

January 2000

TELECOMMUNICATIONS

Update on State-Level  
Cramming Complaints  
and Enforcement  
Actions



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United States General Accounting Office  
Washington, D.C. 20548

Resources, Community, and Economic  
Development Division

B-284409

January 31, 2000

The Honorable Christopher Bond  
Chairman, Committee on Small Business  
United States Senate

Dear Mr. Chairman:

On October 25, 1999, we testified before your Committee and provided an overview of cramming—the inclusion of unauthorized, misleading, or deceptive charges in a consumer's telephone bill.<sup>1</sup> Telephone companies can cram consumers by adding unauthorized charges for telephone-related services, such as call messaging. Cramming can also involve third-party vendors who offer products and services that are unrelated to telephone services, such as live or recorded information about the stock market, sports, or products; chat lines and dating services; club memberships; and Internet Web page design. Consumers who believe that they have been victims of cramming can report incidents to their telephone company, the Federal Communications Commission (FCC), the Federal Trade Commission (FTC), their state public utilities commission, and/or their state attorney general.

There is no central source for the number of cramming incidents nationwide. For our July 1999 report on this issue to the Chairman of the Senate Permanent Subcommittee on Investigations, we obtained cramming complaint and enforcement data from FCC, FTC, state public utilities commissions, and state attorneys general.<sup>2</sup> The data from these sources showed a dramatic increase in cramming complaints from 1996 through 1998. For the October hearing, we contacted these federal and state agencies again to (1) determine whether they were seeing an increase or decrease in cramming complaints during 1999, (2) learn whether they were taking additional actions to protect consumers from cramming, and (3) obtain updated information about their enforcement actions against crammers during 1999. By the time of the hearing, FCC, FTC, 38 state

<sup>1</sup>*Telecommunications: Overview of the Cramming Problem* (GAO/T-RCED-00-28, Oct. 25, 1999).

<sup>2</sup>*Telecommunications: State and Federal Actions to Curb Slamming and Cramming* (GAO/RCED-99-193, July 27, 1999).

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public utilities commissions, and 11 offices of attorney general had responded with data for 1999. At your request, we continued our follow-up efforts after the hearing with the states that had not yet responded to us. By December 1999, we had obtained updates from the remaining states and the District of Columbia. This report supplements our testimony by providing information on cramming for all 50 states and the District of Columbia.

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## Results in Brief

FCC and FTC reported declines in cramming complaints for the first 9 months of 1999 compared with the same period in 1998. However, the situation at the state level was mixed: 22 states and the District of Columbia reported declines in cramming complaints, 15 states reported increases, and 11 reported no change. (Two other state commissions reported that they do not collect data on cramming complaints.) In addition, 30 state public utilities commissions and 27 state attorneys general told us that among the cramming complaints they received for 1999, some were from small businesses alleging unauthorized charges for services such as Web page design and other Internet services.

The states are continuing their efforts to combat this abuse. By the end of 1998, most states had made information available to consumers on ways to prevent cramming and had established administrative procedures for resolving complaints about telephone billing. Also, a few state commissions had obtained additional statutory and regulatory authority to levy monetary penalties against offending companies. Between January and November 1999, 26 states either adopted or proposed additional statutes and regulations on cramming requiring, for example, that consumers' telephone bills clearly identify charges by third-party vendors.

The states are also taking additional enforcement actions against crammers. Between 1996 and 1998, 16 states completed 25 enforcement actions against companies and individuals engaged in cramming, resulting in over \$3.5 million in restitution and fines. Another 22 state enforcement actions were still pending at the end of 1998. From January through November 1999, 15 states completed 30 additional enforcement actions against crammers, resulting in at least \$569,500 in fines and other penalties. Another 37 state enforcement actions initiated during 1999 were still pending as of November 1999.

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## Background

Cramming is the inclusion in consumers' telephone bills of unauthorized, misleading, or deceptive charges. Such charges can originate in a variety of ways. For example, a consumer may call a vendor's advertised number to receive information or a service. After obtaining the consumer's name and telephone number, the vendor may then levy a hidden or deceptive charge, even a recurring monthly charge, that the consumer did not know about and did not authorize. A consumer's name and telephone number can also be obtained through a sweepstakes entry form, which may include some obscurely worded fine print authorizing that charges be placed on the consumer's telephone bill. Some vendors apparently have simply lifted names and numbers from telephone directories to charge businesses for nonexistent services. In order to have charges placed on consumers' telephone bills, vendors typically use the services of companies called "billing aggregators," which bundle billing information from many vendors. Billing aggregators contract with telephone companies to have vendors' charges included in consumers' telephone bills.

Consumers who are victims of 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. Public utilities commissions are responsible for regulating intrastate telephone services and resolving consumers' complaints, while state attorneys general are responsible for resolving consumers' complaints about unfair and deceptive marketing practices. These two bodies may attempt to resolve complaints informally, or they may take formal regulatory or legal action, as authorized by state statute, against offending companies. Consumers may also complain to FCC and FTC. FCC's authority is focused on preventing cramming by common carriers (telephone companies) engaged in common carrier activities, while FTC's authority is focused on preventing cramming by companies that are not common carriers, such as third-party vendors that charge for their services through telephone bills.

From 1996 through 1998, the number of cramming complaints received by state and federal agencies increased dramatically. In 1996, state public utilities commissions received only 852 cramming complaints. By 1998, the number of complaints had risen to 19,543. The situation was similar at the federal level. In 1998, FCC received over 4,500 written complaints about cramming, making it the fourth most common type of complaint. FTC received over 9,800 complaints about cramming, making it the second most common type of complaint.

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## 1999 Trends in Cramming Complaints Vary at the State Level

Both FCC and FTC reported to us that they were seeing downward trends in the number of cramming complaints being reported to them for the first 9 months of 1999, as compared with the same period for 1998. At the state level, cramming complaint data show that while many states were seeing declines in complaints during 1999, many others were seeing either no improvement or a worsening of the problem.

In this connection, we obtained updates from 48 state public utilities commissions and the District of Columbia on cramming complaints received during 1999. (The commissions in two states, Kansas and Kentucky, responded that they do not collect data on cramming complaints.) Since we contacted the state commissions during the last quarter of 1999, none had data for the entire year. We therefore requested that they compare their available cramming complaint data for 1999 with their data for the corresponding months in 1998 and determine whether they were experiencing an increase or a decrease in the level of complaints. As table 1 indicates, 22 of the 48 states and the District of Columbia reported that they were receiving fewer complaints during 1999 than they had received during a comparable period in 1998. The other states, however, did not see an improvement: 15 reported more complaints, while 11 reported that complaints were running at about the same level as in 1998.

**Table 1: State Public Utilities Commissions' Reported Trends for Cramming Complaints During 1999**

State	Fewer complaints than in 1998	More complaints than in 1998	Complaint level about the same as in 1998
Alabama	X		
Alaska		X	
Arizona	X		
Arkansas			X
California		X	
Colorado		X	
Connecticut			X
Delaware	X		
District of Columbia	X		
Florida	X		
Georgia	X		
Hawaii			X
Idaho	X		
Illinois	X		
Indiana	X		
Iowa		X	
Kansas <sup>a</sup>			
Kentucky <sup>a</sup>			
Louisiana			X
Maine			X
Maryland	X		
Massachusetts		X	
Michigan	X		
Minnesota			X
Mississippi			X
Missouri		X	
Montana	X		
Nebraska			X
Nevada	X		
New Hampshire			X
New Jersey	X		
New Mexico			X
New York	X		

Continued

State	Fewer complaints than in 1998	More complaints than in 1998	Complaint level about the same as in 1998
North Carolina			X
North Dakota			X
Ohio	X		
Oklahoma			X
Oregon	X		
Pennsylvania	X		
Rhode Island			X
South Carolina			X
South Dakota			X
Tennessee			X
Texas	X		
Utah			X
Vermont	X		
Virginia			X
Washington			X
West Virginia	X		
Wisconsin	X		
Wyoming	X		
<b>Total</b>	23	15	11

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<sup>a</sup>Commission reported that it does not collect data on cramming complaints.

Source: Responses of state public utilities commissions to GAO's survey.

We also asked whether small businesses were complaining about being crammed. Thirty state public utilities commissions reported that they had received cramming complaints from small businesses,<sup>3</sup> and 22 of the commissions noted that some of these complaints concerned unauthorized charges for Web page design and/or Internet services. For example, the Montana Public Service Commission reported that from January through September 1999, it received complaints from small businesses against 10 different companies for the unauthorized billing of charges on telephone

<sup>3</sup>The public utilities commission in the following states reported receiving cramming complaints from small businesses: Alabama, California, Delaware, Florida, Hawaii, Idaho, Illinois, Kansas, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, and Wisconsin.

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bills for Web page design and related Internet services. The commission believes that small businesses were being targeted, since the complaints came only from small businesses and not from residential customers.

In addition, the offices of 27 state attorneys general reported that some of the cramming complaints they received in 1999 were from small businesses.<sup>4</sup> Twenty-one of these offices stated that these included complaints related to Web page design and Internet services. For example, the Office of Attorney General in Arkansas filed a lawsuit against a company in June 1999 for routinely billing some businesses \$24.99 a month for Web page design services that the businesses did not authorize. The attorneys general in North Carolina and North Dakota have begun to track Internet-related cramming as a separate category because of the large number of complaints they are receiving about this abuse.

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## States Have Provided Additional Protections for Consumers

Our July 1999 report discussed actions taken by the states as of December 1998 to protect consumers from cramming. Forty-one states reported providing consumers with educational brochures and information about cramming on state Internet web sites, as well as establishing procedures for handling cramming complaints. A few state commissions reported taking legislative or regulatory actions to increase their ability to protect consumers against cramming.

For our update, public utilities commissions and attorneys general in 26 states reported that between January and November 1999, they had initiated or enacted additional statutes and regulations to further protect consumers against cramming.<sup>5</sup> For example, in July 1999, the New Mexico Public Utilities Commission was granted the authority to assess an administrative penalty of \$10,000 against any company found to have engaged in cramming. In addition, the South Dakota Public Utilities Commission recently enacted regulations that, in part, require telecommunications companies to provide consumers with refunds for unauthorized products or services charged to their telephone bills. The

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<sup>4</sup>The office of the attorney general in the following states reported receiving cramming complaints from small businesses: Alabama, Alaska, Arizona, Arkansas, California, Georgia, Illinois, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, North Carolina, North Dakota, Nebraska, Nevada, New Mexico, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Washington, and Wisconsin.

<sup>5</sup>Alabama, California, Colorado, Florida, Iowa, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, and Virginia.

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Maine Public Utilities Commission also recently drafted an anticramming rule that specifies registration requirements, complaint procedures, and penalty provisions for service providers and billing aggregators. Other states' statutes and regulations include

- specifying fines for companies and individuals engaged in cramming;
- requiring that telephone bills clearly identify any new charges added to consumers' accounts, such as charges by third-party vendors;
- prohibiting the disconnection of telephone services for nonpayment of disputed charges;
- requiring that telephone bills include toll-free numbers for contacting vendors whose charges are included in the bills; and
- establishing formal procedures for resolving complaints.

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## States Have Taken Additional Enforcement Actions Against Cramming

Our July 1999 report noted that state public utilities commissions and attorneys general in 16 states<sup>6</sup> completed 25 enforcement actions against crammers from 1996 through 1998. These actions resulted in over \$3.5 million in restitution and fines. Another 22 state enforcement actions were still pending at the end of 1998. When we contacted the states for updated information, 19 states reported that they had completed or initiated additional actions between January and November 1999, as shown in table 2. Specifically, 15 states reported completing 30 additional enforcement actions against crammers that have resulted in at least \$569,000 in penalties and fines. In addition, 15 states reported initiating 37 additional enforcement actions during 1999 that were still pending as of November 1999.

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<sup>6</sup>California, Florida, Georgia, Idaho, Illinois, Kentucky, Missouri, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Virginia, and Wisconsin.

**Table 2: Completed and Pending Enforcement Actions Taken by State Public Utilities Commissions and State Attorneys General, January Through November 1999**

State	Number of completed enforcement actions	Amount of restitution and fines resulting from completed actions	Number of pending enforcement actions initiated during 1999
Arkansas	1	\$35,000	2
California	<sup>a</sup>		5
Florida	1	35,000	1
Idaho	2	35,000	<sup>a</sup>
Illinois	5	58,500	12
Kansas	1	35,000	<sup>a</sup>
Michigan	1	35,000	1
Minnesota	<sup>a</sup>		2
Mississippi	<sup>a</sup>		2
Missouri	1	35,000	1
New Jersey	1	35,000	1
North Carolina	1	35,000	2
Ohio	<sup>a</sup>		3
Oregon	9	91,000	1
Pennsylvania	1	35,000	1
Rhode Island	1	35,000	<sup>a</sup>
Tennessee	1	35,000	2
Texas	1	35,000	<sup>a</sup>
Wisconsin	3	<sup>b</sup>	1
<b>Total</b>	<b>30</b>	<b>\$569,500</b>	<b>37</b>

<sup>a</sup>None reported to GAO by the state.

<sup>b</sup>No amount reported to GAO by the state.

Source: Responses of state public utilities commissions and state attorneys general to GAO's survey and responses of state attorneys general to a survey by the National Association of Attorneys General.

## Scope and Methodology

We conducted our work from October 1999 through December 1999 in accordance with generally accepted government auditing standards. To obtain data on 1999 cramming complaints, consumer protection efforts, and enforcement actions, we contacted the public utilities commissions and the offices of attorney general in all 50 states and the District of Columbia. We also obtained updated information on completed and

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pending enforcement actions from the National Association of Attorneys General.

We are sending copies of this report 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 this report, please call me at (202) 512-7631. Key contributors to this report are listed in appendix I.

Sincerely yours,

A handwritten signature in black ink that reads "Stanley J. Czerwinski". The signature is written in a cursive style with a large, stylized 'S' at the beginning.

Stanley J. Czerwinski  
Associate Director, Housing, Community  
Development, and Telecommunications Issues



# GAO Contact and Staff Acknowledgments

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## GAO Contact

John P. Finedore (202) 512-6248

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## Acknowledgments

Other key contributors to this report are Faye Morrison, Terri Russell, James Sweetman, and Ed Warner.

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**Appendix I**  
**GAO Contact and Staff Acknowledgments**

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