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To provide for greater disclosure to, and empowerment of, consumers who have entered into a contract for cellular telephone service.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2007

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

A BILL

To provide for greater disclosure to, and empowerment of, consumers who have entered into a contract for cellular telephone service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cell Phone Consumer
5 Empowerment Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Some current wireless telephone contracts
9 do not clearly and uniformly disclose to the customer

1 the relevant terms and conditions, including charges,
2 minutes, service plans, and taxes and surcharges.

3 (2) Some current wireless telephone bills are
4 not clearly organized, do not clearly describe in plain
5 language the products and services for which
6 charges are imposed, and contain separate, line-item
7 fees that—

8 (A) are not included in the advertised price
9 of wireless services;

10 (B) fail to adequately inform consumers of
11 the specific costs being recovered; and

12 (C) fail to indicate whether such charges
13 are required by government law or rule, or al-
14 ternatively, are imposed at the discretion of the
15 carrier.

16 (3) The current lack of clarity and uniformity
17 in wireless telephone contracts and bills can lead to
18 consumer confusion and can impede the delivery of
19 basic information necessary for consumers to com-
20 pare the cost of wireless services offered by different
21 carriers.

22 (4) Competitive markets function properly only
23 when consumers have access to accurate, meaningful
24 information in a format that they readily under-
25 stand.

1 (5) Wireless companies often charge early ter-
2 mination fees of \$175 or more whenever a customer
3 ends his or her service before the expiration of the
4 contract. In many instances, the same fee is charged
5 regardless of whether the contract is terminated a
6 day or a year after it is signed so long as the con-
7 tract period has not expired.

8 (6) The term of the contract is often extended
9 whenever a customer makes a change in the service,
10 so an early termination fee may apply years after a
11 customer first subscribed to a company's service.

12 (7) Early termination fees imposed in this way,
13 do not bear a strong relationship to legitimate busi-
14 ness practices such as recovery of the cost of a wire-
15 less device.

16 (8) Customers very often are unaware that
17 their contracts can be, and in fact are—

18 (A) extended based on changes, often
19 minor changes, to their service; and

20 (B) modified in materially adverse ways.

21 (9) In some instances, wireless providers do not
22 make available service maps with sufficient levels of
23 granularity for customers, especially customers in
24 rural areas, to know with any confidence whether
25 and where they will have wireless telephone service.

1 (10) Wireless customers do not have ready ac-
2 cess to information on the service quality of wireless
3 providers, including dropped calls, coverage gaps,
4 and signal strength.

5 (11) Customers very often learn that the service
6 quality and coverage of their wireless device is insuf-
7 ficient only after they have signed a 2-year contract
8 and have begun using the device.

9 **SEC. 3. DEFINITIONS.**

10 In this Act, the following definitions shall apply:

11 (1) COMMISSION.—The term “Commission”
12 means the Federal Communications Commission.

13 (2) TELECOMMUNICATIONS CARRIER.—The
14 term “telecommunications carrier” has the meaning
15 given that term by section 3(44) of the Communica-
16 tions Act of 1934 (47 U.S.C. 153(44)).

17 (3) TELECOMMUNICATIONS SERVICE.—The
18 term “telecommunications service” has the meaning
19 given that term by section 3(46) of the Communica-
20 tions Act of 1934 (47 U.S.C. 153(46)).

21 (4) WIRELESS TELEPHONE SERVICES.—The
22 term “wireless telephone services” has the same
23 meaning given the term “commercial mobile radio
24 services” as such term is defined in section 332(c)

1 of the Communications Act of 1934 (47 U.S.C.
2 332(c)).

3 (5) WIRELESS TELEPHONE SERVICE PRO-
4 VIDER.—The term “wireless telephone service pro-
5 vider” means any entity that provides wireless tele-
6 phone service.

7 **SEC. 4. DISCLOSURE REQUIREMENTS FOR PLANS AND CON-**
8 **TRACTS FOR WIRELESS TELEPHONE SERV-**
9 **ICE.**

10 (a) DISCLOSURE REQUIREMENTS.—Not later than
11 180 days after the date of enactment of this Act, the Com-
12 mission shall promulgate regulations requiring that any
13 publication, including publication on the Internet, of the
14 terms of a plan or contract for wireless telephone service
15 of a wireless telephone service provider shall set forth, in
16 a plain and conspicuous manner, the following informa-
17 tion:

18 (1) CONTRACT TERMS.—Information on plan
19 and contract terms, including the length of such
20 contract, early or other termination fees, the length
21 of any trial period, and start-up fees.

22 (2) CHARGES.—Information on charges, includ-
23 ing calling-from area, monthly base charge, per-
24 minute charges for minutes not included in the plan,
25 and the method of calculating minutes charged.

1 (3) MINUTES.—Information on minutes in-
2 cluded in the plan, including weekday/daytime min-
3 utes, nights/weekend minutes, and any other dif-
4 ferent method by which a subscriber is charged a
5 fee, such as for long distance-calls, roaming calls, in-
6 coming calls, and directory assistance calls.

7 (4) TAXES AND SURCHARGES.—

8 (A) TAXES.—Information on taxes to be
9 collected by the provider for, and paid to, a
10 State, local, or other governmental agency.

11 (B) SURCHARGES.—Information on sur-
12 charges imposed by the provider for the costs of
13 compliance with regulations or for any other
14 purposes.

15 (5) E-911.—A statement notifying the cus-
16 tomer that the service includes basic wireless 911
17 service.

18 (6) OTHER INFORMATION.—Any other informa-
19 tion that the Commission considers appropriate to
20 ensure that wireless consumers are fully informed of
21 the terms of the plan or contract.

22 (b) INFORMATION REQUIRED TO BE GIVEN TO ANY
23 PURCHASER.—Each wireless telephone service provider
24 shall provide the information required under subsection

1 (a) to a consumer prior to entering into any contract with
 2 that consumer for wireless telephone service.

3 (c) **FORMAT.**—The Commission shall complete a rule-
 4 making requiring that the information required by sub-
 5 section (a) be published by wireless service providers in
 6 a tabular format, in a clear and uniform manner.

7 (d) **ADVERTISING.**—A wireless telephone service pro-
 8 vider shall, to the extent possible allowed by the adver-
 9 tising medium chosen by such provider, satisfy the re-
 10 quirements of this section in any advertisement related to
 11 a plan or contract for wireless telephone service.

12 **SEC. 5. CONTRACT BILLING.**

13 (a) **ORGANIZATION OF BILLS.**—A wireless telephone
 14 service provider shall provide that each bill sent to a sub-
 15 scriber for wireless telephone service is clearly organized,
 16 clearly describes in plain language the products and serv-
 17 ices for which charges are imposed, and conforms to such
 18 format standards as are established by the Commission.

19 (b) **TAXES AND OTHER FEES.**—

20 (1) **IN GENERAL.**—Taxes and fees which are re-
 21 quired by a Federal, State, or local statute or regu-
 22 lation to be collected from a subscriber shall be set
 23 forth in a separate section of each bill sent to a sub-
 24 scriber, and itemized separately.

1 (2) LIMITATION.—No charge which is not re-
2 quired to be recovered from a subscriber under a
3 Federal, State, or local statute or regulation may be
4 included in the section of the bill described in para-
5 graph (1).

6 (c) ROAMING CHARGES.—Roaming or off-network
7 charges associated with any call placed by a subscriber
8 shall be itemized on each bill sent to such subscriber not
9 later than 60 days after such call was placed and shall
10 identify the date and originating location of such call.

11 (d) ITEMIZED BILLS.—Upon request of a subscriber,
12 a wireless telephone service provider shall provide an
13 itemized bill to such subscriber at no cost to such sub-
14 scriber.

15 (e) RULEMAKING.—Not later than 180 days after the
16 date of enactment of this Act, the Commission shall pro-
17 mulgate regulations implementing the provisions of this
18 section.

19 (f) TRUTH-IN-TELEPHONE BILLING REGULA-
20 TIONS.—Except as otherwise provided in this Act, not
21 later than 180 days after the date of enactment of this
22 Act, the Commission shall initiate and conclude a pro-
23 ceeding under the Communications Act of 1934 to prevent
24 a telecommunications carrier from listing any charge or

1 fee on the billing statement of a subscriber as a separately
 2 stated charge or fee other than a charge or fee—

3 (1) for telecommunications service or other
 4 services provider to a subscriber;

5 (2) for nonpayment, early termination of serv-
 6 ice, or other lawful penalty;

7 (3) for Federal, State, or local sales or excise
 8 taxes; or

9 (4) expressly authorized by a Federal, State, or
 10 local statute, regulation, or rule to appear on a sub-
 11 scriber's billing statement as a separately stated
 12 charge or fee.

13 **SEC. 6. PROVISION OF INFORMATION ON WIRELESS TELE-**
 14 **PHONE SERVICE COVERAGE AND QUALITY TO**
 15 **CONSUMERS.**

16 (a) SERVICE AREA MAPS.—

17 (1) IN GENERAL.—Each wireless telephone
 18 service provider shall make available a map showing
 19 the wireless telephone service area of such provider
 20 and the wireless telephone service area of such pro-
 21 vider within each State.

22 (2) GRANULARITY.—Each map required under
 23 paragraph (1) shall be prepared to reflect the county
 24 level of wireless telephone service, shall be updated
 25 quarterly, and shall be in sufficient detail to—

1 (A) identify all geographic areas within
2 such county larger than a number of square
3 miles to be determined by the Commission
4 where wireless telephone service is not regularly
5 available; and

6 (B) identify whether or not a consumer
7 shall be able to receive wireless telephone serv-
8 ice where the consumer's primary residence is
9 located.

10 (3) TIMES OF PROVISION.—A map of the serv-
11 ice area of a wireless telephone service shall be pro-
12 vided to a consumer—

13 (A) upon request of the consumer;

14 (B) whenever a plan or contract for the
15 service is entered into; and

16 (C) at such other times as the Commission
17 shall provide.

18 (4) ELECTRONIC AVAILABILITY.—Each map of
19 a service area under paragraph (1) shall be avail-
20 able—

21 (A) on the Internet website of the provider
22 concerned; and

23 (B) on the Internet website of the Commis-
24 sion.

25 (b) SERVICE.—

1 (1) MONITORING.—The Commission shall mon-
2 itor the quality of wireless telephone service provided
3 in the United States by requiring semiannual reports
4 of wireless service providers on the following:

5 (A) Dropped calls within geographic areas
6 to be determined by the Commission.

7 (B) Known coverage gaps (including aver-
8 age signal strength) or dead zones within geo-
9 graphic areas to be determined by the Commis-
10 sion.

11 (C) Any other matters the Commission
12 considers appropriate.

13 (2) PUBLIC COMMENTS.—The Commission shall
14 establish an Internet website at which members of
15 the public can submit to the Commission their com-
16 ments and views on the quality of service of any
17 wireless telephone service provider.

18 (3) PUBLICATION.—The Commission shall
19 make available to wireless telephone service pro-
20 viders and to the public on a semiannual basis the
21 information received under this section on the qual-
22 ity of wireless telephone service.

23 (c) REGULATIONS.—Not later than 180 days after
24 the date of enactment of this Act, the Commission shall

1 promulgate regulations implementing the provisions of
2 this section.

3 **SEC. 7. EARLY TERMINATION FEES.**

4 (a) REQUIREMENTS.—Not later than 180 days after
5 the date of enactment of this Act, the Commission shall
6 promulgate regulations requiring that early termination
7 fees be prorated over the term of a wireless subscriber's
8 contract, in a manner that reasonably links the fee to re-
9 covery of the cost of the device or other legitimate business
10 expenses.

11 (1) MINIMUM.—The Commission shall have ap-
12 propriate discretion to implement the terms of this
13 section, but at a minimum the early termination fee
14 for a 2-year contract should be reduced by $\frac{1}{2}$ after
15 1 year.

16 (2) CONSIDERATIONS.—In conducting this rule-
17 making, the Commission should consider, among
18 other things, the effect of early termination fees on
19 competition and on the ability of consumers to
20 choose their wireless provider, as well as the legiti-
21 mate business reasons for early termination fees.

22 **SEC. 8. CONTRACT EXTENSION, MODIFICATION, OR RESCIS-**
23 **SION.**

24 (a) VALIDITY OF EXTENSIONS.—

1 (1) IN GENERAL.—An extension of a contract
2 for wireless telephone service shall not be valid un-
3 less—

4 (A) the wireless telephone service provider
5 provides point-of-sale notice of the extension to
6 the subscriber; and

7 (B) the subscriber may cancel the exten-
8 sion for any reason within 30 days after the no-
9 tice required by subparagraph (A) is provided.

10 (2) NO CANCELLATION PENALTY.—If a sub-
11 scriber cancels the extension of a contract for wire-
12 less telephone service within the 30-day period pro-
13 vided by paragraph (1)(B) the wireless telephone
14 service provider may not impose a penalty or other
15 cost for the cancellation on the subscriber. A charge
16 for wireless telephone service provided to the sub-
17 scriber during the extension period before cancella-
18 tion shall not be considered to be a penalty or cost
19 of cancellation for purposes of this paragraph.

20 (b) NOTICE OF ANY MODIFICATIONS.—

21 (1) IN GENERAL.—A wireless telephone service
22 provider shall provide subscribers with written notice
23 of any change in rates, terms, or conditions of serv-
24 ice at least 30 days before such change is to take
25 effect.

1 (2) RIGHT TO TERMINATE FOR MATERIAL AD-
 2 VERSE CHANGES.—If any change in rates, terms, or
 3 conditions of service will result in higher rates or
 4 more restrictions on service or otherwise will result
 5 in a material, adverse change for a subscriber, such
 6 subscriber may, not later than the day such change
 7 is to take effect, terminate the service without pen-
 8 alty and receive a pro rata refund of the charges, if
 9 any, paid for the handset used for such service.

10 (3) REQUIRED CONTENT OF NOTICE.—The no-
 11 tice of change required under paragraph (1) shall in-
 12 form a subscriber of—

13 (A) the right of that subscriber to termi-
 14 nate the service and to a handset refund; and

15 (B) the steps necessary to implement such
 16 a termination.

17 (c) RIGHT OF RESCISSION.—

18 (1) IN GENERAL.—A contract for wireless serv-
 19 ice may be canceled upon the request of a subscriber
 20 for any reason up to 30 days after the date on which
 21 the contract was executed.

22 (2) NO PENALTY.—If a subscriber exercises the
 23 right of rescission under paragraph (1), there shall
 24 be no penalty or other costs to such subscriber for
 25 such rescission, except that such subscriber shall be

1 responsible for the cost of the wireless service used
 2 during the time period the contract was in effect.

3 (3) HANDSET.—On the return of any handset
 4 purchased or leased in connection with the purchase
 5 of wireless service, a subscriber may receive a pro-
 6 rated refund of any amount paid for the handset.

7 **SEC. 9. REPORT ON HANDSET LOCKING AND PORTABILITY.**

8 (a) REPORT.—Not later than 180 days after the date
 9 of enactment of this Act, the Commission shall submit a
 10 report to Congress that analyzes—

11 (1) the practice in the United States of handset
 12 locking;

13 (2) the practice of handset portability in Euro-
 14 pean and Asian markets;

15 (3) the effects on competition and the effect of
 16 consumer behavior, of the practices described in (1)
 17 and (2); and

18 (4) potential methods of regulating handset
 19 locking and portability in the United States.

20 **SEC. 10. TERMINATION OF CONTRACTS FOR CELLULAR**
 21 **PHONE SERVICES FOR ARMED FORCES PER-**
 22 **SONNEL.**

23 (a) TERMINATION.—

24 (1) INCLUSION OF CONTRACTS UNDER TERMI-
 25 NATION AUTHORITY.—Title III of the

6 “(a) TERMINATION BY SERVICEMEMBER.—A
7 servicemember who is a party to a contract described in
8 subsection (b) may, at the option of such servicemember,
9 terminate the contract at any time after—

“ (2) the date of the military orders of the
servicemember described in paragraphs (1) or (2) of
subsection (b), as the case may be.

“(1) the contract is executed by or on behalf of a person who thereafter and during the term of the contract enters military service (or receives an order to enter military service) under a call or order specifying a period of not less than 90 days (or who enters military service under a call or order specifying a period of 90 days or less and who, without a break in service, receives orders extending the period of

1 military service to a period of not less than 90
2 days); or

3 “(2) the person enters into the contract while
4 in military service and thereafter receives military
5 orders for a permanent change of station outside of
6 the continental United States, or to deploy with a
7 military unit for a period of not less than 90 days,
8 to a location that does not support continuation of
9 the service under the contract.

10 “(c) MANNER OF TERMINATION.—

11 “(1) IN GENERAL.—Termination of a contract
12 under subsection (a) is made by delivery by the
13 servicemember of written notice of such termination
14 to the other party to the contract (or that person’s
15 grantee or agent).

16 “(2) NATURE OF NOTICE.—Delivery of notice
17 under paragraph (1) may be accomplished—

18 “(A) by hand delivery;

19 “(B) by private business carrier; or

20 “(C) by placing the written notice in an
21 envelope with sufficient postage and with return
22 receipt requested, and addressed as designated
23 by the party to be notified (or that party’s
24 grantee or agent), and depositing the written
25 notice in the United States mails.

1 “(d) EFFECTIVE DATE OF CONTRACT TERMI-
2 NATION.—Termination of the contract is effective on the
3 day on which the notice is delivered.

4 “(e) PENALTIES.—

5 “(1) MISDEMEANOR.—Any person who know-
6 ingly seizes, holds, or detains the personal effects,
7 security deposit, or other property of a
8 servicemember (or of a dependent of a
9 servicemember) who lawfully terminates a contract
10 covered by this section, or who knowingly interferes
11 with the removal of such property from premises
12 covered by such contract, for the purpose of sub-
13 jecting or attempting to subject any of such property
14 to a claim for contract payments accruing subse-
15 quent to the date of termination of such contract, or
16 attempts to do so, shall be fined as provided in title
17 18, United States Code, or imprisoned for not more
18 than 1 year, or both.

19 “(2) PRESERVATION OF OTHER REMEDIES.—
20 The remedy and rights provided under this section
21 are in addition to and do not preclude any remedy
22 for wrongful conversion otherwise available under
23 law to the person claiming relief under this section,
24 including any award for consequential or punitive
25 damages.

1 “(f) DEFINITIONS.—In this section, the following
2 definitions shall apply:

3 “(1) MILITARY ORDERS.—The term ‘military
4 orders’, with respect to a servicemember, means offi-
5 cial military orders, or any notification, certification,
6 or verification from the servicemember’s com-
7 manding officer, with respect to the servicemember’s
8 current or future military duty status.

9 “(2) CONUS.—The term ‘continental United
10 States’ means the 48 contiguous States and the Dis-
11 trict of Columbia.”.

12 **SEC. 11. ENFORCEMENT.**

13 (a) ENFORCEMENT BY THE FCC.—

14 (1) IN GENERAL.—The Commission shall have
15 the power and authority to enforce the provisions of
16 this Act as if such provisions were provisions of the
17 Communications Act of 1934.

18 (2) PENALTIES.—Penalties authorized by title
19 V of the Communications Act of 1934 may be im-
20 posed under this subsection for a violation of a pro-
21 vision of this Act.

22 (b) ENFORCEMENT BY STATES.—

23 (1) AUTHORITY.—The attorney general of a
24 State, or the public utility commission of a State if
25 authorized by the laws of the State, may—

1 (A) bring a civil action on behalf of the
2 residents of the State in a district court of the
3 United States of appropriate jurisdiction to en-
4 force the provisions of this Act; or

5 (B) establish or utilize existing administra-
6 tive procedures to enforce the provisions of this
7 Act.

8 (2) PENALTIES.—Penalties authorized by title
9 V of the Communications Act of 1934 for a violation
10 of a provision of that Act may be imposed in a civil
11 action under the subsection for a violation of a pro-
12 vision of this Act.

13 **SEC. 12. PREEMPTION.**

14 This Act preempts the laws of any State to the extent
15 that such laws are inconsistent with this Act, except that
16 this Act shall not preempt any State laws that provide
17 additional protection to subscribers of wireless telephone
18 service.

○