



POLICY & ACTION FROM CONSUMER REPORTS

January 11, 2016

The Honorable Mignon Clyburn
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Comments Regarding the #Solutions2020 Call to Action Plan

Dear Commissioner Clyburn:

Consumers Union, the policy and mobilization arm of Consumer Reports,¹ writes to express our support for your proposed #Solutions2020 Call to Action Plan, published on December 19, 2016.

We appreciate all your work on behalf of consumers. For example, thanks to your leadership on net neutrality, Americans enjoy an internet free of discrimination and paid prioritization that would risk creating two internets, one for the haves, and one for the have nots. We also appreciate your efforts to end unwanted robocalls—one of the biggest consumer complaints—including your push to get industry to address this problem through the Commission's Robocall Strike Force. And consumers' privacy rights will be better protected because of your vote to approve the broadband privacy rules last October.

Your Call to Action Plan raises a number of important telecommunications policy issues on which we share your interest. Our comments will highlight two of those issues in which we have been particularly engaged: improving point-of-sale transparency for add-on fees in pay-TV bills, and eliminating the use of forced arbitration clauses in consumer service contracts.

¹ Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves, focusing on the areas of telecommunications, health care, food and product safety, energy, and financial services, among others. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over eight million subscribers to its magazine, website, and other publications.

Improving Point-of-Sale Transparency

More than six years ago, Charter Communications began charging a “broadcast TV surcharge,” purportedly to recoup the rising costs of network programming retransmission consent fees negotiated with broadcasters. Other large pay-TV providers—e.g., Comcast, and Time Warner Cable (now owned by Charter)—followed suit with their own “broadcast fee” in addition to other new charges, such as a “regional sports fee” for sports channels that some consumers never even watch. Some providers even add another “HD technology” fee. These fees are all in addition to set-top box fees that pay-TV providers have been gouging consumers with for years.

Moreover, these add-on fees are tacked on top of the rates advertised to consumers, and are typically shown on the monthly bill near or with government-imposed taxes and fees, misleadingly suggesting that they are also required by law. Company-imposed fees add to consumer confusion, and more importantly, add up.

A sample cable bill from December 2016 lists the bundled services rate of \$119.99 for video programming and broadband internet. But then there’s an “AnyRoom DVR” fee of \$10, an “HD Technology Fee” of \$9.95, a “Broadcast TV Fee” of \$5, and a “Regional Sports Fee” of \$3. That’s almost \$28 in add-ons—nearly a 25 percent surcharge above the advertised base rate—that consumers are oftentimes unaware of when they sign up for service. To make matters worse, some of these company-imposed fees have increased dramatically since they were introduced a few years ago, and they have been hiked again for 2017.² What better way to camouflage rate increases than by upping these confusing add-on fees versus straightforwardly increasing the advertised base rate?

We agree with the FCC’s Consumer Advisory Committee’s recommendation that pay-TV providers should provide consumers with the estimated dollar amount of their total monthly bill that includes company-imposed fees and surcharges at the time service is initiated. An even better result would be if pay-TV providers did away with these arbitrary add-on fees altogether, and offered a competitive bundled rate that already represents the cost of programming that consumers are purchasing in the first place.

Eliminating Forced Arbitration

As with other businesses, telecommunications providers are increasingly burying paragraphs in the fine print of their sales and service agreements to block consumers from ever taking any legal claim against the provider to court. Instead, consumers are forced into a

² Kate Cox, Happy New Year, Comcast Customers: Your ‘Broadcast TV’ & ‘Regional Sports’ Fees Are Going Up 50%, CONSUMERIST.COM (Dec. 13, 2016), <https://consumerist.com/2016/12/13/happy-new-year-comcast-customers-your-broadcast-tv-regional-sports-fees-are-going-up-50/>

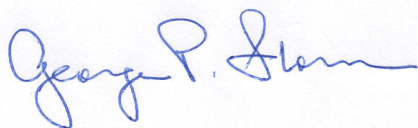
privately-run system of arbitration, structured to favor the business, with a private arbitration company chosen by the provider. The arbitrator is not required to follow the law, and the decision—which is often required to be kept secret—cannot be appealed in court.

Typically, consumers are required to go through this arbitration process alone, and cannot join with other consumers who have been harmed by the same misconduct, even if the misconduct is widespread. Because it typically costs far more for the consumer to take the claim through the arbitration process than the consumer stands to recover, the typical result is that no claim is brought, and the business is able to evade legal accountability.

Other agencies, including the Consumer Product Safety Commission, the Centers for Medicare and Medicaid Services, and the Department of Education, have recognized how unjust forced arbitration is, and are taking action to curtail or eliminate its use. The Commission has full authority to take similar action, and we were pleased that Chairman Wheeler expressed an interest in doing so at the time the BIAS privacy protection rule was released this past fall. We appreciate your commitment to continuing to pursue correcting this injustice as it applies in the markets subject to the Commission’s authority.

Thank you again for all your work to promote a telecommunications marketplace that works in the interests of consumers. We stand ready to work with you, the other Commissioners, and other stakeholders to address the issues raised in your Call to Action Plan, to ensure that all communities of consumers have reliable access to affordable communications products and services, and are empowered to participate fully in the modern-day communications marketplace.

Respectfully submitted,



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