subscribers to authorize changes in telephone service providers by electronic means (including authorization by electronic mail or by use of personal identification numbers or other security mechanisms) without thereby increasing the likelihood of unauthorized changes in such providers.

END

Slamming

The Washington Post

DATE 12/17/98

PAGE B7

FCC to Adopt Rules on 'Slamming'

By Caroline E. Mayer
Washington Post Staff Writer

The Federal Communications Commission today will adopt new rules to protect consumers against "slamming," the illegal practice of switching customers' long-distance telephone companies without their permission, staffers said.

In an attempt to make slamming unprofitable, the FCC plans to approve a rule that would absolve customers from paying their first month's bill to companies they did not authorize to be their long-distance telephone carrier.

Staffers said the commission also will require long-distance companies to adopt tougher verification procedures to make sure customers have, in fact, agreed to switch carriers.

"We've got to have rules in place so anyone who even thinks of slamming will know there's no way to make a buck out of slamming," FCC Chairman William Kennard said yesterday. "This is an area where consumers are being ripped off, and we are sending a message to the industry in the very strongest terms that this has got to stop."

The new rules would be part of the agency's increasingly aggressive crackdown on slamming, which, judging from the level of complaints received by the agency, infuriates consumers. Last year, the FCC received 20,000 slamming complaints, a 56 percent increase over 1996. This year, commission sources said they expect complaints will exceed 20,000, accounting for 45 percent of all complaints filed.

In the past few months, the commission has stepped up its enforcement actions against slammers, imposing more than $10 million in penalties against companies. Yesterday the FCC announced a consent decree with Minimum Rate Pricing in which the New Jersey company agreed to make a voluntary $1.2 million payment to the U.S. Treasury to resolve slamming complaints. Agency sources said several more enforcement actions should be announced shortly.

Meanwhile, the FCC early next year plans to issue new truth-in-billing rules requiring phone companies to highlight any new charge or change in service so consumers can more easily detect if they've been slammed or "crammed." Cramming is a relatively new billing scam in which consumers are charged for a service they did not order. Cramming now accounts for 20 percent of the FCC's complaints.

The FCC has been under considerable pressure from Congress and consumer groups to adopt new anti-slamming rules. Slamming legislation was passed by the House last year, but held up by unrelated issues in the Senate. Last week, a bipartisan group of House and Senate members wrote to the FCC, urging it to adopt anti-slamming rules.

Under the FCC rules to be adopted today, a consumer who is slammed would be able to receive 30 days of free long-distance calls from the carrier who switched phone service without the consumer's approval. That carrier, however, would not be forced to compensate the consumer's preferred phone company for the lost revenue, as an earlier proposal had sought.

"This is the first time that the consumer is treated as a victim and that's good news," said Sam Simon, chairman of the nonprofit Telecommunications Research and Action Center.

But Simon said he was not optimistic that the new rules would eliminate slamming. "Every time the commission has tried to curb slamming, complaints seem to have gotten worse."

- $13 mill. in forfeiture

new rules
- highlight charges
= # that can take complaint
= clear listing of service

Vijay
Commissioner
vote
11.

THE WALL STREET JOURNAL

DATE 12-7-98
PAGE A-6

FCC Is Set to Adopt Tough New Measures To Curtail 'Slamming'

WASHINGTON (AP)—The government is expected to adopt tougher rules to reduce illegal "slamming," in which telephone companies switch customers' long-distance service without their consent.

The biggest change expected from the Federal Communications Commission today is a plan to exempt victims of slamming from paying any long-distance phone charges to the offending company for a period of time, probably 30 days.

If the customer isn't switched back during that time, the person wouldn't have to pay the offending company anything, people familiar with the plan said. Instead, the customer would pay the designated carrier its normal rate, they said.

Customers who pay the full amount would be liable only for the amount they would have paid to their designated carrier. That means a victim would get a refund or credit for the difference.

The new plan would lift the requirement that victims must file a complaint to the FCC before getting relief.

Nearly 20,000 people in 1998 have complained to the FCC that they were switched to another carrier without consent.

The agency also is expected to restrict how long-distance companies can switch people. It is considering doing away with one method: Often after a telemarketing call, phone companies mail prospective customers a package of information, including a post card. Customers who don't return it in 14 days are switched.

Long-distance companies would continue to have three other ways to obtain consent: written consent; third-party verification of consent; and a toll-free number to call in the change.

The rules would take effect by March.

USA TODAY

Date 2/17/98
Page B3

Company agrees to 'slamming' fine

By Steve Rosenbush
USA TODAY

NEW YORK — Long-distance carrier Minimum Rate Pricing agreed Wednesday to pay a $1.2 million fine to settle charges it switched consumers' service without permission.

The company, which admitted no wrongdoing, said in a statement that it didn't have the resources for a protracted legal battle. "(Our) marketing practices have always been in keeping with industry standards and government regulations. The FCC has not proved otherwise," says Drew Keena, vice president of the Cedar Grove, N.J.-based carrier. The company has 1.5 million customers.

The Federal Communications Commission received 1,299 complaints about the company between Oct. 1, 1997, and Sept. 30. The fine — the largest voluntary slamming fine ever, according to the FCC — pales compared with the $5.6 million fine levied against The Fletcher Cos. last April.

The fines are part of a wider campaign to halt slamming, which was the subject of 20,500 consumer complaints lodged with the FCC in 1997. That record is expected to be broken this year. The actual number of slamming cases vastly exceeds the number of complaints. The FCC says it cannot calculate the cost to consumers.

"Consumers are just mad about this. It has got to stop, and it will stop," FCC Chairman William Kennard said in an interview.

The FCC is expected to issue fines against additional companies today. It also is likely to approve a rule that will cancel the long-distance charges consumers incur with carriers that slam them. Consumers won't have to pay unless the company can prove it followed rules for signing up new customers.

The rules say each order for long-distance service must be verified in one of three ways. A consumer must fill out a written or electronic form requesting the change or a third party must call the consumer to verify the change over the phone.

It will no longer be acceptable for a carrier to verify a request for service with a "welcome letter" that forces consumers to write or respond within a certain period of time.

Reaction in the long-distance industry was mixed.

"What is needed to deter the fraud is not more verification or reporting requirements or additional rules of any kind, but criminal prosecution, fines or even imprisonment of those who steal from carriers and customers," Sprint wrote.

AT&T declined comment.

MEMORANDUM

TO: Mary Smith, Tom Freedman
FROM: David Hochschild
RE: Detailed summary of slamming & cramming bills
DATE: June 24, 1998

The researcher in the Law Library I worked with on this issue, Amy, reports that a legislative director on the hill working on slamming has said that there are only two anti-slamming bills being seriously considered in the House: HR3888 (Tauzin, R-NH) and Dingall (D-MI). The Senate version of the Tauzin bill (S1618) has already passed. So I have only provided detailed descriptions of those here. If you would like similarly detailed descriptions of the other ten or so pending bills, I can do that as well. My calls to Congressman Markey's office to request a copy of their upcoming anti-slamming bill were not returned.

SLAMMING

S1618 (McCain, R-AZ) Anti-Slamming Amendments Act
Status: passed by the Senate on May 12th. This is the Senate companion piece to HR3888 (Tauzin R-NH) which was submitted to the Commerce Subcommittee on Telecommunications on May 8th.

This measure is the only bill regarding slamming to pass either the House or the Senate so far. It would amend the Communications Act of 1934 in order to further protect subscribers from slamming by telecommunications carriers. The bill also restricts spamming (unsolicited email) and CB radio use. The main components of the bill that pertain to slamming are as follows:

- requires the carrier to affirm that the subscriber is authorized to select the provider of that service for the telephone number in question and for the customer to explicitly acknowledge the type of service to be changed as a result of the selection.

- requires a complete copy of verification of a change in telephone services in oral, written or electronic form and that the verification occur in the same language as that in which the change was solicited.

- establishes the right of the subscriber to place a "freeze" on current provider, which ensures that the provider can only change if the subscriber calls the current telecommunications carrier directly and requests such a change (doesn't apply to wireless communications).

- requires that when a telephone customer selects a new telephone exchange service, the carrier selected must notify the consumer in writing within 15 days.

- requires the FCC to resolve complaints of unauthorized service within 120 days.

- empowers state attorneys general to file suit on behalf of residents to recover damages from slamming

- allows FCC to revoke a company's operating authority if slamming fines are not paid.

- requires the telephone billing agent to put a name, identity of the carrier, toll-free number of the reseller or carrier for the subscriber, and the charges associated with the provision of service during the billing period.

- criminalizes a billing agent's submission of charges for telecommunications services or other services if the billing agent knows that the subscriber did not authorize the charges or that the charges are otherwise improper.

- requests a report from the FCC 180 days after this act is enacted on the telemarketing and solicitation practices used by telecommunications carriers or resellers as it pertains to getting customers to switch providers. The report should include a "top ten list" of companies that receive the most slamming complaints as well as a list of which companies were fined.

- violations of anti-slamming laws are punishable by not less than $40,000 for the first offense and not less than $150,000 for subsequent offenses.

- Truth in billing requirement: Any telecommunications carrier that includes any change resulting from federal regulatory action must specify in the bill what the reduction in charges from any regulatory action are, as well as the total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers). In addition, providers must notify consumers one billing cycle in advance of any changes in existing charges or imposition of new charges and disclose total monthly charges, usage charges, percentage charges, and premiums for each class of customers.

HR3050 (Dingall D-MI) Slamming Prevention and Consumer Protection Act of 1997
Status: Referred to the Subcommittee on Telecommunications on Dec. 9, 1997.

- requires any carrier that violates anti-slamming verification rules to refund any charges imposed for such service during the 3-month period after the change in the subscriber's selection is effected.

- prohibits the change of provider without an affirmative request of the subscriber. A failure to refuse a change in selection is not an affirmative request.

- requires resellers to clearly and conspiciously disclose that the offer they are making seeks authority to change the subscriber's selection of the provider of a telephone service and the cost of that change.

- authorizes state attorneys general to bring civil suits on behalf of residents to enforce compliance or obtain damages.

CRAMMING

HR3798 (Menendez D-NJ) Telephone Billing Fairness Act
Status:Referred to the Subcommittee on Telecommunications on May 26, 1998.

This bill would amend the Communications Act of 1934 to make it more difficult for providers to include extra costs in the telephone bill to the consumers.

- establishes the right of the consumer to block (and the duty of the provider to eliminate) from the phone bill any charges for any products and services that are not telephone exchange or toll service charges.

- requires providers to inform their customers at least once per quarter of their right to block extraneous charges from being included in the telephone bill.

HR3990 (Dingall D-MI) Anti-Cramming Protection Act of 1998
Status: submitted to the House subcommittee on Telecommunications on June 8

- prohibits providers from billing for any miscellaneous product or service charge that has not been explicitly authorized by the subscriber to be billed.

- requires that a bill for each provider of miscellaneous product or service be on a separate page from the rest of the phone bill.

- requires that the telephone bill include the name and toll-free number of any miscellaneous service provider that is adding charges to the bill and the name and toll-free number of any billing aggregator.

- requires a description, in reasonable detail, of each miscellaneous service for which the customer is being charged.

- requires that any telephone bill that includes a miscellaneous product or service charge include a summary or itemization on each page of all the miscellaneous product or service charges to make it easier for the subscriber to resolve billing disputes.

- requires the provider to identify which miscellaneous charges are recurring

- requires that any subscriber initiating a billing dispute within 90 days of the date of the bill immediately receive credit for any disputed miscellaneous product or service charge (the billing dispute can only be resolved after the subscriber has been given credit).

- establishes the right of states to bring civil action on behalf of residents to enforce compliance with anti-cramming laws and to obtain damages.

Other Anti-slamming bills:

1 HR2112 Franks (R-NJ) 07/08/97
Telephone Slamming Prevention and Internet Connection Act.
(BILLTRACK; BillWatch 01/16/98; CRS 05/27/98 -- digest 18 lines)
Item Key: 3661

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2 HR2120 DeFazio (D-OR) 07/09/97
Telephone Consumer Slamming Prevention Act of 1997.
(BILLTRACK; BillWatch 01/16/98; CRS 10/30/97 -- digest 33 lines)
Item Key: 3677

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3 HR3050 Dingell (D-MI) 11/13/97
Slamming Prevention and Consumer Protection Act of 1997.
(BILLTRACK; CRS 01/28/98 -- digest 42 lines)
Item Key: 5540

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4 S1051 Campbell (R-CO) 07/22/97
Interstate Slamming Prevention Act of 1997.
(BILLTRACK; BillWatch 01/16/98; CRS 10/30/97 -- digest 19 lines)
Item Key: 3837

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5 S1137 Durbin (D-IL) 07/31/97
Slamming Protection Act.
(BILLTRACK; BillWatch 01/16/98; CRS 01/06/98 -- digest 41 lines)
Item Key: 4149

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6 S1340 Durbin (D-IL) 10/29/97
Telephone Consumer Fraud Protection Act of 1997.
(BILLTRACK; BillWatch 11/03/97; CRS 11/25/97 -- digest 30 lines)
Item Key: 4916

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7 S1410 Reed (D-RI) 11/07/97
A bill to amend section 258 of the Communications Act of 1934 to enhance the protections against unauthorized changes in subscriber selections of telephone service providers, and for other purposes.
(BILLTRACK; BillWatch 01/09/98; CRS 12/23/97 -- digest 21 lines)
Item Key: 5138

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8 HR3888 Tauzin (R-LA) 05/14/98
Anti-slamming Amendments Act.
(BILLTRACK; CRS 05/29/98 -- digest 9 lines)
Item Key: 7192

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9 S1618 McCain (R-AZ) 02/09/98
Anti-Slamming Amendments Act.

(BILLTRACK; BillWatch 05/15/98; CRS 05/18/98 -- digest 60 lines)
Item Key: 5772

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10 S1740 Collins (R-ME) 03/10/98
Telephone Slamming Prevention Act of 1998.
(BILLTRACK; CRS 05/04/98 -- digest 46 lines)
Item Key: 6222

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11 HR3749 Bass (R-NH) 04/29/98
A bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.
(BILLTRACK; CRS 05/19/98 -- digest 60 lines)
Item Key: 6929

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12 S1022 Gregg (R-NH) 07/16/97
An original bill making appropriations for the the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending Sept. 30, 1998, and for other purposes.
(BILLTRACK; BillWatch 10/06/97; CRS 05/26/98 -- digest 326 lines)
Item Key: 3762

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