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See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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T-MOBILE TO PAY \$90 MILLION TO SETTLE INVESTIGATION INTO MOBILE CRAMMING AND TRUTH-IN-BILLING PRACTICES

Major enforcement action will provide current and former T-Mobile customers with refunds for hidden or unauthorized third-party charges on customer bills

Washington, D.C. – The Federal Communications Commission today announced a settlement of at least \$90 million with T-Mobile to resolve an investigation into allegations that the company billed customers millions of dollars in unauthorized third-party subscriptions and premium text messaging services.

“Today’s enforcement action demonstrates the Commission’s continuing commitment to work with our federal and state counterparts to protect consumers,” said FCC Chairman Tom Wheeler. “When consumers are harmed by carriers’ unscrupulous business practices, we will marshal our collective resources to seek accountability and obtain positive reforms. We are pleased to have partnered once again with the FTC and the attorneys general for all 50 states and the District of Columbia on a settlement that will bring meaningful relief to millions of consumers.”

“Yet again we are faced with a phone company that profited while its customers were fleeced by third parties who placed unauthorized charges on their phone bills,” said Travis LeBlanc, Chief of the FCC’s Enforcement Bureau. “And once again the FCC is standing up for those customers. Today’s settlement holds T-Mobile responsible for its billing practices and puts money directly back into the pockets of American consumers.”

The Enforcement Bureau launched its investigation after receiving consumer complaints alleging that T-Mobile customers were billed for unauthorized charges for subscriptions to third-party services that they did not request or authorize. These subscription charges were typically \$9.99 per month. As T-Mobile customers inquired and learned about the third-party charges T-Mobile assessed on their bills, many complained that they did not authorize such charges, and sought refunds.

In some instances, T-Mobile provided refunds, but there were numerous customers who were billed for unauthorized third-party charges and were not compensated. While T-Mobile tracked third parties whose unauthorized charges resulted in T-Mobile issuing refunds to customers, even when the refund rate for a third-party merchant exceeded 15 percent, T-Mobile would nevertheless still continue to charge its customers for other subscriptions offered by that merchant.

The Enforcement Bureau’s investigation uncovered that T-Mobile charged its customers for some subscriptions with refund rates as high as 40 percent in a single month. In some instances, T-Mobile continued to assess subscription charges for a third-party merchant even after discontinuing one of that merchant’s other subscription offerings for improper authorization, learning about legal action against a merchant, or receiving an industry “alert” about a merchant’s failure to obtain valid consumer authorization

for its subscription offerings.

Under the terms of the agreement the FCC announced today, T-Mobile has agreed to a \$90 million settlement, including a minimum of \$67.5 million to fund and operate a consumer redress program that will give refunds to victims of its unlawful cramming activities; if consumer claims exceed this amount, T-Mobile will continue to pay them. In addition, T-Mobile will pay \$18 million to state governments participating in the settlement, and will make a \$4.5 million penalty payment to the U.S. Treasury. The settlement was negotiated in coordination with the Federal Trade Commission and the attorneys general of all 50 states and the District of Columbia.

The Enforcement Bureau has also secured strong consumer protections in the settlement that include requirements that T-Mobile no longer offer commercial third-party “premium SMS” charges, adopt processes to obtain express informed consent from customers prior to allowing third-party charges on their phone bills, revise their billing practices to ensure that third-party charges are clearly and conspicuously identified on bills so that customers can see what services they are paying for, and offer a free service for customers to block all third-party charges.

Placement of unauthorized charges and fees on consumers’ telephone bills is an “unjust and unreasonable” practice that is unlawful under the Communications Act. In addition, the FCC’s Truth-in-Billing rules require carriers to disclose billed charges and describe them on the bill in a way that is brief, clear, non-misleading, and easy for the consumer to understand. The FCC has taken many actions against carriers as a result of unauthorized, misleading, or deceptive charges placed on wireless and wireline telephone bills.

Since January 2014, the Commission has taken seven enforcement actions against carriers for alleged cramming and slamming violations. The most recent action was in October 2014 against AT&T Mobility, which paid \$105 million to resolve an investigation into allegations that the company billed customers millions of dollars in unauthorized third-party subscriptions and premium text messaging services. The AT&T Mobility settlement was reached in coordination with the FTC and the attorneys general of all 50 states and the District of Columbia.

Current and former T-Mobile wireless customers should review their bills and apply for refunds if they suspect third party charges were wrongly added to their bills at www.t-mobilerefund.com.

For more information about the FCC’s rules protecting consumers from unauthorized charges on phone bills, see the FCC consumer guide: <http://www.fcc.gov/guides/cramming-unauthorized-misleading-or-deceptive-charges-placed-your-telephone-bill>

The Order and Consent Decree are available at: https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1704A1.pdf

The FCC’s prior Order and Consent Decree regarding cramming of AT&T customers is available at: <http://www.fcc.gov/document/att-pay-105-million-resolve-wireless-cramming-investigation-0>