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Report to the Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate

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TELECOMMUNICATIONS

State and Federal Actions to Curb Slamming and Cramming

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United States General Accounting Office
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Resources, Community, and
Economic Development Division

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The Honorable Susan M. Collins
Chairman, Permanent Subcommittee
on Investigations
Committee on Governmental Affairs
United States Senate

Dear Madam Chairman:

Two types of abuses involving telephone services have become prevalent nationwide. The first, called "slamming," involves switching a consumer's telephone service from one telephone company to another without the consumer's authorization. The second, called "cramming," involves placing unauthorized charges on a consumer's telephone bill for services and products. Both state and federal agencies are responsible for protecting consumers from these abuses and taking regulatory and legal enforcement actions against their perpetrators. At the state level, public utilities commissions are responsible for regulating intrastate telephone services and resolving consumers' complaints, while the attorneys general are responsible for resolving consumers' complaints about unfair and deceptive marketing practices. At the federal level, the Federal Communications Commission (FCC) is responsible for protecting consumers against slamming, while both FCC and the Federal Trade Commission (FTC) are involved in protecting consumers against cramming. Under these separate statutory schemes, FCC's authority is focused on preventing cramming by common carriers (telephone companies), while FTC's authority is focused on preventing cramming by companies that are not common carriers, such as vendors that use telephone bills to charge for their services. The Congress has, in some limited circumstances, granted FTC concurrent authority with FCC to establish rules concerning certain areas of telephone billing and collection.

You asked us to report on the scope of these problems and on state and federal actions taken to combat them. Specifically, you asked us to describe the (1) number of complaints about slamming and cramming received by state and federal authorities, (2) types of protections implemented by state and federal authorities to increase consumers' ability to protect themselves against slamming and cramming, and (3) state and federal enforcement actions taken against slamming and cramming violations since 1996, including the names of the companies or individuals

most frequently subject to such actions. To address these issues, we surveyed the public utilities commissions of all 50 states and the District of Columbia and assisted the National Association of Attorneys General in surveying each state's office of attorney general and the District's corporate counsel. In addition, we met with FCC and FTC officials to gather information on the enforcement actions they have taken against companies engaged in slamming and cramming. We also discussed recent regulatory initiatives by FCC and FTC to combat these abuses and improve their ability to take enforcement action.

Results in Brief

Slamming continues to be a significant problem for consumers. From 1996 through 1998, state public utilities commissions saw the number of complaints about this abuse rise from 20,741 to 39,688 (a 91-percent increase), and federal authorities saw the number of complaints rise from 12,795 to 20,154 (a 57-percent increase). In addition, cramming has emerged as a new problem. Complaints to state authorities rose sharply from about 800 in 1996 to nearly 20,000 in 1998. In 1998, complaints about cramming became the fourth most common type of written complaint received by FCC and the second most common type of complaint received by FTC.

To help protect consumers against slamming and cramming, most state public utilities commissions (1) require telephone companies to obtain oral or written authorization from consumers before making changes to their service, (2) have procedures for resolving consumers' complaints, and (3) provide consumers with information on ways to prevent telephone slamming and cramming. At the federal level, FCC adopted new rules against slamming in December 1998 that strengthen procedures for verifying changes in service and absolve consumers of liability, within certain limits, for charges by unauthorized companies. However, the Court of Appeals for the District of Columbia has delayed the implementation of these liability provisions at the request of several long-distance companies, which have proposed the establishment of a neutral third-party administrator to implement the liability rules. To protect consumers against cramming, FCC adopted new rules in April 1999 requiring telephone companies to format their bills so that consumers can more easily identify any unauthorized charges. In October 1998, FTC proposed rules addressing cramming that would, among other things, require a consumer's express authorization before charges other than for local or long-distance calling could be placed on the consumer's telephone bill and

would allow the consumer to dispute any unauthorized charges. These proposed FTC rules could be final before the end of 1999.

State commissions were able to resolve through informal action nearly 60 percent of the slamming complaints they received in calendar year 1998. In addition, from 1996 through 1998, the public utilities commissions and attorneys general in 35 states reported completing 219 formal enforcement actions against companies or individuals for telephone slamming and cramming violations. As a result of these state actions, which affected at least 397,765 consumers, violators were ordered to pay at least $27 million in restitution and penalties. The state public utilities commissions also reported initiating over 3,900 enforcement actions for slamming and cramming that had not been finalized as of early 1999. At the federal level, FCC has ordered 23 companies and individuals to pay $17.1 million in civil monetary penalties (forfeitures) for telephone slamming violations since it took its first enforcement action for slamming in 1994. One slamming case also involved cramming. To date, FCC has collected $2.6 million of these forfeitures in 12 of these actions. Since April 1998, FTC has taken seven enforcement actions against cramming that have resulted in injunctions and restraining orders. Two of these companies have agreed to final stipulated court orders providing consumers with $53 million in credits and restitution and have agreed to modify their business practices.

Background

Slamming, which began to emerge in the mid-1980s, is the switching of a consumer's telephone company without his or her knowledge or consent. Consumers have the right to use any telephone company they have available to them and to change telephone companies whenever they wish. Under the Communications Act of 1934, as amended, it is unlawful to switch a consumer's preferred telephone company without his or her express consent.[1] Nevertheless, some telephone companies or their marketing agents have used deceptive contests, surveys, and telemarketing to lure consumers into switching to their service. For instance, a person filling out a form for a contest drawing may not notice that it contains fine print authorizing a switch in telephone service. Long-distance providers, or

[1] 47 U.S.C. 258.

telemarketers acting on their behalf, may also falsify records to make it appear that consumers have agreed verbally or in writing to a switch.[2]

Cramming, a more recent problem, is the placing of unauthorized, misleading, or deceptive charges on a consumer's telephone bill for services and products. Cramming can include unauthorized charges for services offered by the consumer's own telephone company, such as call messaging, or charges for services from other businesses or vendors selling their services. Some of these vendors, known as "information providers," provide recorded or live information and entertainment, such as stock market, sport, and product information, as well as "adult" services, "chat" lines, and psychic advice. Consumers generally call an advertised telephone number to receive the information or service. Some information providers have levied hidden or deceptive charges, even recurring monthly charges, that consumers did not know about and did not authorize. Typically, an information provider will use the services of a larger company, called a billing aggregator, that bundles the billing information from many separate vendors and contracts with telephone companies to have the charges included on consumers' telephone bills.

The format of telephone bills can make it hard for consumers to recognize that they have been slammed or crammed, especially when charges for these services are listed on their bills in vague terms, such as "monthly fee," "service fee," "mail server," or "membership." The bills may not even clearly identify the entities charging for these services, making it difficult for consumers to contact them directly to have the charge explained or removed.

Consumers who are the victims of slamming or cramming can attempt to resolve the problem by directly contacting the telephone company or vendor involved. They can also file a complaint with their state public utilities commission or their state attorney general's office. These two bodies may attempt to resolve the complaint informally, or they may take formal regulatory or legal action, as authorized by state statute, against the offending companies.

In addition, consumers can send complaints about slamming and cramming to both FCC and FTC. Each complaint that FCC receives is sent to the

[2]This type of fraud is discussed in our earlier report Telecommunications: Telephone Slamming and Its Harmful Effects (GAO/OSI-98-10, Apr. 21, 1998).

appropriate company. The company, in turn, sends its response to the complaint to both FCC and the affected consumer. On the basis of these complaints, FCC investigates patterns of slamming and cramming and takes enforcement action when appropriate. FTC uses the cramming complaints it receives, along with complaint data provided by state-level sources and other contributors to its complaint database, to take law enforcement action against individuals and companies engaged in this abuse. FCC shares cramming complaints with FTC, and FTC, in turn, shares slamming complaints it receives with FCC. As discussed below, both FCC and FTC are currently taking additional steps to strengthen their ability to combat slamming and cramming.

Increases in Slamming and Cramming Complaints to State and Federal Authorities

As indicated in table 1, state public utilities commissions and federal agencies reported overall increases in slamming and cramming complaints from 1996 through 1998. The total number of slamming complaints received at the state level rose from 20,741 to 39,688 (a 91-percent increase), while the number of written complaints received by FCC rose from 12,795 to 20,154 (a 57-percent increase).[3] Although FCC saw a small decrease in slamming complaints from 1997 through 1998, the number was still considerably higher in 1998 than in 1996. During the same period, the number of cramming complaints received by state and federal agencies increased dramatically. In 1997, public utilities commissions in 16 states received 1,188 cramming complaints. By the end of 1998, however, the commissions in 36 states had received 19,543 complaints. The situation is similar at the federal level. FCC and FTC saw cramming emerge as a major problem in 1998, as the number of cramming complaints to both agencies sharply increased from 1997 to 1998. In 1998, cramming became the fourth most common cause of written complaints received by FCC and the second most common cause of complaints received by FTC.[4]

[3]Nine state public utilities commissions reported that they did not have records that tracked the complaints they received about slamming and cramming. These states are Alaska, Arkansas, Colorado, Delaware, Hawaii, Indiana, Louisiana, Rhode Island, and South Carolina.

[4]The data in table 1 have some important qualifications. The complaint numbers do not equate to verified slamming and cramming incidents, since a complaint could prove upon investigation to be unwarranted. For example, a customer might misinterpret a legitimate service charge and mistakenly complain about being slammed or crammed. Furthermore, adding state and federal complaint numbers together would result in some double-counting because consumers can complain to both state and federal authorities about a single slamming or cramming incident.

Table 1: Number of Telephone Slamming and Cramming Complaints Reported to State Public Utilities Commissions, FCC, and FTC for Calendar Years 1996-98

	Slamming		Cramming		
Calendar years	Complaints received by state public utilities commissions	Written complaints received by FCC[a]	Complaints received by state public utilities commissions	Written complaints received by FCC[a]	Complaints received by FTC[b]
1996	20,741	12,795	852	0	221
1997	25,809	20,475	1,188	0	3,173
1998	39,688	20,154	19,543	4,558	9,827

[a]A consumer may call FCC's National Call Center with either an inquiry or a complaint. While FCC keeps track of inquiries and complaints received by the Call Center for trend and analytical purposes, it did not, until recently, take action until a consumer had submitted a written complaint, accompanied by bills and any other supporting documentation. These FCC numbers reflect written complaints only.

[b]The numbers for FTC include complaints received by mail, telephone, and the Internet. FTC also receives slamming complaints, which it shares with FCC.

Sources: State public utilities commissions' responses to GAO's survey and data from FCC and FTC.

The numbers in table 1 do not capture complaints about slamming and cramming that consumers tried to resolve by dealing directly with their telephone company without filing a complaint with state or federal authorities. Regional Bell operating companies reported to us that altogether they received well over 1 million unverified complaints in 1998 about long-distance and toll-service slamming.[5] Data from two of the companies indicated that the number of complaints was declining. Major long-distance companies reported a far smaller number of unverified complaints against them during 1998, though data associated with their resellers were not always included.[6] Most of the long-distance companies indicated that the number of unverified slamming complaints against them had increased to some degree from 1996 to 1998.

We were also able to obtain some data from the regional Bell operating companies and two long-distance companies on the number of cramming

[5]The companies we contacted consider the slamming and cramming data provided to us to be proprietary. To protect the confidentiality of the data, we agreed to report only cumulative totals for all companies. The regional companies included Ameritech, Bell Atlantic, BellSouth, SBC Telecommunications, and US WEST. The long-distance companies included AT&T, MCI WorldCom, and Sprint. We also obtained data from GTE. We did not attempt to gather data from hundreds of smaller local and long-distance service providers.

[6]A reseller is a telephone service provider that does not own transmission facilities but obtains communications services from another telephone company for resale to the public for profit.

complaints they received in 1998. While no regional company had cramming data that covered all of 1998, four of them reported a combined total of under 160,000 unverified cramming complaints for part of the year, with one company showing a steady decline in complaints. A fifth regional company reported a substantially higher number of unverified complaints for the last 9 months of 1998, but with a generally downward trend. Two long-distance companies reported a combined total of fewer than 1,000 unverified complaints; the others reported having no data on cramming complaints.

Consumer Protections Against Slamming and Cramming

Both the states and the federal government have taken action to help protect consumers against slamming and cramming. All states reported implementing some consumer protections against slamming, and 40 states reported having some protections against the newer problem of cramming. Many states are also making efforts to alert consumers to slamming and cramming and to provide guidance on dealing with these abuses. At the federal level, FCC recently adopted new regulations against slamming designed to take the profit out of it. To combat cramming, FCC adopted new regulations ("Truth-in-Billing") in April 1999 that require telephone bills to clearly identify all charges and highlight any changes in service so that consumers can more easily spot unauthorized charges. FTC also has proposed regulatory changes that would address cramming by, among other things, requiring a consumer's express authorization to charge for services other than local or long-distance calling, enhancing the consumer's right to dispute unauthorized charges, and imposing liability on those engaged in cramming.

State-Level Consumer Protections Against Slamming and Cramming

All state public utilities commissions reported initiating a variety of actions, requirements, and services designed to help protect consumers against telephone slamming. The most widely reported action is allowing telephone companies to offer consumers the option of "freezing" their long-distance service provider—often referred to as a "primary interexchange carrier (PIC) freeze." If a consumer asks the local telephone company to place a freeze on his or her account, the telephone service provider may not be switched unless the consumer expressly agrees to lift the freeze. Other protections include

- requiring a consumer's local telephone company to have an independent third party verify the consumer's oral authorization to switch to a new telephone service provider;

- requiring a consumer's local telephone company to obtain from a new telephone service provider a form or "letter of agency" indicating in writing that the consumer is authorizing a switch;
- requiring telephone companies to provide consumers with a toll-free complaint number;
- providing a Web site, educational brochures, and public service announcements with information on preventing telephone slamming; and
- referring complaints to FCC.

In addition, all of the state commissions had procedures in place for handling consumers' complaints about slamming. The commissions either resolved a complaint by contacting the consumer and/or the company named in the complaint or referred the complaint to the state attorney general. In 1998, the commissions informally resolved nearly 60 percent of the 39,688 slamming complaints they received by reaching a settlement between the consumer and the telephone company, without further investigation or administrative hearings. For example, Maryland's Public Service Commission reported that in 1998 it received 259 slamming complaints. The Commission resolved all of them informally and helped consumers obtain approximately $19,000 in refunds stemming from these complaints.

Forty-one state public utilities commissions reported initiating some actions to help prevent telephone cramming.[7] These actions included providing consumers with educational brochures and information on Internet sites and establishing procedures for handling cramming complaints. Some state commissions reported that they refer cramming complaints to FCC. In addition, a few state commissions reported taking additional actions to increase their ability to protect consumers against cramming. For example, during 1998, Illinois passed legislation that, in part, enhanced the enforcement actions the Illinois Commerce Commission can take to protect customers against cramming. Specifically, the legislation gave the Commission the authority to fine an offending company up to $1,000 for each repeated and intentional cramming violation as well as revoke the company's certificate to provide service in the state. In addition, the Tennessee Regulatory Authority implemented new

[7]The public utilities commissions in Alaska, Colorado, the District of Columbia, Iowa, Kentucky, Louisiana, Nebraska, New Hampshire, New Jersey, and New Mexico reported initiating no actions to help prevent telephone cramming.

regulations in 1998 against cramming that require the prior consent of an authorized individual before charges for additional services can be placed on the individual's telephone bill. The Authority can assess a maximum fine of $100 per day, per offense, against a company engaging in cramming. The California Public Utilities Commission and the Indiana Utility Regulatory Commission also recently implemented rules detailing the types of information required before charges for other services can be added to a consumer's telephone bill.

Federal Consumer Protections Against Slamming and Cramming

Both FCC and FTC have undertaken rulemakings to provide greater protection against slamming and cramming. They have also increased their consumer education efforts and are making it easier for consumers to file complaints about these abuses.

New Regulations Against Slamming

FCC has taken several steps to deter slamming since the advent of competition in long-distance service during the mid-1980s. For example, beginning in 1992, FCC established verification procedures for long-distance service change-orders generated by telemarketing. When slamming persisted, FCC adopted additional rules in 1995 prohibiting the potentially deceptive and confusing practice of combining long-distance service change authorizations ("letters of agency") with promotional materials, such as sweepstakes entry forms, in the same document. The 1995 rules also require that letters of agency be written in clear, unambiguous language. The enactment of the Telecommunications Act of 1996, which included a provision prohibiting slamming and imposing liability on carriers engaging in this abuse, led FCC to reexamine its rules against slamming. Recognizing that its past actions were not sufficient to stop slamming, FCC adopted new rules in December 1998 aimed at, among other things, taking the profit out of slamming and ensuring that customers do not have to pay for services that they did not authorize.[8]

The new rules have several key features. The scope of the rules takes into account that slamming is no longer limited to long-distance service but can also occur with in-state toll service and local service as these markets become open to competition. FCC therefore explicitly extended its new rules to encompass (with limited exceptions) all telephone companies in connection with changes in all telecommunications services, not just

[8]"Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996," CC Docket No. 94-129, FCC 98-334 (rel. Dec. 22, 1998) ("Second Order").

long-distance service. The rules also tighten the methods that telephone companies use to verify that changes have been authorized by consumers, including eliminating the "welcome package," a verification option that FCC has found to be ineffective.[9] In addition, the rules clarify the method by which consumers can order a "freeze" on changes to their existing telephone service in order to prevent any unauthorized switches. These verification rules became effective on April 27, 1999.

Another key element of the new rules governs consumers' liability for charges made by unauthorized telephone companies. The new rules would absolve consumers of liability for any charges imposed by an unauthorized telephone company for up to 30 days. If a consumer has already paid the unauthorized company for calls made within 30 days of being slammed, the unauthorized company would have to remit such payments to the consumer's authorized company, which would then provide the consumer with a refund for any amounts paid in excess of the authorized company's rates. The unauthorized company would also pay the authorized company for any expenses incurred in restoring the consumer's service or collecting charges from the unauthorized company.

Unlike the verification rules, these liability rules have not been implemented because of court action. FCC recognized that some telephone companies desired to establish an independent third-party administrator, funded by participating telephone companies, to discharge their obligations under the new rules for resolving slamming disputes among themselves and consumers, including making adjustments to consumers' telephone bills. FCC therefore delayed the implementation of its new liability rules until May 17, 1999 (90 days after the Second Order was published in the Federal Register). According to FCC, the delay was designed to give the companies time to develop and implement a third-party administrator mechanism and file waiver requests. On March 30, 1999, several long-distance companies submitted a proposal for a third-party administrator. They estimated that they would need at least 6 months to implement the proposal after FCC approved it and therefore asked FCC to delay the implementation of the new liability provisions until that time. In April, FCC asked for public comments on the proposal with a view to reaching a decision by summer 1999 but decided not to further

[9]The "welcome package" was an information package mailed to a consumer after he or she agreed to change telephone companies. It included a prepaid postcard that the consumer could use to deny, cancel, or confirm the change order.

delay its implementation of the liability provisions. Several long-distance companies successfully petitioned the U.S. Court of Appeals for the District of Columbia Circuit to order a stay on FCC's implementation of the new liability rules. The stay, granted on May 18, 1999, is for an indefinite period. As yet, it is not clear when this issue will be resolved.

Additional antislamming steps are being considered by FCC. In its new rules, FCC asked for public comment on several actions that could lead to further rulemaking, including

- allowing both the authorized telephone company and the consumer to recover any charges the consumer paid to the unauthorized telephone company,
- registering new companies entering the telecommunications market to determine whether they have a history of fraudulent activities,
- assigning identifying codes to all telephone companies to make it easier to determine which ones are committing slamming violations, and
- requiring telephone companies to report to FCC the number of slamming complaints they receive to help FCC take quicker action against companies with high complaint rates.

When we concluded our review in June 1999, no additional rules pertaining to these issues had been adopted. Several companies have filed petitions with FCC to reconsider the Second Order.

New Regulations Against Cramming

New federal actions to combat cramming are being taken by both FCC and FTC. According to FCC, over 60,000 consumers made inquiries at the agency in 1998 about the confusing format of their telephone bills. FCC believes that this confusion is contributing to the rise in cramming because consumers are having difficulty detecting unauthorized charges. On April 15, 1999, FCC adopted its "Truth-in-Billing" order, which establishes principles and guidelines to make telephone bills easier for customers to understand.[10] The new rules, which FTC commented on and supports, require that telephone bills (1) clearly identify who is responsible for each charge, (2) contain full and nonmisleading descriptions of the services being billed, and (3) provide telephone numbers for consumers to call for more information about specific charges on their bills. In addition, any changes in the telephone service provider—whether local or long-distance—must be highlighted, along with the name of the new

[10]"Truth-in-Billing and Billing Format," CC Docket No. 98-170, FCC 99-72 (rel. May 11, 1999).

company, when this information first appears on the bill. These changes should also make it easier for consumers to detect slamming, since a change in the telephone service provider would also be highlighted on the bill.

FTC is proposing direct action to combat cramming. Under the proposed revision to its "Pay-per-Call" rule, FTC has suggested a fourfold approach to the problem of cramming.[11] First, a consumer's express authorization generally would be required for purchases unrelated to local or long-distance telephone service that are billed to the consumer's telephone account. Second, a vendor would be prohibited from placing monthly or other recurring charges for pay-per-call service on a telephone bill without prior agreement with the customer billed for the service. Third, consumers would have the legal right to dispute unauthorized charges "crammed" onto their telephone bills and to have these charges removed. Finally, dispute resolution protections would be provided for all transactions that resulted in the placement of nontoll charges on a customer's telephone bill. Violators would be liable for civil penalties, currently $11,000 per violation. FTC officials expect to issue a final rule before the end of 1999.

Complaint Reporting and Education Initiatives

FCC and FTC are augmenting their regulatory efforts with expanded consumer outreach and education, which they believe are key elements in combating slamming and cramming. FCC is making it easier for consumers to submit complaints about slamming and cramming. In the past, FCC required consumers to submit complaints in writing before it took action on them. Since January 1999, consumers have been able to file complaints electronically via FCC's Internet Web site. And in June 1999, operators at FCC's National Call Center started taking consumers' complaints over the telephone and electronically submitting them for action directly to FCC's Common Carrier Bureau. In response to each complaint, the Bureau electronically issues an "Official Notice of Informal Complaint" to all companies identified in the complaint.[12] A served company has 30 days to

[11]Under the authority of the Telephone Disclosure and Dispute Resolution Act of 1992, FTC adopted its Pay-per-Call rule to curtail the unfair and deceptive practices engaged in by some pay-per-call businesses. 16 C.F.R. part 308. At that time, pay-per-call services were generally provided via "900" numbers that were billed directly to a consumer's local telephone company. Since then, "telephone-billed purchases" have expanded beyond simply "900" numbers. The Telecommunications Act of 1996 authorized FTC, through its rule, to extend the definition of the term "pay-per-call service." On Oct. 30, 1998, FTC published a notice of proposed rulemaking to revise the rule. 63 Fed. Reg. 58524. Part of this revision focuses on cramming.

[12]The issuance of a notice of informal complaint does not necessarily indicate wrongdoing by the served company.

respond to FCC. FCC is also automating some of its old manual processes for handling consumers' complaints in order to shorten its response time. With the help of this new system and additional staff, FCC hopes that its April 1999 backlog of 10,733 written complaints about slamming will be eliminated by the end of this year. In addition, FCC is bolstering its customer education efforts by making information on slamming and cramming available on its public Internet Web site. FCC is also proposing to establish a centralized Public Information Bureau to be more responsive to consumers' concerns and requests for information.

FTC has expanded its efforts to educate consumers about telephone billing abuses by creating a Web page on cramming and has formed a telecommunications working group to develop consumer education publications. These materials emphasize that a consumer does not owe for unauthorized (crammed) services just because the call for the service may have been placed from his or her home. In 1999, FTC added a toll-free number for consumers to call with complaints about cramming and other abuses and to obtain information on how to avoid such problems. FTC's database system, called the Consumer Sentinel, also contains details on over 180,000 complaints from consumers on all topics, including complaint data provided by sources such as Better Business bureaus, state attorneys general, the National Fraud Information Center, Phone Busters, and private companies. FTC uses the database to develop enforcement strategies against companies engaged in abusive trade practices, including cramming.[13]

State and Federal Enforcement Actions Against Slamming and Cramming

Both state and federal enforcement actions against companies engaged in slamming and cramming have resulted in financial penalties, restitution, and discontinued operations. At both the state and federal levels, the bulk of actions from 1996 through 1998 were for slamming violations.

State Enforcement Actions

As a whole, the states have successfully completed a large number of enforcement actions against slamming and cramming that have resulted in substantial fines and other penalties. For 1996 through 1998, the public

[13]Over 170 law enforcement agencies in the United States and Canada also have access to this database to assist them in their own consumer protection efforts.

utilities commissions and offices of attorney general in 35 states reported completing a total of 219 enforcement actions against companies that engaged in slamming or cramming.[14] In each of these cases, the public utilities commission and/or office of attorney general participated in a formal hearing against the company that resulted in a final disposition or resolution of the case. Appendix I provides more detailed information about each state's completed enforcement actions.

Of the 219 completed state enforcement actions, 194 were against companies or individuals involved in slamming, while 25 were against companies or individuals involved in cramming. In most of these actions, the company or individual was ordered to resolve the complaint by providing the consumer with some restitution, paying a penalty, or providing an assurance that the slamming or cramming would stop. In 30 of the 219 enforcement actions, the state public utilities commission and/or attorney general issued a cease-and-desist order or suspended or revoked the company's authority to do business in the state.

As shown in table 2, the states ordered companies to pay at least $13.4 million in customer restitution[15] and $14.1 million in penalties and fines.[16] These completed enforcement actions affected at least 397,765 consumers. These totals, however, understate the actual outcomes of these actions because the state public utilities commissions and attorneys general did not always include in their survey responses the number of consumers affected or the amount of customer restitution and penalties involved.

[14]Oregon's Office of Attorney General reported completing one enforcement action that involved both slamming and cramming violations. For the purpose of this report, this enforcement action was counted as a slamming violation.

[15]Customer restitution can include a complete or partial refund of a consumer's long-distance charges and of the fees charged to switch the consumer back to his or her authorized long-distance provider.

[16]Penalties and fines include charges to cover the costs of court proceedings and investigations. In some cases, the penalties and fines were used to cover the costs of consumer education campaigns.

Table 2: Completed Enforcement Actions Taken by State Public Utilities Commissions and State Attorneys General fo rSlamming and Cramming Violations, 1996-98

	Public utilities commissions		Attorneys general	
	Slamming	Cramming	Slamming	Cramming
Number of completed enforcement actions reported	99	6	95	19
Number of customers affected[a]	345,420	30,003	10,216	12,126
Amount of penalties and fines[b]	$7,324,987	$1,016,000	$4,932,587	$827,350
Amount of customer restitution[c]	$5,625,564	$500,808	$6,045,511	$1,192,400

[a]The survey responses did not include the number of customers affected in 86 of the 219 reported enforcement actions.

[b]The survey responses did not include the amount of customer restitution ordered to be paid in 77 of the 219 reported enforcement actions.

[c] The survey responses did not include the amount of penalties ordered to be paid in 34 of the 219 reported enforcement actions.

Sources: State public utilities commissions' responses to GAO's survey and responses of state attorneys general to a survey from the National Association of Attorneys General.

Fourteen state public utilities commissions reported initiating a substantial number of enforcement actions during calendar years 1996 through 1998 that had not been finalized as of early 1999.[17] Specifically, over 3,900 enforcement actions were initiated against companies or individuals engaged in slamming or cramming. The state attorneys general were not asked to provide information on pending enforcement actions. The attorneys general in 10 states, however, reported that 20 slamming and 17 cramming enforcement actions were pending resolution.[18]

[17] The state public utilities commissions in Alabama, Connecticut, Florida, Georgia, Louisiana, Maine, Mississippi, Missouri, New York, Pennsylvania, Tennessee, Texas, Vermont, and West Virginia reported the pending enforcement actions.

[18] The state attorneys general in Arkansas, Arizona, Connecticut, Illinois, Missouri, New Jersey, Ohio, Pennsylvania, Vermont, and Wisconsin reported the pending enforcement actions. Illinois' Office of Attorney General reported the largest number of enforcement actions pending resolution—11 slamming actions and 10 cramming actions.

Federal Enforcement Actions

FCC and FTC operate under different statutory schemes and generally have different remedies available.[19] However, both of these agencies maintain that strong enforcement actions are necessary to send a clear message to the industry that slamming and cramming will not be tolerated. As a regulatory agency, FCC has several tools for achieving its enforcement goals. These include administrative remedies, such as revoking a company's operating authority, issuing a cease and desist order, and assessing a civil monetary penalty (forfeiture). As a law enforcement agency, FTC pursues cramming in federal district courts, seeking temporary and permanent injunctive relief, and, ultimately, restitution to affected customers. FTC can also take administrative enforcement action, such as convening a trial before an administrative law judge.

From its first slamming enforcement action in 1994 through the end of 1998, FCC took 23 enforcement actions against slamming, resulting in a total of $17.1 million in proposed forfeitures.[20] As of June 1999, FCC had collected $2.6 million of the proposed forfeitures in 12 of these actions. Companies in four actions filed for bankruptcy, and five others are now in settlement negotiations with FCC. Settlement agreements generally include both a payment and consumer protections. In addition, in 1996 and 1997, FCC took two actions against one individual, Daniel Fletcher, for $5.8 million in forfeitures for slamming activities by eight of the companies that he apparently owned and operated. When he did not pay the $5.8 million in forfeitures, FCC in 1998 referred the cases against him to the Department of Justice for collection under the Communications Act. FCC also revoked the operating authority of the eight companies to ensure that none of them could resume operations and once again engage in slamming. Appendix II provides additional details on all 23 FCC actions.

[19]Under the Communications Act of 1934, as amended, FCC has explicit statutory authority over slamming and general authority to prohibit carriers that provide interstate services (telephone companies) from engaging in unjust and unreasonable practices, such as cramming. 47 U.S.C. 258; 47 U.S.C. 201(b). FTC, under the Federal Trade Commission Act, as amended, has the authority to pursue law enforcement actions against unfair and deceptive acts or practices. 15 U.S.C. 45(a). Common carriers (telephone companies) subject to the Communications Act of 1934, as amended, are exempt from FTC's statutory mandate under the Federal Trade Commission Act. 15 U.S.C. 45(a)(2). FTC has taken the position that the statutory common-carrier exemption does not shield the non-common-carrier activities of an entity that may otherwise engage in some common-carrier activities under another statute.

[20]One of these actions, against Long Distance Direct, Inc., was for both slamming and cramming violations.

According to FCC officials, prior to 1998, FCC's enforcement actions initiated against companies with slamming violations usually resulted in assessments of $80,000 or less. And most of these actions resulted in even smaller settlement amounts. Two exceptions were actions against Cherry Communications and Operator Communications, taken in 1994 and 1995, respectively; both companies paid $500,000 each. During 1998, FCC consistently assessed amounts greater than $1 million for slamming violations. The five actions that it initiated in 1998 resulted in $7,920,000 in proposed forfeitures. FCC officials stated that the forfeiture amounts were increased in 1998 so that companies would not view them simply as a "cost of doing business." The officials noted that although companies paid smaller forfeitures in the past, they did not necessarily change their business practices to conform to FCC's regulations. FCC's goal in imposing the higher amounts is to send a message to the industry that slamming will not be tolerated. It is not yet clear how much of the higher forfeitures will ultimately be paid. As of May 1999, none of the companies involved in the 1998 enforcement actions had settled with FCC or made any payments.

In addition, the FCC Chairman has proposed consolidating the agency's enforcement functions into an enforcement bureau. According to FCC, a centralized bureau would be more efficient in conducting investigations and enforcement actions in light of the proliferation in the types and number of telecommunications services. FCC hopes to have the new bureau operational in fiscal year 2000.

As a result of FTC's efforts to combat cramming, seven cases have been brought to court since April 1998.[21] These cases involve 36 defendants (16 companies and 20 individuals), including billing aggregators and vendors. In six cases, FTC has sought and successfully obtained preliminary or permanent injunctions and temporary restraining orders to stop these companies' cramming activities.

In addition, FTC is seeking restitution for the unauthorized charges that these companies collected from consumers. According to FTC officials, these unauthorized charges range from $4.7 million in one case to almost $40 million in another case. Of the seven cases brought to district court, one has resulted in approximately $13 million in consumer restitution and compliance provisions, including a 3-year record-keeping requirement for

[21]FTC's report Fighting Consumer Fraud: The Case Against Cramming (June 1999) discusses FTC's enforcement actions against cramming in detail.

the company. The parties in another case have agreed to $39.7 million in consumer restitution and changes in their business practices. The other five cases were still in various stages of discovery and negotiation as of June 1999. Additional details on these cases are found in appendix II.

Officials at both FCC and FTC told us that they have several additional investigations in progress, including one joint investigation. They expect to take more enforcement actions against slamming and cramming before the end of this year.

Companies With the Highest Number of State and Federal Enforcement Actions

Several companies listed in appendix II have been the subject of enforcement actions by several states and the federal government. Table 3 lists 14 companies that have been subject to four or more state enforcement actions for slamming.[22] Eight of these 14 companies have also been subject to enforcement actions by FCC.

[22] These state enforcement actions include reported actions that have both been resolved and are pending final resolution.

Table 3: Companies Subject to the Highest Number of State a ndFederal Enforcement Actions for Slamming, Calen d arYears 1996-98

Name of company	States that took action	Total number of consumers affected at the state level	Total restitution and penalties ordered by states	Federal agency that took action	Total federal forfeitures/ payments made by company
Minimum Rate Pricing, Inc.	22 states: AL, AR, AZ, GA, IA, ID, KS, MI, MN, MS, NC, NJ, NY, OH, OR, PA, RI, SC, VA, VT, WA, WI	1,202	$812,802	FCC	$1.2 million
Business Discount Plan, Inc.	16 states: AL, AR, CT, FL, GA, ID, IL, MO, MS, NC, NJ, NY, OK, OR, PA, VT	1,354	$283,040	FCC	$2.4 million[b]
EqualNet Corp.	11 states: AR, AZ, CA, ID, KS, MI, NC, NJ, OR, TN, WI	1,596	$210,816	[a]	[a]
Heartline Communications, Inc.	8 states: AZ, CA, FL, IL, LA, NJ, NY, TN, TX	32,696	$1,087,500	FCC	$200,000[c]
National Accounts, Inc.	7 states: ID, IL, KS, MI, NJ, TN, WI	61	$429,000	[a]	[a]
MCI	7 states: FL, NC, NY, OR, SD, TX, VT	754	$1,727,872	FCC	$30,000
Winstar Gateway Network, Inc.	6 states: CA, ID, IL, NJ, TN, WI	13,030	$148,000	FCC	$80,000
AT&T	6 states: CT, FL, NC, NY, OK, TX	1,004	$331,510	FCC	$30,000
Least Cost Routing, Inc.	5 states: FL, ID, IL, LA, OR	252	$235,000	[a]	[a]
Long Distance Services, Inc.	5 states: AL, FL, GA, MI, NY	1,435	$16,000	FCC	$80,000[b]
The Furst Group, Inc.	5 states: CA, FL, KS, NJ, OR	197	$152,500	[a]	[a]
Axces, Inc.	4 states: IL, MO, OK, TX	88	$115,500	[a]	[a]
Communications Telesystems International, Inc.	4 states: AZ, IL, NM, TX	208	$1,997,281	[a]	[a]
Phone Calls, Inc.	4 states: FL, LA, NY, SC	665	$861,000	FCC	$1,793,900[b,d]

[a] No federal action taken.

(notes continued)

[b]This is a proposed forfeiture amount.

[c] FCC is planning to rescind this forfeiture because Heartline filed Chapter 7 bankruptcy before reaching an agreement with FCC.

[d]FCC proposed this forfeiture amount against Phone Calls as part of the enforcement action it took against eight companies owned by Daniel Fletcher.

Sources: Surveys of state public utilities commissions and state attorneys general and data from FCC.

As for cramming, the survey results indicated that two companies, Veterans of America Association, Ltd., and Coral Communications, Inc., were the subject of enforcement actions for cramming by four or more states during calendar years 1996 through 1998. The states that took actions against these companies were Florida, Idaho, Illinois, Missouri, New Jersey, New York, Oregon, and Pennsylvania. These actions affected 136 customers and resulted in $106,600 in restitution and penalties. FTC also took action against Veterans of America Association, Ltd., and is currently seeking $4.7 million in customer restitution.

Both FCC and FTC officials told us that they are working with their state counterparts to efficiently combat slamming and cramming. To achieve this goal, the two agencies share complaint data with each other and the states. FCC and the National Association of Regulatory Utility Commissioners are also working to coordinate their enforcement actions and jointly disseminate educational materials on telecommunications issues affecting consumers. Both FCC and FTC officials told us that they regularly participate in conference calls with representatives of the state public utilities commissions and offices of attorney general, respectively, to discuss telecommunications issues, including slamming and cramming.

FCC and FTC officials also told us that they are working with members of the telecommunications industry to curb these abuses. For example, in May 1998, FCC sponsored a workshop, attended by representatives of the telephone industry, to develop a set of guidelines on “best practices” in combating cramming that individual companies could implement independently. These best practices cover issues such as screening products and service providers to identify programs that may be deceptive or misleading, establishing procedures for verifying that charges have been authorized by the consumer, and establishing a dispute resolution process. Several major local and long-distance telephone companies provided us with examples of actions they are taking to curb slamming and cramming, which are listed in appendix III. In addition, FTC has sponsored public workshops with telecommunications representatives, consumer groups, FCC officials, the National Association of Attorneys General, and others to address cramming and provide additional consumer education.

Scope and Methodology

To determine the states' actions to combat telephone slamming and cramming, we administered a survey to the public utilities commissions in the 50 states and the District of Columbia. This survey collected information on the types of consumer protections offered by the states, the number of slamming and cramming complaints received, and details on each of the formal enforcement actions taken by the commissions from 1996 through 1998. The National Association of Attorneys General collected similar information about formal enforcement actions taken by each state's attorney general. We assisted in collecting this information. In addition, we reviewed relevant FCC and FTC documents and met with officials of these agencies to discuss their efforts in developing regulations to combat slamming and cramming and their enforcement actions against those engaging in these abuses. We also contacted regional Bell operating companies and major long-distance companies for data on slamming and cramming complaints and descriptions of their initiatives to curb slamming and cramming. We performed our review from December 1998 through June 1999 in accordance with generally accepted government auditing standards.

Agency Comments

We provided a draft of this report to the Federal Communications Commission and the Federal Trade Commission for their comment and subsequently met with officials from FCC's Enforcement Bureau and FTC's Bureau of Consumer Protection. Both agencies concurred with our findings and provided several points of clarification, which we have incorporated into our final report.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days after the date of this letter. We will then send copies to interested congressional committees; the Honorable William E. Kennard, Chairman of the Federal Communications Commission; the Honorable Robert Pitofsky, Chairman of the Federal Trade Commission; the other commissioners of FCC and FTC; the National Association of Regulatory Utility Commissioners; the National Association of Attorneys General; the state public utilities commissions; and the state attorneys general. Copies of this report will be made available to others upon request.

If you have any questions about our review, please call me at (202) 512-7631. Key contributors to this report are listed in appendix IV.

Sincerely yours,

Judy A. England-Joseph
Director, Housing and Community
Development Issues

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Abbreviations

DOJ	Department of Justice
FCC	Federal Communications Commission
FTC	Federal Trade Commission
NAL	notice of apparent liability
PIC	primary interexchange carrier
TDDRA	Telephone Disclosure and Dispute Resolution

Completed Enforcement Actions Reported by the States, Calendar Years 1996-98

All of the public utilities commissions and offices of attorney general in the 50 states and the District of Columbia responded to our request for detailed information on the number of slamming and cramming enforcement actions that had reached a final resolution for calendar years 1996-98. This information included the number of consumers affected by the enforcement actions as well as the amount of customer restitution and penalties ordered to be paid. In some cases, the survey respondents were unable to provide all of the information. Table I provides a summary of the information provided on a state-by-state basis. In the table's column headings, slamming is designated with an "S" and cramming with a "C."

Table I.1: Completed Enforcement Actions Reported by State Public Utilities Commissions and Offices of Attorney Genera lfor Telephone Slamming and Cramming, Calendar Years 1996-98

State	Number of completed enforcement actions		Number of customers affected		Total amount of customer restitution reported		Total amount of penalties reported	
	S	C	S	C	S	C	S	C
Alabama	6	[a]	1,705		[c]		$57,450[d]	
Alaska	[a]	[a]						
Arizona	5	[a]	330		$402,306[c]		303,058[d]	
Arkansas	4	[a]			7,190		205,631	
California	19	2	336,123[b]	30,000[b]	8,078,426[c]	$650,000	5,205,442	$25,000
Colorado	[a]	[a]						
Connecticut	1	[a]	5		[c]		50,000	
Delaware	[a]	[a]						
District of Columbia	[a]	[a]						
Florida	23	3	2,552	2	18,694	579	2,056,000	21,000
Georgia	4	1	408	[b]	[c]			
Hawaii	[a]	[a]						
Idaho	7	1	285[b]	5	[c]	[c]	362,000[d]	1,500
Illinois	7	1	566	57	[c]	5,000	365,000[d]	20,000
Indiana	[a]	[a]						
Iowa	1	[a]	98		[c]		52,631[d]	
Kansas	9	[a]	192		[c]		191,058[d]	
Kentucky	2	1	1		817		4,000	2,000
Louisiana	6	[a]	[b]				93,500	
Maine	[a]	[a]						
Maryland	[a]	[a]						
Massachusetts	[a]	[a]						
Michigan	4	[a]	94		[c]		128,058[d]	
Minnesota	4	[a]	7,906		195,633[c]		432,000	
Mississippi	1	[a]	[b]				50,000	
Missouri	1	2	[b]	[b]	[c]	[c]	[d]	[d]
Montana	[a]	[a]						
Nebraska	[a]	[a]						
Nevada	[a]	[a]						
New Hampshire	[a]	[a]						

State	Number of completed enforcement actions		Number of customers affected		Total amount of customer restitution reported		Total amount of penalties reported	
	S	C	S	C	S	C	S	C
New Jersey	7	[a]	[b]		[c]		$535,927 [d]	
New Mexico	1	[a]	[b]		$308,140		95,000	
New York	17	3	3,600	172	300,000 [c]	$67,000 [c]	116,350 [d]	$129,000
North Carolina	11	1	110 [b]	[b]	[c]	[c]	53,167 [d]	273,000
North Dakota	[a]	[a]						
Ohio	2	[a]	[b]		[c]		57,631 [d]	
Oklahoma	6	[a]	19				34,000	
Oregon	14	3	[b]	[b]			185,500	14,350
Pennsylvania	3	2	94 [b]	[b]	[c]	[c]	117,600 [d]	1,002,500
Rhode Island	1	1	23	14	723	400	52,631	35,000
South Carolina	3	[a]	168					
South Dakota	4	1	1,056	1	63,444	229		
Tennessee	3	1	7 [b]	11,878	[c]	[c]	95,427 [d]	280,000
Texas	8	[a]	129 [b]		1,000,000		883,000	
Utah	[a]	[a]						
Vermont	2	[a]	50 [b]		1,292,400 [c]		185,000	
Virginia	1	1	[b]	[b]	[c]	435,000	52,631 [d]	15,000
Washington	1	[a]	115				52,632	
West Virginia	1	[a]	[b]		3,302		39,248	
Wisconsin	5	1	[b]	[b]	[c]	40,000	146,000	25,000
Wyoming	[a]	[a]						
Total	**194**	**25**	**355,636**	**42,129**	**$11,671,075**	**$1,693,208**	**$12,257,572**	**$1,843,350**

[a]No completed enforcement actions were reported.

[b]The number of customers affected was not provided in at least one of the reported actions.

[c]Restitution was ordered to be paid in at least one of the reported actions, but the specific amount was not provided.

[d]A penalty was ordered to be paid in at least one of the reported actions, but the specific amount was not provided.

Sources: Responses of state public utilities commissions to GAO's survey and of state offices of attorney general to a survey by the National Association of Attorneys General.

Federal Enforcement Actions Against Slamming and Cramming

This appendix contains information on 23 enforcement actions taken by the Federal Communications Commission (FCC) against companies for slamming violations and 7 court cases filed by the Federal Trade Commission (FTC) against companies and individuals for cramming violations.

FCC's Enforcement Actions

FCC relies on several enforcement mechanisms to deal with slamming and cramming by some telephone companies. Civil monetary penalties (forfeitures) are used to cause offending companies to change their business practices. In 1998, FCC began consistently proposing higher penalties so that companies could not treat them simply as a cost of doing business. Often, after FCC issues a proposed forfeiture—through a notice of apparent liability (NAL)—the telephone company will offer to discuss a settlement. If a settlement can be reached, FCC will enter into a consent decree with the company that generally includes a voluntary payment to the U.S. Treasury and consumer protections. In two slamming cases, FCC entered into a consent decree before issuing an NAL. When a settlement cannot be reached and a payment is not made, FCC will issue a final forfeiture order canceling or reducing the penalty or requiring that it be paid. If a payment is not made after this order is issued, collection is turned over to the Department of Justice (DOJ).[1]

FCC can also revoke a company's or an individual's operating authority, as it did this with several companies engaged in slamming that were apparently owned and operated by an individual named Daniel Fletcher. Table II.1 provides details on all of the enforcement actions that FCC took against specific companies for slamming violations from its first such action in 1994 through 1998.

[1]DOJ's collection action will not involve a review of the validity and appropriateness of the final FCC order if the forfeiture was assessed after a full evidentiary hearing.

Table II.1: FCC's Enforcement Actions for Slamming Violations, as of June 1999

Company	Date of action	Amount of proposed forfeiture	Resolution	Current status
1. Cherry Communications, Inc.	Investigation began in 1/93. Consent decree adopted 4/15/94.	[a]	$500,000 payment; changes in business practices.	Payment of $500,000; case is closed.
2. Operator Communications, Inc., doing business as Oncor Communications, Inc.	NAL adopted 3/29/95. Consent decree adopted 9/20/95.	$1,410,000	$500,000 payment; changes in business practices.	Payment of $500,000; case is closed.
3. Excel Telecommunications, Inc.	NAL adopted 8/18/95. Notice of forfeiture adopted 6/20/96.	$80,000	FCC denied Excel's 9/6/95 petition for reduction of forfeiture amount.	Forfeiture of $80,000 paid.
4. Interstate Savings, Inc. d/b/a ISI Telecommunications	NAL adopted 8/18/95. Order to rescind NAL adopted 3/10/97.	$40,000	FCC rescinded enforcement action after company filed for bankruptcy.	Closed.
5. LCI International Worldwide Telecommunications (LCI)	NAL adopted 9/15/95. Consent decree adopted 8/22/97.	$40,000	$15,000 payment; changes in business practices.	$15,000 paid 8/97.
6. TELCAM, Telecommunications Company of the Americas, Inc.	NAL adopted 10/6/95. Consent decree adopted 2/13/98.	$40,000	$15,000 payment; changes in business practices.	$15,000 paid 2/98.
7. Matrix Telecom, Inc.	NAL adopted 12/4/95. Consent decree adopted 12/12/96.	$40,000	$30,000 payment; changes in business practices.	$30,000 paid 12/96.
8. MCI Telecommunications Corp.	NAL adopted 1/19/96. Consent decree adopted 5/24/96.	$80,000	$30,000 payment; changes in business practices.	$30,000 paid 6/96.
9. Home Owners Long Distance, Inc. (HOLD)	NAL adopted 1/19/96. Consent decree adopted 3/20/97.	$80,000	$30,000 payment; changes in business practices.	$30,000 paid 3/97.
10. AT&T Corporation	NAL adopted 1/19/96. Consent decree adopted 11/27/96.	$40,000	$30,000 payment; changes in marketing and business practices.	$30,000 paid 12/96.

Company	Date of action	Amount of proposed forfeiture	Resolution	Current status
11. Nationwide Long Distance, Inc.	NAL adopted 1/19/96. Consent decree adopted 1/2/97.	$80,000	$30,000 payment; changes in business practices.	Payment referred to DOJ for collection; company is in Chapter 7 bankruptcy.
12. Target Telecom, Inc.	NAL adopted 1/19/96. Order of forfeiture adopted 2/24/98.	$40,000	FCC denied Target's response that forfeiture should not be imposed or amount should be reduced.	$40,000 paid 2/98.
13. Winstar Gateway Network, Inc.	Investigation initiated in June 1996. Consent decree adopted 11/27/96.	[a]	$80,000 payment; changes in business practices and consumer redress.	$80,000 paid 12/96.
14. Heartline Communications, Inc.	NAL adopted 6/20/96.	$200,000		FCC is rescinding because Heartline filed Chapter 7 bankruptcy before reaching an agreement with FCC.
15. Long Distance Services, Inc. (LDS, Inc.)	NAL adopted 12/12/96. Order of forfeiture adopted 2/24/98.	$80,000	FCC denied LDS' petition for a reduction of the forfeiture.	Referred to DOJ for forfeiture payment as a Chapter 11 bankruptcy case.
16. Long Distance Services, Inc. (LDSI) (A Fletcher company)	NAL adopted 12/12/96. Order of forfeiture adopted 5/7/97.	$80,000	LDSI never responded to this enforcement action.	Referred to DOJ for collection.
17. CCN, Inc.; Church Discount Group, Inc.; Discount Calling Card, Inc.; Donation Long Distance, Inc.; Long Distance Services, Inc.; Monthly Discounts, Inc.; Monthly Phone Services, Inc.; and Phone Calls, Inc. (aka "Fletcher Companies")	Order to show cause and notice of opportunity for hearing to determine revocation of operating authority adopted 6/12/97. Order to revoke operating authority adopted 4/21/98.	$5,681,500 (total for all eight companies).	Fletcher never responded to this enforcement action.	Referred to DOJ for collection.
18. Minimum Rate Pricing, Inc. (MRP)	NAL adopted 10/31/97. Consent decree adopted 12/16/98.	$80,000 initially; increased to $1.2 million as result of other slamming violations	$1.2 million payment; changes in business practices.	MRP is currently paying $1.2 million in installments.

Company	Date of action	Amount of proposed forfeiture	Resolution	Current status
19. All American Telephone Company, Inc. (AAT)	NAL adopted 7/6/98.	$1,040,000	Company has filed a response with FCC; resolution not yet determined.	Open. U.S. Attorney's Office has asked FCC to stay its proceedings. With FCC's cooperation, federal search warrants were issued to AAT.
20. Amer-I-Net Services Corporation	NAL adopted 10/26/98.	$1,360,000	Company has filed response with FCC; settlement currently under discussion.	Open.
21. Brittan Communications International Corp.	NAL adopted 10/29/98.	$1,120,000	Company has filed response with FCC; resolution not yet determined.	Open.
22. Business Discount Plan, Inc. (BDP) Prior to 1/95, was knownas Trans National Telephone, Inc. (incorp. in 8/92).	NAL adopted 12/16/98.	$2,000,000	Company has filed response with FCC; resolution not yet determined.	Open.
23. Long Distance Direct, Inc. (LDDI) (A subsidiary of Long Distance Direct Holdings)	NAL adopted 12/16/98.[b]	$2,000,000	LDDI has filed a response; settlement currently under discussion.	Open.

[a]FCC did not issue NALs for these companies. Instead, FCC directly entered into consent decree negotiations with these companies.

[b]The NAL for Long Distance Direct, Inc., was also for cramming violations. All other NALs were only for slamming violations.

Source: FCC.

FTC's Enforcement Actions

FTC protects consumers by taking law enforcement actions against unfair or deceptive acts or practices.[2] According to FTC officials, the Telephone Disclosure and Dispute Resolution Act (TDDRA) of 1992, as amended, gives FTC the authority to regulate all "telephone-billed purchases" that are distinct from charges for the transmission of local or long-distance telephone calls.[3] FTC seeks and obtains temporary restraining orders, preliminary injunctions, permanent injunctions, and other equitable relief,

[2]Common carriers (i.e., telephone companies) subject to the Communications Act of 1934, as amended, are exempt from FTC's statutory mandate under the Federal Trade Commission Act. 15 U.S.C. 45(a)(2). FTC has taken the position that the statutory common-carrier exemption does not shield the non-common-carrier activities of an entity that may otherwise engage in some common-carrier activities under another statute.

such as the appointment of receivers, to halt unfair or deceptive practices and to reserve the offending companies' assets for consumer restitution.

Between April 1998 and June 1999, FTC filed seven cases against 16 companies and 20 individuals for cramming violations. In some instances, FTC entered into court-approved settlements with the company. Table II.2 provides details on the publicly filed enforcement actions that FTC took during this period.

[3]Under TDDRA, the term "telephone-billed purchase" includes any purchase that is completed solely as a consequence of the completion of a telephone call, or subsequent dialing or comparable action of the caller. The term specifically excludes all "local exchange" or interexchange telephone service.

Table II.2: FTC's Publicly Filed Cramming Cases, as of June 1999

Company	Date of action	Amount of suspect billing	Status	Comment/additional information
Interactive Audiotext Services, Inc. Includes American Billing and Collection Services; U.S. Interstate Distributing, Inc.; Allstate Communications (parent company).	4/22/98, in U.S. District Court for the Central District of California; amended filing on 5/28/98.	$13 million	Permanent injunction; $13 million in restitution to consumers.	Settlement entered as final order; redress phase under way and changes required in business practices.
International Telemedia Associates, Inc. (ITA); and Online Consulting Group (vendor for ITA).	7/10/98, in U.S. District Court for the Northern District of Georgia.	$17.1 million	Temporary restraining order with freezing of Online's assets and preliminary injunction; receiver appointed to manage Online.	Trustee appointed for ITA by a bankruptcy court; ITA closed down and its business affairs being wound up by the trustee. Online being closed by receiver after receiver decided it could not be run as lawful business.
Hold Billing Services, Ltd.; HBS, Inc.; Avery Communications (all closely related companies that are aggregators); and Veterans of America Association, Ltd. (VOAA) (vendor).	7/16/98, in U.S. District Court for the Western District of Texas.	$4.7 million	Preliminary injunction on 8/24/98.	Settlement negotiations ongoing. VOAA's business closed and negotiations with VOAA and principals ongoing.
Communications Concepts and Investments, Inc. d/b/a Crown Communications & Crown Communications Two, Inc.; and Global Collections, Inc. (Crown's in-house collection agency).	12/22/98, in U.S. District Court for the Southern District of Florida.	Not yet determined; formal discovery under way.	Not yet determined.	Formal discovery and negotiations under way.
Shared Network Services, LLC, doing business as Shared Network Services and 1st Page	6/7/99 in U.S. District Court for the Eastern District of California.	Not yet determined.	Stipulated preliminary injunction; discovery under way.	Resolution not yet determined.
Wazzu Corporation	6/7/99 in U.S. District Court for the Central District of California.	Not yet determined.	Temporary restraining order; discovery under way.	Resolution not yet determined.

Company	Date of action	Amount of suspect billing	Status	Comment/additional information
American Telnet, Inc.	6/8/99, in U.S. District Court for the Southern District of Florida.	$39.7 million	Permanent injunction; complaint and consent filed together, awaiting entry by court.	$39.7 million in forgiven charges and redress to consumers agreed to by parties; changes to business practices required.

Source: FTC.

Telephone Company Initiatives to Curb Slamming and Cramming

Several major local and long-distance companies provided us with information on initiatives they have undertaken in response to the problems of slamming and cramming. The two following lists are not a complete inventory of the industry's initiatives, nor we did attempt to assess their effectiveness. They do, however, give some indication of the range of actions that telephone companies are taking to curb these abuses.

Examples of Antislamming Initiatives

- Using brochures, press releases, and Web sites to educate consumers on what constitutes slamming, what their rights are, and what steps they can take if they have been slammed.
- Suspending the use of outside sales agents for certain marketing efforts that have resulted in an unacceptable level of complaints about slamming.
- Allowing customers to block changes to their telephone accounts.
- Using automatically dialed, prerecorded calls to notify customers when their service provider is changed.
- Providing toll-free numbers for customers to call to resolve complaints about slamming.
- Charging the company's resellers for the cost of handling slamming incidents that they caused.[1]

Examples of Anticramming Initiatives

- Using brochures, press releases, and Web sites to educate customers on what constitutes cramming, what their rights are, and what steps they can take if they have been victims of cramming.
- Limiting billing to vendors engaged in telecommunications-related services.
- Eliminating billing for certain products and services susceptible to abuse by third-party service providers, such as prepaid calling cards and debit cards.
- Eliminating billing for recurring monthly service charges associated with pay-per-call 900 number services or charges for services accessed via 800 and 888 numbers, which are widely associated in the public's mind with toll-free calling.
- Refusing to bill on behalf of programs that use sweepstakes or "check box" methods to sign up customers.

[1]A reseller is a telephone service provider that does not own transmission facilities but obtains communications services from another telephone company for resale to the public for profit.

- Requiring information providers to provide clearer billing descriptions, toll-free numbers for complaints, and procedures for handling complaints.
- Requiring information providers to provide a notarized affidavit attesting to the validity of their descriptions and billings; requiring billing aggregators that submit bills on behalf of third-party service providers to sign an affidavit certifying that the third-party charges were authorized by the customer.
- Requiring information providers to block further charges to a consumer's account if requested by the consumer.
- Discontinuing billing for information providers who generate too many complaints from customers about cramming.
- Providing customers with the option of blocking the inclusion of "miscellaneous" changes on their telephone bills.

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