

Public Law 102-556  
102d Congress

An Act

To protect the public interest and the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes.

Oct. 28, 1992

[H.R. 6191]

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

Telephone  
Disclosure and  
Dispute  
Resolution Act.  
15 USC 5701.

**SECTION 1. SHORT TITLE, FINDINGS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Telephone Disclosure and Dispute Resolution Act”.

(b) **FINDINGS.**—The Congress finds the following:

(1) The use of pay-per-call services, most commonly through the use of 900 telephone numbers, has grown exponentially in the past few years into a national, billion-dollar industry as a result of recent technological innovations. Such services are convenient to consumers, cost-effective to vendors, and profitable to communications common carriers.

(2) Many pay-per-call businesses provide valuable information, increase consumer choices, and stimulate innovative and responsive services that benefit the public.

(3) The interstate nature of the pay-per-call industry means that its activities are beyond the reach of individual States and therefore requires Federal regulatory treatment to protect the public interest.

(4) The lack of nationally uniform regulatory guidelines has led to confusion for callers, subscribers, industry participants, and regulatory agencies as to the rights of callers and the oversight responsibilities of regulatory authorities, and has allowed some pay-per-call businesses to engage in practices that abuse the rights of consumers.

(5) Some interstate pay-per-call businesses have engaged in practices which are misleading to the consumer, harmful to the public interest, or contrary to accepted standards of business practices and thus cause harm to the many reputable businesses that are serving the public.

(6) Because the consumer most often incurs a financial obligation as soon as a pay-per-call transaction is completed, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. The obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parental consent from callers under 18.

(7) The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress.

(8) Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving

billing disputes if they are to use this new marketplace for the sale of products of more than nominal value.

## **TITLE I—CARRIER OBLIGATIONS AND CONSUMER RIGHTS CONCERNING PAY-PER-CALL TRANSACTIONS**

### **SEC. 101. AMENDMENT TO COMMUNICATIONS ACT OF 1934.**

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

47 USC 228.

### **“SEC. 228. REGULATION OF CARRIER OFFERING OF PAY-PER-CALL SERVICES.**

“(a) **PURPOSE.**—It is the purpose of this section—

“(1) to put into effect a system of national regulation and review that will oversee interstate pay-per-call services; and

“(2) to recognize the Commission’s authority to prescribe regulations and enforcement procedures and conduct oversight to afford reasonable protection to consumers of pay-per-call services and to assure that violations of Federal law do not occur.

“(b) **GENERAL AUTHORITY FOR REGULATIONS.**—The Commission by regulation shall, within 270 days after the date of enactment of this section, establish a system for oversight and regulation of pay-per-call services in order to provide for the protection of consumers in accordance with this Act and other applicable Federal statutes and regulations. The Commission’s final rules shall—

“(1) include measures that provide a consumer of pay-per-call services with adequate and clear descriptions of the rights of the caller;

“(2) define the obligations of common carriers with respect to the provision of pay-per-call services;

“(3) include requirements on such carriers to protect against abusive practices by providers of pay-per-call services;

“(4) identify procedures by which common carriers and providers of pay-per-call services may take affirmative steps to protect against nonpayment of legitimate charges; and

“(5) require that any service described in subparagraphs (A) and (B) of subsection (i)(1) be offered only through the use of certain telephone number prefixes and area codes.

“(c) **COMMON CARRIER OBLIGATIONS.**—Within 270 days after the date of enactment of this section, the Commission shall, by regulation, establish the following requirements for common carriers:

“(1) **CONTRACTUAL OBLIGATIONS TO COMPLY.**—Any common carrier assigning to a provider of pay-per-call services a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) shall require by contract or tariff that such provider comply with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

“(2) **INFORMATION AVAILABILITY.**—A common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with

subsection (b)(5) to a provider of a pay-per-call service shall make readily available on request to Federal and State agencies and other interested persons—

“(A) a list of the telephone numbers for each of the pay-per-call services it carries;

“(B) a short description of each such service;

“(C) a statement of the total cost or the cost per minute and any other fees for each such service;

“(D) a statement of the pay-per-call service's name, business address, and business telephone; and

“(E) such other information as the Commission considers necessary for the enforcement of this section and other applicable Federal statutes and regulations.

“(2) COMPLIANCE PROCEDURES.—A common carrier that by contract or tariff assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services shall terminate, in accordance with procedures specified in such regulations, the offering of a pay-per-call service of a provider if the carrier knows or reasonably should know that such service is not provided in compliance with title II or III of the Telephone Disclosure and Dispute Resolution Act or the regulations prescribed by the Federal Trade Commission pursuant to such titles.

“(3) SUBSCRIBER DISCONNECTION PROHIBITED.—A common carrier shall not disconnect or interrupt a subscriber's local exchange telephone service or long distance telephone service because of nonpayment of charges for any pay-per-call service.

“(4) BLOCKING AND PRESUBSCRIPTION.—A common carrier that provides local exchange service shall—

“(A) offer telephone subscribers (where technically feasible) the option of blocking access from their telephone number to all, or to certain specific, prefixes or area codes used by pay-per-call services, which option—

“(i) shall be offered at no charge (I) to all subscribers for a period of 60 days after the issuance of the regulations under subsection (b), and (II) to any subscriber who subscribes to a new telephone number until 60 days after the time the new telephone number is effective; and

“(ii) shall otherwise be offered at a reasonable fee; and

“(B) offer telephone subscribers (where the Commission determines it is technically and economically feasible), in combination with the blocking option described under subparagraph (A), the option of presubscribing to or blocking only specific pay-per-call services for a reasonable one-time charge.

The regulations prescribed under subparagraph (A)(i) of this paragraph may permit the costs of such blocking to be recovered by contract or tariff, but such costs may not be recovered from local or long-distance ratepayers. Nothing in this subsection precludes a common carrier from filing its rates and regulations regarding blocking and presubscription in its interstate tariffs.

“(5) VERIFICATION OF CHARITABLE STATUS.—A common carrier that assigns by contract or tariff a telephone number

with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services that the carrier knows or reasonably should know is engaged in soliciting charitable contributions shall obtain from such provider proof of the tax exempt status of any person or organization for which contributions are solicited.

"(6) BILLING FOR 800 CALLS.—A common carrier shall prohibit by tariff or contract the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll free, in a manner that would result in—

"(A) the calling party being assessed, by virtue of completing the call, a charge for the call;

"(B) the calling party being connected to a pay-per-call service;

"(C) the calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or discloses a credit or charge card number during the call; or

"(D) the calling party being called back collect for the provision of audio information services or simultaneous voice conservation services.

"(d) BILLING AND COLLECTION PRACTICES.—The regulations required by this section shall require that any common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of a pay-per-call service and that offers billing and collection services to such provider—

"(1) ensure that a subscriber is not billed—

"(A) for pay-per-call services that such carrier knows or reasonably should know was provided in violation of the regulations issued pursuant to title II of the Telephone Disclosure and Dispute Resolution Act; or

"(B) under such other circumstances as the Commission determines necessary in order to protect subscribers from abusive practices;

"(2) establish a local or a toll-free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by the common carrier;

"(3) within 60 days after the issuance of final regulations pursuant to subsection (b), provide, either directly or through contract with any local exchange carrier that provides billing or collection services to the common carrier, to all of such common carrier's telephone subscribers, to all new subscribers, and to all subscribers requesting service at a new location, a disclosure statement that sets forth all rights and obligations of the subscriber and the carrier with respect to the use and payment for pay-per-call services, including the right of a subscriber not to be billed and the applicable blocking option; and

"(4) in any billing to telephone subscribers that includes charges for any pay-per-call service—

"(A) display any charges for pay-per-call services in a part of the subscriber's bill that is identified as not being related to local and long distance telephone charges;

"(B) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call; and

"(C) identify the toll-free number established pursuant to paragraph (2).

**"(e) LIABILITY.—**

"(1) **COMMON CARRIERS NOT LIABLE FOR TRANSMISSION OR BILLING.**—No common carrier shall be liable for a criminal or civil sanction or penalty solely because the carrier provided transmission or billing and collection for a pay-per-call service unless the carrier knew or reasonably should have known that such service was provided in violation of a provision of, or regulation prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act or any other Federal law. This paragraph shall not prevent the Commission from imposing a sanction or penalty on a common carrier for a violation by that carrier of a regulation prescribed under this section.

"(2) **CIVIL LIABILITY.**—No cause of action may be brought in any court or administrative agency against any common carrier or any of its affiliates on account of any act of the carrier or affiliate to terminate any pay-per-call service in order to comply with the regulations prescribed under this section, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law unless the complainant demonstrates that the carrier or affiliate did not act in good faith.

**"(f) SPECIAL PROVISIONS.—**

"(1) **CONSUMER REFUND REQUIREMENTS.**—The regulations required by subsection (d) shall establish procedures, consistent with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act, to ensure that carriers and other parties providing billing and collection services with respect to pay-per-call services provide appropriate refunds to subscribers who have been billed for pay-per-call services pursuant to programs that have been found to have violated this section or such regulations, any provision of, or regulations prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law.

"(2) **RECOVERY OF COSTS.**—The regulations prescribed by the Commission under this section shall permit a common carrier to recover its cost of complying with such regulations from providers of pay-per-call services, but shall not permit such costs to be recovered from local or long distance rate-payers.

"(3) **RECOMMENDATIONS ON DATA PAY-PER-CALL.**—The Commission, within one year after the date of enactment of this section, shall submit to the Congress the Commission's recommendations with respect to the extension of regulations under this section to persons that provide, for a per-call charge, data services that are not pay-per-call services.

**"(g) EFFECT ON OTHER LAW.—**

"(1) **NO PREEMPTION OF ELECTION LAW.**—Nothing in this section shall relieve any provider of pay-per-call services, com-



mon carrier, local exchange carrier, or any other person from the obligation to comply with Federal, State, and local election statutes and regulations.

"(2) CONSUMER PROTECTION LAWS.—Nothing in this section shall relieve any provider of pay-per-call services, common 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.

"(3) GAMBLING LAWS.—Nothing in this section shall preclude any State from enforcing its statutes and regulations with regard to lotteries, wagering, betting, and other gambling activities.

"(4) 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 govern intrastate services and do not significantly impede the enforcement of this section or other Federal statutes.

"(5) ENFORCEMENT OF EXISTING REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this section in fulfilling the requirements of this section to the extent that such regulations are consistent with the provisions of this section.

"(h) EFFECT ON DIAL-A-PORN PROHIBITIONS.—Nothing in this section shall affect the provisions of section 223 of this Act.

"(i) DEFINITION OF PAY-PER-CALL SERVICES.—For purposes of this section—

"(1) The term 'pay-per-call services' means any service—

"(A) in which any person provides or purports to provide—

"(i) audio information or audio entertainment produced or packaged by such person;

"(ii) access to simultaneous voice conversation services; or

"(iii) any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

"(B) for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

"(C) which is accessed through use of a 900 telephone number or other prefix or area code designated by the Commission in accordance with subsection (b)(5).

"(2) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service."

#### SEC. 102. TECHNICAL AMENDMENT.

47 USC 227 note.

Section 3(c) of the Telephone Consumer Protection Act of 1991 is amended by striking "section 228" and inserting "section 227".

## TITLE II—REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH PAY-PER-CALL SERVICES

### SEC. 201. FEDERAL TRADE COMMISSION REGULATIONS.

15 USC 5711.

#### (a) IN GENERAL.—

(1) ADVERTISING REGULATIONS.—The Commission shall prescribe rules in accordance with this subsection to prohibit unfair and deceptive acts and practices in any advertisement for pay-per-call services. Such rules shall require that the person offering such pay-per-call services—

(A) clearly and conspicuously disclose in any advertising the cost of the use of such telephone number, including the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(B) in the case of an advertisement 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;

(C) in the case of an advertisement that promotes a service that is not operated or expressly authorized by a Federal agency but that provides information on a Federal program, include at the beginning of such advertisement a clear disclosure that the service is not authorized, endorsed, or approved by any Federal agency;

(D) shall not direct such advertisement at children under the age of 12, unless such service is a bona fide educational service;

(E) in the case of advertising directed primarily to individuals under the age of 18, clearly and conspicuously state in such advertising that such individual must have the consent of such individual's parent or legal guardian for the use of such services;

(F) be prohibited from using advertisements that emit electronic tones which can automatically dial a pay-per-call telephone number;

(G) ensure that, whenever the number to be called is shown in television and print media advertisements, the charges for the call are clear and conspicuous and (when shown in television advertisements) displayed for the same duration as that number is displayed;

(H) in delivering any telephone message soliciting calls to a pay-per-call service, specify clearly, and at no less than the audible volume of the solicitation, the total cost and the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred; and

(I) not advertise an 800 telephone number, or any other telephone number advertised or widely understood

to be toll free, from which callers are connected to an access number for a pay-per-call service.

(2) **PAY-PER-CALL SERVICE STANDARDS.**—The Commission shall prescribe rules to require that each provider of pay-per-call services—

(A) include in each pay-per-call message an introductory disclosure message that—

(i) describes the service being provided;

(ii) specifies clearly and at a reasonably understandable volume the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(iii) informs the caller that charges for the call begin at the end of the introductory message;

(iv) informs the caller that parental consent is required for calls made by children; and

(v) in the case of a pay-per-call service that is not operated or expressly authorized by a Federal agency but that provides information on any Federal program, a statement that clearly states that the service is not authorized, endorsed, or approved by any Federal agency;

(B) enable the caller to hang up at or before the end of the introductory message without incurring any charge whatsoever;

(C) not direct such services at children under the age of 12, unless such service is a bona fide educational service;

(D) stop the assessment of time-based charges immediately upon disconnection by the caller;

(E) disable any bypass mechanism which allows frequent callers to avoid listening to the disclosure message described in subparagraph (A) after the institution of any price increase and for a period of time sufficient to give such frequent callers adequate and sufficient notice of the price change;

(F) be prohibited from providing pay-per-call services through an 800 number or other telephone number advertised or widely understood to be toll free;

(G) be prohibited from billing consumers in excess of the amounts described in the introductory message and from billing for services provided in violation of the rules prescribed by the Commission pursuant to this section;

(H) ensure that any billing statement for such provider's charges shall—

(i) display any charges for pay-per-call services in a part of the consumer's bill that is identified as not being related to local and long distance telephone charges; and

(ii) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call;

(I) be liable for refunds to consumers who have been billed for pay-per-call services pursuant to programs that have been found to have violated the regulations prescribed pursuant to this section or title III of this Act or any other Federal law; and



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

(3) **ACCESS TO INFORMATION.**—The Commission shall by rule require a common carrier that provides telephone services to a provider of pay-per-call services to make available to the Commission any records and financial information maintained by such carrier relating to the arrangements (other than for the provision of local exchange service) between such carrier and any provider of pay-per-call services.

(4) **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 customers under this title, including through the use of alternative billing or other procedures.

(5) **EXEMPTIONS.**—The regulations prescribed by the Commission pursuant to paragraph (2)(A) may exempt from the requirements of such paragraph—

(A) calls from frequent callers or regular subscribers using a bypass mechanism to avoid listening to the disclosure message required by such regulations, subject to the requirements of paragraph (2)(E); or

(B) pay-per-call services provided at nominal charges, as defined by the Commission in such regulations.

(6) **CONSIDERATION OF OTHER RULES REQUIRED.**—In conducting a proceeding under this section, the Commission shall consider requiring, by rule or regulation, that providers of pay-per-call services—

(A) automatically disconnect a call after one full cycle of the program; and

(B) include a beep tone or other appropriate and clear signal during a live interactive group program so that callers will be alerted to the passage of time.

(7) **SPECIAL RULE FOR INFREQUENT PUBLICATIONS.**—The rules prescribed by the Commission under subparagraphs (A) and (G) of paragraph (1) may permit, in the case of publications that are widely distributed, that are printed annually or less frequently, and that have an established policy of not publishing specific prices, advertising that in lieu of the cost disclosures required by such subparagraphs, clearly and conspicuously disclose that use of the telephone number may result in a substantial charge.

(8) **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.

15 USC 5712.

**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.**

15 USC 5713.

(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.**

15 USC 5714.

For purposes of this title:

(1) The term “pay-per-call services” has the meaning provided in section 228 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.

## **TITLE III—BILLING AND COLLECTION**

**SEC. 301. REGULATIONS.**

15 USC 5721.

(a) **IN GENERAL.**—

(1) **RULES REQUIRED.**—The Commission shall, in accordance with the requirements of this section, prescribe rules establishing procedures for the correction of billing errors with respect to telephone-billed purchases. The rules prescribed by the Commission shall also include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to customers under this title.

(2) **SUBSTANTIAL SIMILARITY TO CREDIT BILLING.**—The Commission shall promulgate rules under this section that impose requirements that are substantially similar to the requirements imposed, with respect to the resolution of credit disputes, under the Truth in Lending and Fair Credit Billing Acts (15 U.S.C. 1601 et seq.).

(3) **TREATMENT OF RULE.**—A rule issued under paragraph (1) shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57(a)(1)(B)).

(b) **RULEMAKING SCHEDULE AND PROCEDURE.**—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be pre-

scribed 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 under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices. 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.

(d) **CORRECTION OF BILLING ERRORS AND CORRECTION OF CREDIT REPORTS.**—In prescribing rules under this section, the Commission shall consider, with respect to telephone-billed purchases, the following:

- (1) The initiation of a billing review by a customer.
- (2) Responses by billing entities and providing carriers to the initiation of a billing review.
- (3) Investigations concerning delivery of telephone-billed purchases.
- (4) Limitations upon providing carrier responsibilities, including limitations on a carrier's responsibility to verify delivery of audio information or entertainment.
- (5) Requirements on actions by billing entities to set aside charges from a customer's billing statement.
- (6) Limitations on collection actions by billing entities and vendors.
- (7) The regulation of credit reports on billing disputes.
- (8) The prompt notification of credit to an account.
- (9) Rights of customers and telephone common carriers regarding claims and defenses.
- (10) The extent to which the regulations should diverge from requirements under the Truth in Lending and Fair Credit Billing Acts in order to protect customers, and in order to be cost effective to billing entities.

15 USC 5722.

#### **SEC. 302. RELATION TO STATE LAWS.**

(a) **STATE LAW APPLICABLE UNLESS INCONSISTENT.**—This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to telephone billing practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Commission is authorized to determine whether such inconsistencies exist. The Commission may not determine that any State law is inconsistent with any provision of this chapter if the Commission determines that such law gives greater protection to the consumer.

(b) **REGULATORY EXEMPTIONS.**—The Commission shall by regulation exempt from the requirements of this title any class of telephone-billed purchase transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.

15 USC 5723.

#### **SEC. 303. ENFORCEMENT.**

The Commission shall enforce the requirements of this title. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a

violation of a requirement imposed under that Act. All the functions and powers of the Commission under that Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in that Act. The Commission may prescribe such regulations as are necessary or appropriate to implement the provisions of this title.

#### SEC. 304. DEFINITIONS.

15 USC 5724.

As used in this title—

(1) The term “telephone-billed purchase” means any purchase that is completed solely as a consequence of the completion of the call or a subsequent dialing, touch tone entry, or comparable action of the caller. Such term does not include—

(A) a purchase by a caller pursuant to a preexisting agreement with the vendor;

(B) local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines, by rule—

(i) is closely related to the provision of local exchange telephone services or interexchange telephone services; and

(ii) is subject to billing dispute resolution procedures required by Federal or State statute or regulation; or

(C) the purchase of goods or services which is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.

(2) A “billing error” consists of any of the following:

(A) A reflection on a billing statement for a telephone-billed purchase which was not made by the customer or, if made, was not in the amount reflected on such statement.

(B) A reflection on a billing statement of a telephone-billed purchase for which the customer requests additional clarification, including documentary evidence thereof.

(C) A reflection on a billing statement of a telephone-billed purchase that was not accepted by the customer or not provided to the customer in accordance with the stated terms of the transaction.

(D) A reflection on a billing statement of a telephone-billed purchase for a call made to an 800 or other toll free telephone number.

(E) The failure to reflect properly on a billing statement a payment made by the customer or a credit issued to the customer with respect to a telephone-billed purchase.

(F) A computation error or similar error of an accounting nature on a statement.

(G) Failure to transmit the billing statement to the last known address of the customer, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.

(H) Any other error described in regulations prescribed by the Commission pursuant to section 553 of title 5, United States Code.

(3) The term “Commission” means the Federal Trade Commission.



(4) The term "providing carrier" means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error complaint.

(5) The term "vendor" means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(6) The term "customer" means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase.

## TITLE IV—MISCELLANEOUS PROVISIONS

### SEC. 401. PROPOSAL FOR DEMONSTRATING THE POTENTIAL OF INNOVATIVE COMMUNICATIONS EQUIPMENT AND SERVICES.

(a) **DEMONSTRATION PROPOSAL.**—Within 180 days after the date of enactment of this Act, the Assistant Secretary of Energy for Conservation and Renewable Energy, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall submit to Congress a proposal for demonstrating the ability of new and innovative communications equipment and services to further the national goals of conserving energy and protecting public health and safety.

(b) **FACTORS TO BE ADDRESSED.**—The demonstration proposal required by subsection (a) shall address—

(1) the feasibility of using communications technologies to read meters from remote locations;

(2) the feasibility of managing the consumption of electrical power and natural gas by residences and businesses, thereby reducing the demand for new and additional sources of energy, and controlling the cost of providing improved utility services; and

(3) the public safety implications of monitoring utility services outages during earthquakes, hurricanes, typhoons, tornadoes, volcanoes, and other natural disasters.

(c) **PROJECT TO DEMONSTRATE ENERGY CONSERVATION POTENTIAL.**—Upon submission of the demonstration proposal to the Congress, the Secretary of Energy shall consider requesting from the Assistant Secretary of Commerce for Communications and Information the authority to use radio frequencies, pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305), to carry out demonstration projects consistent with the proposal that are designed to demonstrate the energy conservation potential of communications technologies and which are administered by the Secretary of Energy.

### SEC. 402. TECHNICAL AMENDMENTS.

Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) may, by rule or order, exempt from the requirements of paragraphs (1)(A)(iii) of this subsection calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect.”.

#### SEC. 403. INTERCEPTION OF CELLULAR TELECOMMUNICATIONS.

(a) AMENDMENT.—Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following new subsection:

47 USC 302a.

“(d)(1) Within 180 days after the date of enactment of this subsection, the Commission shall prescribe and make effective regulations denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of—

Regulations.

“(A) receiving transmissions in the frequencies allocated to the domestic cellular radio telecommunications service,

“(B) readily being altered by the user to receive transmissions in such frequencies, or

“(C) being equipped with decoders that convert digital cellular transmissions to analog voice audio.

“(2) Beginning 1 year after the effective date of the regulations adopted pursuant to paragraph (1), no receiver having the capabilities described in subparagraph (A), (B), or (C) of paragraph (1), as such capabilities are defined in such regulations, shall be manufactured in the United States or imported for use in the United States.”.

(b) REPORT TO CONGRESS.—The Commission shall report to Congress no later than June 1, 1993, on available security features for both analog and digital radio signals. This report shall include a study of security technologies currently available as well as those in development. The study shall assess the capabilities of such technologies, level of security afforded, and cost, with wide-spread deployment of such technologies.

(c) EFFECT ON OTHER LAWS.—This section shall not affect section 2512(2) of title 18, United States Code.

47 USC 302a  
note.

Approved October 28, 1992.

#### LEGISLATIVE HISTORY—H.R. 6191:

CONGRESSIONAL RECORD, Vol. 138 (1992):

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