

FTC MOBILE CRAMMING ROUNDTABLE  
TRANSCRIPT  
SEGMENT 4  
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JESSICA RICH, ASSOCIATE DIRECTOR, FTC DIVISION OF FINANCIAL PRACTICES:  
Among our panelists and in the audience, pretty good crowd here about mobile cramming. And I think this roundtable summed up the issues nicely.

We discussed the opportunities that mobile third-party billing provides consumers, such as easy charitable giving, convenient payment, alternative payment methods for the under-banked in the un-banked.

But as we also learned, we're seeing more and more complaints from consumers in the commercial space about mobile cramming. And we think these complaints are likely to increase with the rise of mobile payments and the increasing popularity. As many panelists discussed today, these complaints are likely to grossly understate the problem, because many people are unaware they've been crammed.

A Vermont recent study, which made news today, shows that 80% of the consumers surveyed didn't even know they could be charged for third-party services on their mobile bills. Their data also showed that, although Vermont has only received a few dozen complaints in this area over the past few years, when consumers were surveyed, 60% of those who responded-- this is if I took good notes-- of those who responded then realized they've been crammed, even though they hadn't even complained

And more dramatically, in one of the land line cases that the FTC did, called Inc 21, 95% of the consumers who'd been charged for the products were unaware they had been charged, before the case.

We also heard about the current industry policy. We heard about it in every panel, of double opt-in for charges, which largely places this responsibility on the content providers. As a number of panelists noted, however, records of consumer consent can be easily fabricated.

And further, as our Wise Media case illustrates, the double opt-in policy has not protected many consumers from cramming, as it actually happens on the ground. In Wise Media, thousands of consumers were billed for services they'd never heard of or that they'd expressly declined. One consumer's charge appeared on page 18 of her lengthy bill. Some consumers didn't even get the text message subscriptions that they'd supposedly signed up for and supposedly wanted. And many consumers had difficulty getting refunds, whether it was from Wise Media or the carriers.

The discussion today, in our view, highlighted the need for additional safeguards to protect consumers from mobile cramming. The FTC has previously advocated for certain baseline protections in this area. In a comment to the FCC in a report we recently issued, we said consumers should have an easily accessible option to block all third-party charges on their

mobile phone bills, that carriers should inform consumers that third parties can place charges on their phone bills, and should clearly disclose how consumers can block such charges. And also, that carriers should establish clear and consistent procedures for consumers to dispute charges and obtain reimbursement.

Today we discussed those approaches, as well as some potential additional ones. For example, carriers could contractually require aggregators and content providers to maintain records of opt-ins and could review them periodically. Or carriers could keep those records themselves.

We heard today that some carriers are taking steps to exercise more control of the opt-in process. That really sounds promising, but we'd like to know more about exactly what they're going to do.

Other ideas. Carriers and aggregators could stop working with content providers with high refund rates. Some have. Some do. But there's different levels that they use to determine when they cut off content providers. And sometimes they do it quickly and sometimes they do take a longer time.

There was discussion about potentially lowering the threshold for termination. We also have concerns about when providers are cut off, the individuals that are working with those providers could come back in the form of-- under the name of other companies. So we think it's important to maintain records of the individuals associated with the content providers who are cut off, so they can't just come back in.

There was also discussion of third-party charges appearing more prominently on bills. Perhaps it could be on the first page, or even next to the total dollar amount listed on the invoice.

And there was discussion of the need for the telephone number, so you can contact the provider. And some do, and some don't provide that information.

Carriers could also publicize refund rates to provide more transparency about the problems encountered with a particular content provider. And another idea was that for recurring charges, content providers could seek consent prior to each charge.

And of course, we discussed ways to implement these strategies without sacrificing innovation or preventing charitable giving or legitimate billing. And that's going to be-- that will always be a challenge going forward that we need to figure out the balance there.

So we hope this has been as interesting for you as it's been to us. In terms of next steps, FTC step, we're going to examine what we learned. We'll examine the comments. We got a lot of comments in. And as we've said, our comment period continues to be open for-- how long is it open for? A month. And we're going to figure out whether there is additional recommendations we are going to make. We'll do a report on the workshop. And hopefully, we'll do that really soon.

We're also going to continue to monitor developments, especially bad actors that are breaking the law in this space. And we're going to continue to bring enforcement along the lines of the Wise Media case.

So in closing, I'd like to thank the fantastic team that put this together, this workshop. I'll name them all. If I leave somebody out, I apologize. Stephanie Rosenthal, Andrew Schlossberg, Dwayne Posa, Jim Trilling, Russ Dyche, Larissa Bungo, Malani Mithyl, Samantha Constant, Carrie Gilloula, T.J. Peeler, Wayne Abromovitch, Cheryl Hackley, Bruce Jennings, Coriana De Prima, Laura Brandon, and Emma Johnston. It takes a village to put together a workshop. So thanks for joining us.