

FCC Wades Back Into Cramming Issue

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In a move that appears aimed to maximize options for new Chairman Tom Wheeler when he assumes office, the FCC turned its attention again to its rules to address unauthorized charges on telephone bills, known colloquially as "cramming." The FCC is [asking parties to refresh the record](#) in its docket considering rules for landline and mobile carriers to address cramming. Parties are asked to address recent filings by state commissions seeking additional rules, particularly with respect to the extent to which cramming is a problem on wireless bills.

The FCC has an inconsistent history in addressing cramming -- it still does not have any required verification rules for placing charges on telephone bills, for example. Yet the FCC has taken occasional enforcement actions, proposing [significant fines](#) or [settling cases for significant amounts](#). This public notice provides an opportunity for the FCC to clarify, for carriers and third-party providers alike, the extent of a service provider's duties with respect to charges billed on telephone invoices.

The FCC's action comes after its April 2012 Further Notice of Proposed Rulemaking in the cramming docket. In that FNPRM, the FCC sought comment on two primary issues: (1) whether to require consumer "opt-in" to permit third party charges on telephone bills, and (2) whether to adopt rules to address cramming on wireless bills. Comments were received last summer on these two issues.

In April and May of this year, both the FCC and the FTC held workshops to discuss cramming issues. In addition, Vermont commissioned a study of wireless charges that it claims indicate the problem of cramming is widespread on wireless invoices. (Wireless carriers, not surprisingly, do not agree).

The FCC's public notice seeks comment on the Vermont study and other recent developments. The public notice asks for additional comment on the "extent to which consumers may continue to be unaware that third-party charges can appear on their wireline and CMRS bills and about their ability to successfully resolve disputes regarding unauthorized third-party charges." The comment date will be set after publication of the notice in the *Federal Register*. Most likely, comments will be due in late October, by which time most observers expect Chairman Wheeler to have assumed office.

For wireless carriers and app developers using carrier billing, this proceeding could be very important. Check back here for updates on this proceeding.