

**What  
the  
Fee?!**

# **How Cable Companies Use Hidden Fees to Raise Prices and Disguise the True Cost of Service**

**CR CABLE BILL REPORT 2019**



**CR** Consumer  
Reports

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## EXECUTIVE SUMMARY

From cable TV to online ticket vendors, utilities, airlines or hotels, companies are piling on more and more hidden fees that result in higher bills for consumers. Overall, 85% of Americans say they have encountered an unexpected or hidden fee in the past two years for a service they had used, according to a recent nationally representative survey of 2,057 U.S. adults, conducted by Consumer Reports (CR). And nearly two-thirds say they are paying more now in surprise charges than they did five years ago. For a typical family, these fees can potentially add up to thousands of dollars a year in extra costs, posing a big financial strain, CR found.



Consumers are clearly fed up. Nearly everyone (96%) of those who reported having encountered hidden or unexpected fees in an industry that we asked about said fees are a real nuisance. Nowhere is this more true than in the cable industry. The CR survey found telecommunications providers (which includes cable companies) are the worst offender when it comes to charging unexpected or hidden fees. What a cable company *advertises* to a consumer as a monthly price for services, and what the consumer *actually ends up paying*, can be dramatically different.

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Consumers of cable TV and internet service are facing a rise and proliferation of company-imposed fees that are buried in the fine print and aren't clearly disclosed. As opposed to taxes or charges for optional services, these fees are items added to a consumer's monthly bill for things that are nothing more than a cost of doing business. For

example, the Broadcast TV Fee is a non-optional fee that cable companies claim helps recoup their cost of obtaining programming from broadcasters. However, providing local TV channels is one of the most basic services that a cable company offers to consumers, and is not an optional service.

This report exposes how the cable industry is using the practice of hidden, sneaky fees to disguise the true cost of cable service and increase revenue, and how much those fees are costing consumers. It then arms consumers and policymakers with the information they need to help fight back. An analysis of nearly 800 cable bills collected from consumers across the country shows that:

- » Company-imposed fees, from Broadcast TV and Regional Sports Fees to Set-Top Box Rental Fees, **add what amounts to a 24% surcharge on top of the advertised price.**
- » On average, the cable industry generates close to **\$450 per year per customer from company-imposed fees**, helping explain why CR's survey found that nearly six in 10 (59%) Americans who encountered unexpected or hidden telecom fees in the past two years say the fees caused them to exceed their budgets.
- » Based on the total number of U.S. cable subscribers and our findings, cable companies could be making **an estimated \$28 billion a year** from charging company-imposed fees.

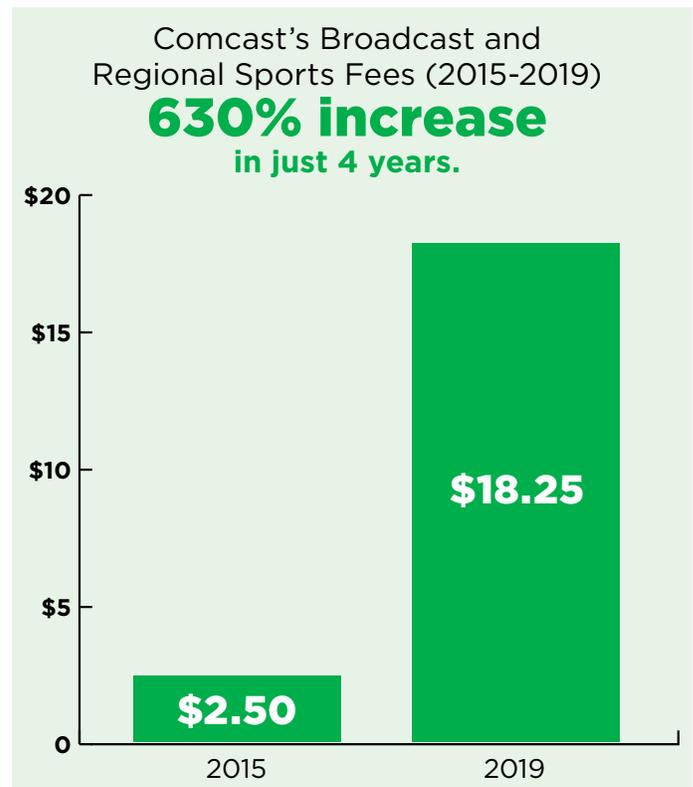
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Cable companies could be making an estimated **\$28 billion a year from charging company-imposed fees.**

- » The average cable bill contains **more than a dozen line-item charges**, including the base package price, company-imposed fees, regulatory fees, and taxes, creating a jumbled environment ripe for consumer confusion.

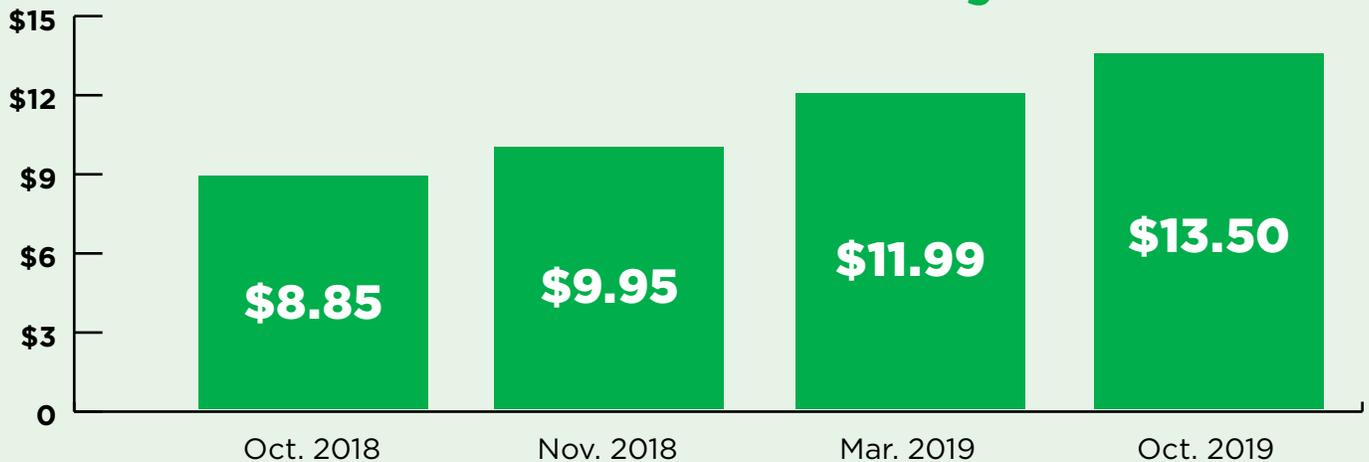
The problem is growing worse and more expensive because the cost of company-imposed fees continues to escalate. For example, in 2015, the nation's largest cable company, Comcast Corporation, charged consumers a \$1-a-month Regional Sports Fee and \$1.50-a-month Broadcast TV Fee, for a total of \$2.50 per month. **Those two fees combined now cost Comcast customers \$18.25 a month. That represents a more than 600% increase in four years.** Similarly, Charter Communications raised the price of its Broadcast TV Surcharge three times in just the last year, meaning its Broadcast TV Surcharge now costs consumers \$13.50 a month, **a 50% increase of what that fee cost a year ago**—and far more than the \$1 it was when first introduced in 2010.



**SOURCE:** Jon Brodtkin, *Comcast Raises Cable TV Bills Again - Even if You're Under Contract*, ArsTechnica (Nov. 26, 2018), available at: <https://arstechnica.com/tech-policy/2018/11/comcasts-controversial-tv-and-sports-fees-rise-again-hit-18-25-a-month/>

## Charter's Broadcast TV Surcharge Increase (2018-2019)

### Three times in the last year.



**SOURCE:** Jon Brodtkin, *Charter Raises Sneaky 'Broadcast TV' Fee for Second Time In Four Months*, ArsTechnica (Feb. 6, 2019), <https://arstechnica.com/information-technology/2019/02/charter-raises-sneaky-broadcast-tv-fee-for-second-time-in-four-months/>. See also Luke Bouma, *Spectrum is Raising its TV & Internet Pricing (The Third Price Hike on Broadcast TV in 12 Months)*, Cord Cutter News (Sep. 7, 2019), <https://www.cordcuttersnews.com/spectrum-is-raising-its-tv-internet-pricing-including-the-3rd-price-hike-on-broadcast-tv-in-12-months/>

How can the cable industry get away with doing this? Believe it or not, the practice is legal. But in order to charge fees in this manner, cable companies have a legal responsibility to disclose these fees without being deceptive. That is, they need to be transparent with consumers.

However, the findings in this report suggest that cable companies fail to do so in a consistent manner. This report also documents confusing and inaccurate statements made by cable company representatives to CR researchers and consumers. For example, on more than one occasion, company-imposed fees were inaccurately described as government charges.

Three steps are required to relieve consumers of company-imposed fees that are confusing and harming consumers:

- 1. New rules:** All mandatory company-imposed fees must be included in the advertised price. A version of this plain and simple fix was applied to the airline industry in 2011 in the form of the Full Fare Advertising Rule, and would inject real transparency to cable billing practices in the same fashion. A bill currently pending before Congress, the TRUE Fees Act, would do just that. The Federal Communications Commission also has the

authority to eliminate itemized, company-imposed fees in the cable industry directly through a rulemaking.

- 2. Enforce existing laws:** A series of investigations and lawsuits against Comcast by state attorneys general have alleged hidden fees are a deceptive billing practice that causes consumer confusion and harm. More state attorneys general can and should use the power of their consumer protection statutes to police whether hidden fees are harming consumers.
- 3. Consumer action:** Fee-exhausted consumers can cut the cord to avoid most company-imposed fees. However, as this report also notes, hidden fees are starting to creep into "internet-only" service packages as well.

It is long past time for the practice of hidden fees to end when it comes to cable companies. Congress and the FCC have the power and ability to rid company-imposed fees from the marketplace. The growing cost and consumer harm caused by those fees is documented in detail in this report. In light of these facts, policymakers should act to protect consumers and restore common sense to the monthly cable bill.



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## 1. Introduction

Imagine your surprise if you were to learn in the supermarket check-out line that the box of cereal you wanted to buy was going to incur a Cardboard Box Surcharge and a Grain Refinery Fee, adding nearly 25% to the purchase price. It sounds absurd—but actually isn't very different from what many consumers experience month-in, month-out, when they pay their cable bills.

The pay-TV industry has frustrated and disappointed consumers for years, and it's not surprising that companies across the telecommunications industry remain some of the lowest-rated service providers in Consumer Reports' (CR) annual member surveys.<sup>1</sup> A lack of strong, head-to-head competition in the cable marketplace has led to steady price increases that have far outpaced inflation for decades.<sup>2</sup> And notoriously poor customer service has added an additional layer of frustration.

And yet, in at least one important respect, the

situation has recently gotten much worse: in the past decade, cable companies have begun to impose new fees for services previously included in the base rates that are typically quoted in advertisements. Our analysis of hundreds of pay-TV bills submitted to CR by consumers reveals that company-imposed charges—which, to be clear, are separate and apart from charges related to any government-imposed fees and taxes—now add almost 25% of the base price to the typical monthly cable bill.

Unsurprisingly, consumers get frustrated and angry when they discover these company-imposed fees on their bills. A recent Consumer Reports nationally representative survey of 2,057 U.S. adults asked about add-on fees across many industries, and found that nearly seven in 10 (69%) Americans who have used a cable, internet, or phone service provider in the past two years reported encountering unexpected or hidden fees.<sup>3</sup> And nearly all—96%—of those who reported having encountered hidden or unexpected fees

in an industry that we asked about said they find them annoying. Two-thirds—64%—called them “extremely” or “very” annoying.

The depth of that frustration reflects the insidious market effect of company-imposed fees: they enable cable companies to camouflage price increases, confounding consumer efforts to comparison shop and to maintain household budgets. This happens in at least two ways. First, the fees are often imposed or increased with little notice, and are often listed among a dizzying array of other charges, including government-imposed fees and taxes. Second, by passing along additional costs as “fees” and not building them into the core package price, cable companies are able to continue advertising relatively low base rates. Thus, they can generate more revenue each month with little pushback from their customers—including even those who are locked into fixed-price promotional offers.

The combined effect is stretching consumer pocketbooks to the breaking point. CR’s survey found that the telecom industry (which includes cable companies) was the worst budget-buster of the ones we asked about. Nearly six in 10 (59%) Americans who encountered unexpected or hidden fees while using telecom services in the past two years say the fees caused them to exceed their budgets.<sup>4</sup>

Paying for TV and internet service in the 21st century should not be this fraught with frustration. But the problem is hardly confined to the cable industry. Airline passengers now routinely pay an extra fee to bring luggage on their trip, or to secure an assigned seat; hotel “resort fees” are proliferating, even at properties that offer little more than a place to sleep; and buying tickets to a cultural or sporting event is nearly always accompanied by a non-optional service fee. The common thread of these fees is a nominal attachment to services that, not long ago, were presumptively included in the base price. And as in the pay-TV industry, this practice obscures the true price of goods and services, rendering comparison shopping and budgeting a challenge, and sometimes impossible.

In response to this burgeoning wave of hidden, unfair, and excessive company-imposed fees across industries—which we’ve dubbed The Fee Economy—Consumer Reports launched the What the Fee?! campaign in 2018 with the aim of shining a bright light on these practices and, ultimately, ridding the marketplace of them altogether. This report is the result of our efforts to better understand the problem in the pay-TV industry specifically, and to formulate proposed solutions to better rein in fees or abolish them altogether.



## 2. Understanding the Monthly Cable Bill

For many years cable bills included a base package price, state and local taxes, and a few government-imposed regulatory fees that operators were allowed, but not required, to pass on to consumers.<sup>5</sup> Most cable companies also charged a rental fee for the set-top box necessary to receive service. Cable bills may have been expensive, but they were relatively straightforward and transparent. The price that customers were billed largely reflected the advertised price.

That changed about 10 years ago, when cable companies began to disaggregate their rates by charging a base rate plus a range of new line-item fees that go by terms such as Broadcast TV Fee, Regional Sports Surcharge, HD Technology Fee, and Network Access and Maintenance Fee. The exact assortment of fees varies by cable company, but in general they are company-imposed and purportedly meant to cover features or services that had previously been included in the base advertised price. By 2015 the practice had spread throughout the industry.<sup>6</sup> And by 2017, the Federal Communications Commission (FCC) had recognized the practice of splitting fees out from the base package as a “strategy” that “raises monthly bills while typically leaving the advertised prices for video packages unchanged.”<sup>7</sup>

**Especially notable is the fact that these fees are being raised by cable companies even while many consumers are locked into supposed “fixed-rate” contracts.**

Meanwhile, the dollar amount of company-imposed fees has skyrocketed. For example, when Charter Communications (which brands its cable TV and internet service as Spectrum) first began charging a Broadcast TV Surcharge in 2010, it cost consumers \$1 a month.<sup>8</sup> More recently, the company raised that fee three times since November 2018, first from \$8.85 a month to \$9.95, and then to \$11.99 a month in March 2019—a 35% price increase in less than three months.<sup>9</sup> Incredibly, Charter just announced *another* increase of this company-imposed fee, raising its Broadcast TV Surcharge to \$13.50 a month, a 50% increase of what it cost a year ago.<sup>10</sup> All told, that’s a 1250% increase of that fee since 2010.

Especially notable is the fact that these fees are being raised by cable companies even while many consumers are locked into supposed “fixed-rate” contracts. Unusually careful consumers with a lot of time on their hands can discover (in the fine print) that although the advertised package price is locked in for a year or two, various company-imposed fees (like the Broadcast TV Fee) are permitted to be increased by unspecified amounts.<sup>11</sup>

For the purposes of this study, we’re mostly concerned with the imposition and increase of *company-imposed fees*—that is, as described above, those fees that are charged at the discretion of the cable provider, and not at the insistence of governments or regulators.



The following table lists the most commonly-charged company-imposed fees with a brief description of each.

**Table 1. Descriptions of Company-Imposed Fees<sup>12</sup>**

Name	Description
<i>Broadcast TV Fee</i>	Cable companies claim this fee is charged to recoup their costs for obtaining permission, known as “retransmission consent,” to deliver local broadcast channels such as ABC, CBS, Fox, and NBC to subscribers. Most cable providers charge this fee and it is mandatory.
<i>Regional Sports Fee</i>	Cable companies claim this fee is charged to recover a cable company’s costs for obtaining sports programming, and it is charged by most cable companies.
<i>Set-Top Box and Related Rental Fees</i>	Fees charged for renting a set-top box, a digital video recorder (DVR), and related equipment necessary to receive service. These fees were among the first widespread company-imposed fees. <sup>13</sup>
<i>Cable Modem and/or Router Fees</i>	Fees assessed for renting cable modems and wireless routers necessary for installing a home WiFi network. In some markets, consumers can avoid this fee if they buy and use their own equipment. <sup>14</sup>
<i>HD Technology Fee</i>	A fee charged to unlock the high-definition (HD) capability of a set-top box, necessary to view channels in HD. A fee unique to Comcast.
<i>Internet Service-Related Fees</i>	Relatively new fees that cable companies claim support the upkeep of a provider’s broadband internet network. Examples include Frontier’s Internet Infrastructure Surcharge and RCN’s Network Access and Maintenance Fee, both of which are mandatory.
<i>Administrative/Convenience Fees</i>	Fees for miscellaneous (and often unspecified) services.
<i>Installation Fees</i>	One-time installation charges, which are sometimes waived as part of a promotional offer.

Of course, cable bills contain fees other than company-imposed fees. Additional fees in a typical cable bill include government fees and taxes, premium service charges, and other miscellaneous charges.

### **Government-Related Fees and Taxes**

The 1992 Cable Act allows cable companies to separately itemize government taxes and regulatory fees and pass them on to consumers.<sup>15</sup> Examples include federal, state and local sales taxes, local franchise fees, and other regulatory fees (e.g. Universal Service Fund fees, E-911 support fees, and PEG channel fees). A worthy distinction can be made between taxes, like sales taxes, that the provider is effectively collecting on behalf of the government, and other fees that are best characterized as “regulatory pass-through fees.” The latter are typically being charged to the cable providers, who are then *choosing* to pass those fees on to consumers. The practice, though legal, is somewhat akin to asking consumers to pay the company’s corporate taxes. But at least these fees are a definable cost that can be verified, unlike company-imposed fees.

### **Premium Services**

These are charges that consumers agree to pay for premium channels such as HBO and Showtime, and other optional features or services that provide value above and beyond the base package of service, including fees for home security services, pay-per-view movies, and service protection plans. Because these fees are optional charges for upgrades consumers voluntarily choose to pay for, we do not object to them being charged separately.

### **Miscellaneous Charges**

Finally, some bills include miscellaneous line-item charges related to price adjustments for underpaying or overpaying a previous month’s bill (usually the result of a package change).

### **Base Package Price**

In our analysis, after all the fees and other line-item charges were accounted for, we considered the remainder to be the base package price of the service. In some cases, the base package price covers cable TV service only; in others, it includes internet and/or phone service as well.



### 3. Analysis

Research for this report consisted of five concurrent efforts aimed at collecting data that would allow us to better understand the various types and sizes of fees charged by pay-TV companies, and why they are being charged. First, we asked consumers to share copies of their monthly bills with Consumer Reports in order to both identify the number and type of add-on fees and calculate their cost. Second, we contacted more than ten pay-TV providers and asked them to explain how and why they charge company-imposed fees. Finally, we compared company explanations to how consumers actually experience add-on fees, by conducting a “secret-shopper” investigation, in which anonymous, CR-commissioned callers spoke with cable company customer service representatives; by studying lawsuits in which cable companies had been accused of failing to properly disclose their fees; and by asking consumers to share their own experiences of how fees were explained to them by their cable companies.

#### 3.1 Consumer Cable Bills: The What and How Much

In June of 2018, we asked consumers via email to share their cable bills with us as part of our What the Fee?! (WTF?!) campaign. More than 5,000 people responded; 952 bills submitted between June and August of 2018 were ultimately examined for this report which reflects the state of the industry at that time. In determining which ones to study, we randomly selected bills from all the bills we received, with an effort to select more bills from the companies with more subscribers. We also included a sample from other operators, as well as a few bills from smaller companies. Incomplete bills were disregarded, as were multiple monthly bills submitted by the same consumer.

In order to maintain an apples-to-apples comparison between providers, we also separated out satellite TV bills. This is because direct broadcast satellite (DBS) companies do not charge the same sort or number of mandatory company-imposed fees as cable companies do. Nonetheless,

we found that company-imposed fees add, on average, an extra \$29 to the base package price for satellite TV service, fueled in large part by equipment fees for set-top boxes. So the problem of excessive and expensive pay-TV fees is not exclusive to the cable industry.

A total of 787 cable bills from 13 companies were left to analyze.<sup>16</sup> We catalogued all fees appearing on those bills, paying special attention to company-imposed fees, and then calculated how much various fee categories were costing consumers, both as an average dollar amount and as an average percentage of the overall bill.

Some, though not all, cable bills included line-items for discounts. The type of discounts varied and usually represented a “bundle discount” that appears to represent savings to consumers when they subscribe to a bundled package of services (e.g., a cable TV and internet package).<sup>17</sup> Because discounts were not applied to all consumers in a consistent or uniform fashion, or they expired at the end of a limited-term promotional offer (at which point the “regular rate” is applied) we did not calculate them into our final results. When consumers are required to purchase a more expensive bundle, haggle with a customer service representative, or shop for a new promotional package once their original deal has expired, the acquisition of a discount requires action by consumers, and therefore cannot reliably be said to consistently or predictably lower the overall price for service.

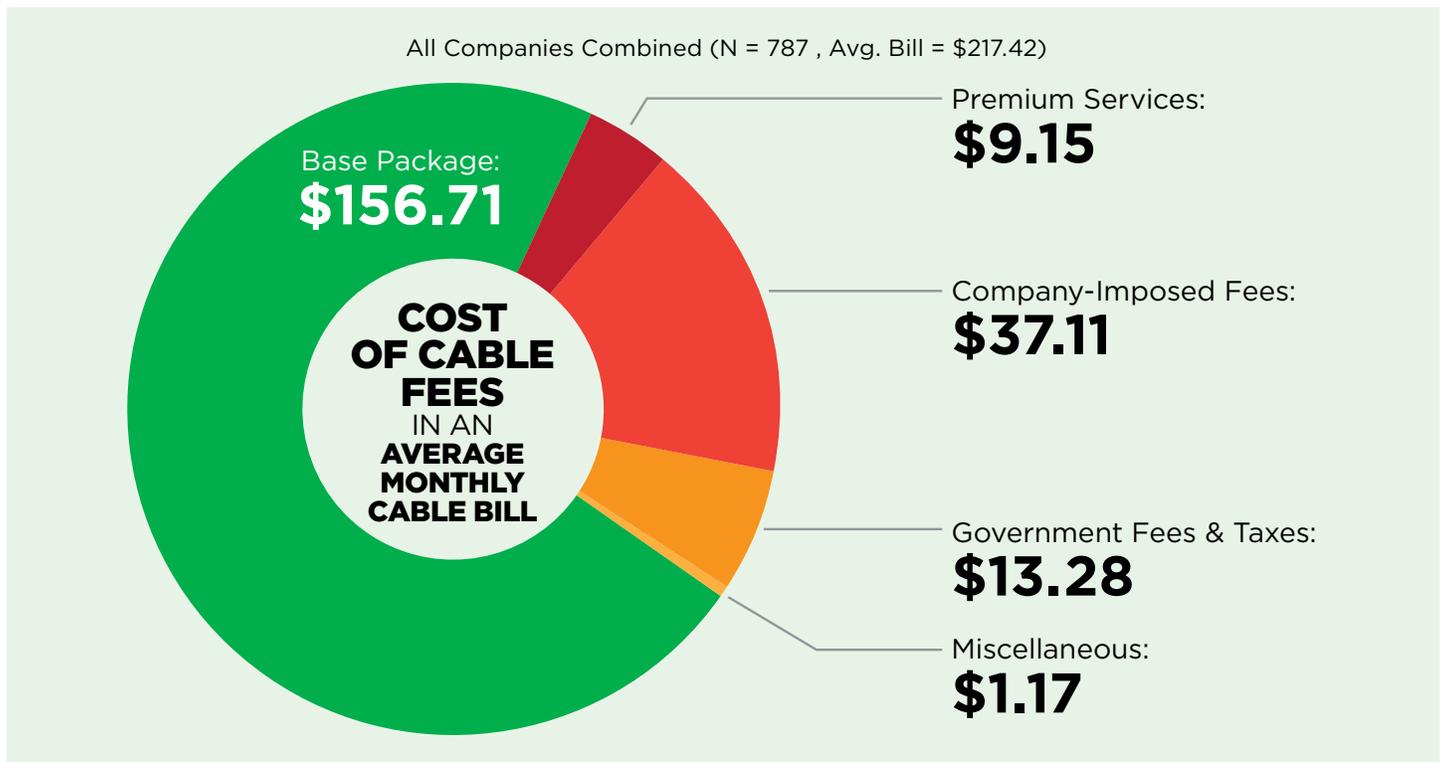
The following represents our most significant findings.

***Company-imposed fees add 24% of the base package price to the average monthly cable bill.***

The average cable bill in our study costs consumers \$217.42 a month. Of this number, a little less than \$157 on average was determined to be the base package price once all fees, taxes, and charges for premium services were subtracted from the total price. In other words, the average consumer pays more than a 33% mark-up over the base price of service because of add-on fees of all types.<sup>18</sup>

Figure A details the individual cost that each fee category contributes to the overall monthly cable bill.

**Figure A: Cost of Cable Fees in an Average Monthly Cable Bill (2018)**



Company-imposed fees comprise the largest portion of this mark-up, costing consumers, on average, more than \$37 a month and *adding an extra 24% of the base price* to the monthly bill.

The average amount of company-imposed fees charged by specific providers, for example, ranged from \$22.96 for AT&T U-verse and \$31.28 for Charter, to \$39.59 for Comcast, \$40.16 for Cox, and \$43.79 for Verizon Fios. These averages reflect a snapshot of the marketplace in 2018 based on the monthly bills analyzed by CR from consumers across the country, and are not meant for comparison purposes.

***Company-imposed fees in cable bills could be costing consumers at least \$28 billion a year.***

To gain a better appreciation for just how much money is being generated by company-imposed fees for cable companies, we used the most recent publicly available subscriber numbers published by the FCC to determine the total number of American cable consumers.<sup>19</sup> Combining the subscriber numbers for all cable providers (e.g.,

Comcast, Charter, and others) with telephone companies like Verizon Fios and Frontier Communications that provide video service (whose bills we treated the same as cable) generated a total of 62,485,000 subscribers.

Multiplying the total subscriber number by the average cost of company-imposed fees, \$37.11 per month, produces a figure of roughly \$2.3 billion a month—or a little less than \$28 billion a year in fees created by the cable industry. To be clear, that's the amount that providers could be pocketing, separate from taxes, regulatory pass-through fees (explained above), and optional charges for premium services.<sup>20</sup>

***Company-imposed fees are growing in both size and number.***

In the time since we asked for consumers to share their bills with us, at least three large pay-TV companies have further increased their company-imposed fees. Comcast increased its Broadcast TV Fee by \$2 and its Regional Sports Fee by \$1.75 late last year.<sup>21</sup> AT&T raised the Broadcast TV Fee

for its U-verse video service by \$2 per month.<sup>22</sup> And as mentioned above, Charter bumped up its Broadcast TV Surcharge three times since November 2018, from \$8.85 to \$9.95, to \$11.99, and now to \$13.50.<sup>23</sup> The rapid escalation of Charter’s fee represents a more than 50% increase of what that fee cost a year ago—and far more than the \$1 it was when first introduced in 2010.<sup>24</sup>

To understand the forces pushing for these increases, it is worth pausing to consider the financial impact of Charter’s three increases of its Broadcast TV Surcharge in the past year. If we multiply the additional \$4.50 per month per subscriber times the company’s almost 17 million subscribers,<sup>25</sup> we see that Charter is able to collect nearly an additional \$918 million a year by simply deciding to increase one company-imposed fee.

Our bill analysis also uncovered new company-imposed fees being applied separately to internet access service. Bills issued by Frontier Communications during the time period we studied contained a \$2 Internet Infrastructure Surcharge, and RCN bills included a \$2 Network Access and Maintenance fee. Both are mandatory. Adding new company-imposed fees to the cost of internet service is a disturbing new trend, and predicts a future where even internet-only consumers—including so-called cord-cutters, who generally look to save money by dropping cable TV service and relying only on internet service for their video entertainment—will not be safe from the growing burden of add-on fees.

New mandatory modem and router fees have also begun to saddle more internet-only consumers with company-imposed fees. Many consumers have long been able to avoid monthly equipment rental fees by purchasing and using their own modems and routers. With rental fees costing up to \$11 a month, they can often recoup their investment in less than a year.<sup>26</sup> But Frontier recently began charging a leasing fee “for your Frontier router or modem—whether you use it or not,” eliminating this money saving strategy.<sup>27</sup>

All this means that our estimate of how much company-imposed fees could be costing consumers—\$28 billion per year—likely understates

the full scale of the problem.<sup>28</sup>

***The average cable bill analyzed contained more than 13 line-item charges, sometimes without clear distinctions between different fee types.***

On average, cable bills in our study contain more than 13 separate line-item charges, which includes all the fees outlined above, along with line-items for the base package price.

This large number of line-item fees is, by itself, likely to create confusion. Some cable companies offer brief definitions for each of the fees, either on the bill itself or on their websites. In any case, the definitions do not necessarily distinguish between company-imposed fees and, for example, regulatory pass-through fees.

This problem is compounded when some companies actually list company-imposed fees under the same headings as—or even interspersed with—regulatory pass-through fees and taxes. For example, as seen in Figure B, Frontier Communications lists its Internet Infrastructure Surcharge—a company-imposed fee—under a “Detail of Taxes and Other Charges” but does not distinguish between taxes imposed by the government and fees created by Frontier.

**Figure B:  
Mixing Company-Imposed Fees with Taxes**

DETAIL OF TAXES AND OTHER CHARGES*	
DETAIL OF FEDERAL TAXES AND CHARGES*	
Frontier	
Federal USF Renovation Charge	0.34
<b>TOTAL FEDERAL TAXES AND CHARGES</b>	<b>0.34</b>
DETAIL OF STATE TAXES AND OTHER CHARGES*	
Frontier	
CT State Tel. Seizure Tax	1.00
VOIP 911 Surcharge	0.50
<b>Internet Infrastructure Surcharge</b>	<b>1.90</b>
<b>TOTAL STATE TAXES AND OTHER CHARGES</b>	<b>4.60</b>
<b>TOTAL TAXES AND OTHER CHARGES</b>	<b>7.90</b>

(A Frontier Communications Consumer Bill from 2018)

Similarly, Frontier and RCN offer a list of fee explanations on their websites but do so under the title “Taxes and Surcharges” (Frontier) or “Understanding Taxes” (RCN) despite the fact that company-imposed fees—the Internet Infrastructure Surcharge (Frontier) and the Network Access and Maintenance Fee (RCN)—are included.<sup>29</sup> Though Frontier explains in the fine print that its fee is not a tax, RCN does not.

Such confusing descriptions raise serious questions about how transparent cable companies are in their fee-related disclosures.



### 3.2 Cable Industry Explanations: The Why

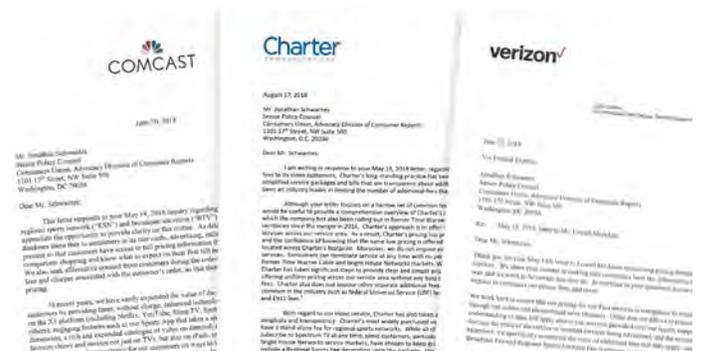
On May 18, 2018, Consumer Reports sent letters to 11 major pay-TV companies, seeking to open a dialogue regarding industry billing practices and the importance of transparency in consumer pricing.<sup>30</sup> We highlighted our concerns about hidden fees, and urged all pay-TV providers to include the full cost of service in the base price so that consumers can effectively compare the prices of different services and manage their household budgets. Several companies did not respond. Others, including Comcast, Charter, Verizon, and Frontier, did.<sup>31</sup>

The explanations and justifications of the companies that responded can generally be grouped into three categories.

First, most of the companies that responded insisted that their billing practices were entirely legal. Charter, for example, noted that, “The FCC expressly permits cable video programming providers to separately itemize their programming costs on customer bills.”<sup>32</sup> Comcast made a similar claim.<sup>33</sup> It is true that, in implementing the 1992 Cable Act, the FCC explicitly opened the door to itemization of regulatory pass-through fees and taxes, as well as company-imposed fees.<sup>34</sup>

Second, cable companies claim that the fees they add to bills are done so in a clear and transparent manner. Indeed, state consumer protection laws broadly require cable companies to accurately, transparently, and truthfully disclose fees.<sup>35</sup> Flagrant misrepresentation that deceives consumers about fees can be prosecuted as a fraudulent business practice. But in their responses to our inquiries, the cable companies insist that their billing practices, including the addition of company-imposed fees, are transparent. They maintain that consumers are given all the information they need to make smart, well-informed marketplace decisions.

Verizon, for example, wrote that its employees “work hard to ensure that our pricing for our Fios services is transparent to customers in our advertisements and through our online and phone-based sales channels.” Verizon also said its customers have “the ability to review [fee-related] information in writing,” and notes that its advertisements disclose the existence of additional taxes and fees. Before confirming an order, the company adds, all prospective customers can see a full breakdown of the bundle costs, including taxes and fees.<sup>36</sup> Comcast and Charter made similar claims of transparency.<sup>37</sup>



Third and finally, to further justify why company-imposed fees are being charged, and more specifically as to why these fees are increasing, cable companies cited the rising cost of obtaining programming content from local network affiliates and other broadcasters as a primary reason.<sup>38</sup> Though there is a kernel of truth in this explanation, what is left unexplained is why these costs are passed on to consumers in the form of fees and not included in the base package price. And none of the responses adequately answered the question of why cable companies were choosing to itemize fees in the first place.

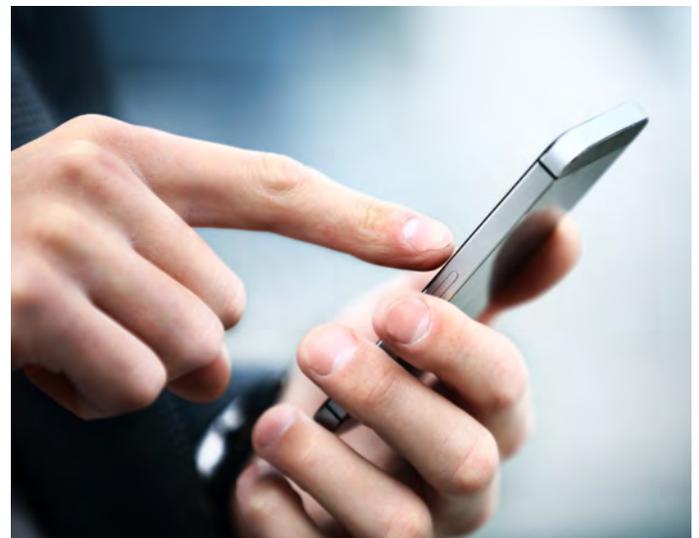
Nonetheless, cable companies are indeed locked in a battle with broadcast networks over the cost of programming content. The struggle was set into motion by the 1992 Cable Act, which required cable companies to carry local broadcast channels in one of two ways. A broadcaster may simply demand carriage, and the cable company is obligated to provide it under what is called the “must-carry” rule.<sup>39</sup> Alternatively, when it is clear that the cable company wants to carry the broadcast channel, a broadcaster can negotiate carriage in exchange for money—that is, the broadcaster grants the cable company “retransmission consent” for a price, or a retransmission consent fee.<sup>40</sup>

Over the past 15 years broadcasters have demanded higher retransmission consent fees for their programming, and cable companies have had little choice but to pay up. If the two parties cannot negotiate a consent deal before the previous one expires, a broadcaster can insist that its signal be “blackout.”<sup>41</sup> Though the number of station blackouts in recent years has also risen, cable companies have generally been unwilling to anger their customers by letting a blackout continue for too long in most cases, choosing instead to cut a deal and then pass the costs on to their customers.

The dynamics of these negotiations can be addressed in a way that would better benefit consumers, and we make two recommendations to that effect in the final section of this report.

### 3.3 Testing the Cable Industry’s Explanations: What’s Happening in the Real World

Our analysis continued with testing the cable industry’s bold transparency claims. We did so in three ways. First, CR employed a qualitative “secret shopper” investigation, in which anonymous callers posing as potential new customers contacted customer service representatives (CSRs) of Comcast, Charter, and other leading pay-TV companies to discuss subscribing for new service; second, we reviewed recent legal actions brought by state attorneys general against Comcast for less-than-transparent billing practices; and third, CR enlisted current consumers of Charter to complain about—and request an explanation for—the recent increase of its Broadcast TV Surcharge.



#### ***Secret Shopper Investigation***

In late 2018, seven secret shoppers made a total of 74 calls to CSRs of Charter, Comcast, DIRECTV, Frontier, and Verizon. Our shoppers posed as potential new customers interested in obtaining TV and internet service, and were provided a script of questions and follow-up responses. Sample questions and directions from the script included:

- » Do you offer a bundled package that only includes TV and internet service?
- » If no bundled package is offered ask: What is the combined price of TV and internet service?

- » Are there any additional fees that'll be added to my monthly bill?
- » If there are additional monthly fees, and you have been told you have to pay those fees ask, Why?

The secret shoppers were also asked to record whether the CSR proactively shared information on additional fees, or had to be pressed for that information. We also encouraged our shoppers to ask for pricing information and whether fees were mandatory. All responses were recorded and shared with CR.

This Secret Shopper investigation was designed to determine a) how and when company-imposed fees were disclosed, and b) how the representatives explained and justified those fees—in particular, whether company-imposed fees were properly described as such and not as a tax or regulatory pass-through fee.

We found that our shoppers were provided inaccurate or confusing fee-related information by the pay-TV company CSR on a number of occasions. Examples include:

***Inaccurately blaming the government for fees***

- » At least one CSR of every major provider that our secret shoppers contacted misstated that fees were mandated by the government, without a clear distinction made between company-imposed fees and regulatory pass-through fees.
- » When asked directly why consumers have to pay the additional monthly fees, a few CSRs portrayed the fees as mandated by the government, again without distinguishing between company-imposed fees and regulatory pass-through fees.

***Failing to mention fees***

- » Although half of the CSRs contacted (37 out of 74) acknowledged that additional fees would apply to the base price, only 18 specifically cited the Broadcast TV Fee or Regional Sports Fee.
- » Of the 20 times where additional fees were said to apply but with no mention of the

Broadcast TV Fee or Regional Sports Fee, CSRs offered incomplete fee information, if any, with a reference to taxes or maybe one or two other fees (e.g, equipment fees or activation fees).

- » Occasionally, CSRs proactively shared this information on additional fees. However, more often than not, our shoppers said they had to ask about fees or coax details about additional fees during their calls.
- » Secret shoppers were asked to sign up for service before the representative shared the final price, let alone additional fee information, a total of nine times.

Though some CSRs offered our shoppers accurate information about company-imposed fees, the majority did not, and many calls resulted with incomplete and/or inaccurate information offered to would-be customers.



***Legal Actions Against Comcast for Billing Practices***

Since 2016, state attorneys general in Massachusetts, Minnesota and Washington have each launched investigations and/or filed lawsuits accusing Comcast, the nation's largest cable company, of fee-related fraud. A more detailed look at those legal actions follows.

## *Massachusetts*

In November 2018, the Commonwealth of Massachusetts reached a settlement with Comcast over alleged violations of the Massachusetts Consumer Protection Act.<sup>42</sup> Comcast was accused of failing to disclose fees that increased bills by up to 40% over advertised prices, and charging customers early termination fees of \$240.<sup>43</sup> Comcast was also accused of deceptively advertising that consumers could “lock in” their prices, when the price of certain fees remained subject to change.<sup>44</sup>

Among the terms of the settlement, Comcast denied any wrongdoing, but agreed to clearly and conspicuously disclose, in close proximity to any advertised price claim, that the price excludes fees and taxes and whether the fees and taxes may change during the course of any contract.<sup>45</sup> In addition, television and audio advertisements must disclose that fees are excluded from the advertised price. Comcast agreed to maintain a publicly available website that separately lists prices and common fees and taxes.<sup>46</sup>

The settlement also included forgiveness of certain debts incurred by Comcast customers. Comcast agreed to forgive debts incurred by more than 16,000 customers for early termination fees or the involuntary termination of residential services.<sup>47</sup> In addition, Comcast agreed to further pay \$700,000 to provide restitution to 4,500 customers who had involuntarily disconnected their residential services or downgraded their residential services and had paid an early termination fee to do so.<sup>48</sup> Finally, Comcast agreed to pay \$250,000 to the Commonwealth for the Attorney General to distribute according to her discretion.<sup>49</sup>

## *Minnesota*

The attorney general of Minnesota filed a similar enforcement action in December 2018, accusing Comcast of misrepresenting company-imposed fees and the price of cable television packages, charging consumers for products they did not order, and failing to send the prepaid Visa cards that customers had been promised as a sign-up bonus.<sup>50</sup> Comcast was also accused of engaging in deceptive conduct, false statements, and material

omissions about the total cost of service, and of failing to disclose substantial additional fees, both in door-to-door sales and in sales over the phone.<sup>51</sup>

Specifically, Minnesota alleged that Comcast enticed customers to “lock in your rate for 2 years,” without disclosing that it might increase fees during the time frame of the advertised package,<sup>52</sup> and that Comcast falsely told customers that the company’s Regional Sports Network and Broadcast TV Fees were mandated by the government and beyond the control of Comcast.

Minnesota further alleged that Comcast has been aware that its misrepresentations and material omissions of fact have confused consumers, and that the cable company was aware of its “fraudulent practice of charging Minnesota consumers for unauthorized services and equipment that they never requested.”<sup>53</sup> The state also noted that Comcast settled an investigation by the FCC based upon similar consumer complaints that “Comcast added services or equipment to subscribers’ cable services without their knowledge or permission.”<sup>54</sup>

Minnesota is asking the court to rule that Comcast’s actions were violations of Minnesota law, enjoin Comcast from engaging in deceptive practices or making false or misleading statements, award restitution for any and all persons injured by the unlawful practices, award civil penalties for each separate violation, and award the state its litigation costs.<sup>55</sup> The state is seeking refunds for all customers who were harmed by Comcast’s alleged violations of the state’s Prevention of Consumer Fraud Act and Uniform Deceptive Trade Practices Act.<sup>56</sup>

## *Washington*

Finally, the attorney general in Washington State sued Comcast in 2016 for allegedly violating the state’s Consumer Protection Act. The state claimed that Comcast violated Washington’s Consumer Protection Act tens of thousands of times by signing customers up for a “service protection plan” without consent, failing to disclose monthly fees, and misrepresenting service coverage.<sup>57</sup>

On June 6, 2019, a state judge ruled against Comcast, finding that the cable company had

violated the Washington State law almost half a million times by signing consumers up for the \$6 per month protection plan without their consent, as alleged by the state attorney general. Comcast was assessed a \$9.1 million penalty and ordered to pay back affected consumers with interest.<sup>58</sup>

### **Consumer-Led Research**

In response to Charter's two increases of its Broadcast TV Surcharge in just three months earlier this year—the company just increased this fee for a third time in September—we enlisted via email the help of the company's customers and asked them to contact Charter to demand an explanation. Specifically, 285 consumers called Charter in early February to voice their frustration caused by the \$3 fee hike, and to question why this fee was being increased and charged in the first place. They shared their experience with us via a "reportback" form. Our action was solely focused upon the Broadcast TV Surcharge, a company-imposed fee not to be confused with a regulatory pass-through fee or tax.

Some of the answers given by Charter's CSRs were remarkably similar to those received by our secret shoppers, and to the misrepresentations alleged by the state lawsuits and investigations aimed at Comcast. When asked by their actual customers, more than a few Charter CSRs invoked the government as the guilty party responsible for raising the Broadcast TV Surcharge. Customer reports of inaccurate responses included the following:

- » "They said this fee was forced on them by the FCC as a required charge for broadcast content."
- » "The representative told me that it's the state that sets the price for the broadcast channels. I live in North Carolina."
- » "I was told that it was a federal law and that it was not their responsibility."
- » "They indicated the fees are levied by the FCC and they do not have any control."
- » "Fee hikes a result of government increases in charges for licensing."

Several consumers were told that the broadcast networks were to blame and that Charter was just passing along those costs. But, the manner in which Charter made this excuse gave the impression that it was not responsible for charging this company-imposed fee; rather, that Charter was merely passing along a cost. For example, a consumer in Ithaca, New York, characterized Charter's response as follows: "[Charter] said they were just passing down fees from the network and they had no control over it." Over and over again, customers were given this excuse, including:

- » "The local channels have increased their fees to Spectrum (Charter) cable nationwide and there is nothing they can do about it."
- » "Stations raised their price, Spectrum (Charter) had no choice but to raise ours."
- » "They said that it was beyond their control as the local stations are imposing the increase."
- » "She told me it was the local stations that were passing the fee on to them since they are the billing people."

None of those explanations made clear that Charter, like other cable companies, is *choosing* to charge consumers a separate Broadcast TV Surcharge. Perhaps that was the most significant finding, especially when considering the overwhelming response from Charter's CSRs was some version of there was nothing they could do and that Charter was more or less forced to charge this fee.

**"They (Charter) said this fee was forced on them by the FCC as a required charge for broadcast content."**



## 4. Conclusions: Cable Company-Imposed Fees Are Less Than Transparent, and Getting Worse

Several conclusions can be drawn from our analysis of how the cable industry charges company-imposed fees. An initial observation is that these fees represent a growing revenue stream for cable companies, and because the general practice is legally permissible, we do not expect the practice to be abandoned absent government action.

However, charging company-imposed fees is allowed only if done so in a transparent manner. That is, the fees must be clearly disclosed during the buying process to prevent consumer harm that is often the result of confusion or disinformation. Though the cable companies assert that their billing practices are fully transparent, we conclude that the transparency justification fails in at least three important ways.

Furthermore, company-imposed fees charged by cable companies are growing in both number and size.

### 4.1 Company-Imposed Fees Consistently Fail Transparency Tests

#### *Information About Fees Is Frequently Inaccurate*

Fees are not transparent if the information provided about them—what the fees are for and why the fees are being charged—is inaccurate. We encountered numerous inaccuracies and misrepresentations of company-imposed fees during our research that severely weaken the cable industry’s transparency claims.

First and foremost, we conclude that providers seldom acknowledge that company-imposed fees are in fact imposed at the discretion of the cable companies and, further, that they frequently state or suggest the exact opposite: that the company has no choice but to charge these fees.<sup>59</sup> Though in some cases the companies that responded to our request for information last year acknowledged to CR the true nature of company-imposed fees, our secret-shopper and consumer-led research demonstrates that consumers are not getting the same information—at least not consistently.



### ***Company-Imposed Fees Are Not Transparent When Presented in a Confusing Manner***

When fees are either confusing or not readily apparent to consumers, whether they are buried in the fine print or obscured in some other fashion, they are not transparent. Our work revealed instances where consumers were unaware of or confused about company-imposed fees, even when disclosed in some manner. In other cases, consumers simply were not told about fees during the buying process.

Our secret shopper investigation demonstrated how difficult it can be to get accurate information, when signing up for service, about additional fees that will be added to monthly bills. More often than not, the whole range of fees—company-imposed and regulatory pass-throughs and taxes alike—are not mentioned in detail, or only a few are cited. Even when our secret shoppers asked about fees, company-imposed fees like the Broadcast TV Fee weren't often mentioned. Properly explaining a company-imposed fee is certainly not the norm, and is rather the exception.

A fair conclusion to be drawn from our secret shopper work is that the majority of customer service representatives appear to avoid discussing additional fees with consumers unless directly asked. And even when they do disclose that there are additional fees, they sometimes say they're mandated by the government rather than admit they're imposed by the companies themselves.

The Massachusetts attorney general's settlement of its civil investigation of Comcast further suggests that consumers may not be aware of the cost or existence of company-imposed fees, even when those fees are disclosed in the fine print. That settlement also demonstrated the harm caused when cable companies permit themselves—again, in the fine print—to increase company-imposed fees during a fixed-price promotion. When surprised and faced with a higher monthly bill as a result of such a fee increase outside of the promotion's terms, some consumers tried to downgrade or cancel service, only to be slapped with an early termination fee in excess of \$200. Such is the confusion and harm caused by the

Second, some cable companies inaccurately tell consumers that certain company-imposed fees, including the Broadcast TV Fee, are required by the government. Our secret shopper work revealed this even before the Minnesota attorney general filed a lawsuit alleging that against Comcast. Months later, our consumer-led research directed at Charter uncovered similar inaccuracies. Company-imposed fees are not charged by the government, and to tell consumers otherwise is far from transparent and could run afoul of the law.

Third, some companies inaccurately lump company-imposed fees into the same category with taxes in disclosures and billing communications. As noted in Section 3.1, for example, Frontier Communications lists its Internet Infrastructure Surcharge—a company-imposed fees—under a “Detail of Taxes and Other Charges” section of the bill. Similarly, on its website, RCN includes a description for its Network Access and Maintenance Fee—another company-imposed fee—in a table listing a host of other regulatory pass-through fees and taxes. These placements inaccurately suggest to consumers that these company-imposed fees are taxes or regulatory pass-through fees.

cable industry's application of the Fee Economy to its billing practices.

Finally, the sheer number of line-items in today's cable bill—our report found an average of 13 in a typical monthly bill—disguises and effectively hides from consumers new or increased company-imposed fees among regulatory pass-through fees and taxes. Our survey results indicate consumer anger with the status quo, with nearly two-thirds (64%) of survey respondents calling add-on fees they've encountered in the industries we asked about “extremely” or “very” annoying, and nearly all finding them at least annoying.<sup>60</sup>

Despite the outrage, cable companies have been itemizing fees for years and, without meaningful regulatory or legal changes, will likely continue to do so in the future.

### ***Even When Transparent, Fees May Confuse Consumers***

Even if fees are transparent and disclosed properly in a legal manner, more information does not necessarily lead to smarter consumer decisions. Recent studies suggest that clearly disclosed information is only useful if it is provided in time to be taken into account when making a purchasing decision; otherwise, extra information might actually harm decision making.

In 2016, the National Economic Council (NEC) issued a report, “The Competition Initiative and Hidden Fees,” which provided an overview of existing research on the marketplace effects of hidden fees.<sup>61</sup> The report noted that these fees, which are generally structured “to drive down the perceived price and lure consumers to make purchasing decisions based on misinformation,” are, at worst, “fraudulent or deceptive; at a minimum, they make prices unclear, hinder effective consumer decision making, and dull the competitive process.”

The report looked specifically at the practice of “drip” or “partitioned” pricing, wherein (as with cable bills) consumers learn about pricing components, such as add-on fees, over the course of the buying process. The NEC concluded that “some or many consumers do not focus on the full price, but rather buy on the basis of the lower

price, and are therefore deceived.” In a subsequent analysis, an economist at the Federal Trade Commission found that “when price is divided into a base price and a surcharge, consumers tend to underestimate the total price, even when the two components of the price are revealed simultaneously.”

This research suggests that even when company-imposed fees are accurately disclosed along with the base price, if those fees are separated, consumers will focus on the advertised base price and give less attention to the total amount, only to be disappointed later to discover fees have dramatically increased the final price. We cannot be sure, but perhaps the reason cable companies choose to use add-on fees is because they are so effective at diverting consumers' attention from the total price and increasing revenue. Sadly, if these studies are to be believed, we conclude that no matter how well fees are disclosed, consumers will continue to be confused and frustrated if those fees remain separated from the base price.

## **4.2 The Problem Is Getting Worse**

We further conclude that the consumer harm caused by company-imposed fees is getting worse, as both the number and cost of fees are increasing.

### ***The Number of Company-Imposed Fees Is Rising***

The number of line-item charges on the average monthly bill has grown to more than a dozen in recent years, and the recent appearance of new mandatory fees suggests that this trend will continue if unchecked by effective laws or regulations.

One example: As noted earlier, Frontier and RCN have begun charging new company-imposed fees for internet access. Frontier calls it an Internet Infrastructure Surcharge and RCN calls it a Network Access and Maintenance fee. Both are mandatory. With the addition of these new fees, even internet-only consumers, including so-called cord-cutters, are unable to avoid add-on fees.

Another example: Consumers used to be able to avoid an equipment fee by purchasing their own routers; but Frontier recently began charging a

router fee even to those consumers who use their own equipment—in effect, adding a new mandatory fee.

Where does it stop? The FCC opened this Pandora’s Box more than 25 years ago when it permitted the itemization of all fees on cable bills. If a cable company can charge a router fee even to customers who don’t need a router, or an Internet Infrastructure Surcharge that purportedly funds the sort of normal capital investments one would expect of a modern telecommunications company, it would appear the sky’s the limit for new company-imposed fees.

### ***The Cost of Company-Imposed Fees Is Increasing, Hurting Consumer Pocketbooks***

After analyzing hundreds of cable bills, we discovered that company-imposed fees added almost a 25% surcharge of the base package price to a consumer’s monthly bill. In the months after we requested that consumers share their bills, several cable companies increased their Broadcast TV Fees and Regional Sports Fees, among others. Should this inflationary trend continue, we might expect the mark-up above and beyond the base price to rise.

These are not inconsequential fee increases. The 2018 settlement the Massachusetts attorney general brokered with Comcast indicated the sort of pocketbook harm company-imposed fees cause consumers. The fact that the attorney general alleged that thousands of consumers were deceived by Comcast’s failure to properly disclose company-imposed fees suggests consumers were unaware of both the cost and even the existence of those fees. And when the attorney general further alleged that fees added up to 40% more to the advertised price, we can imagine consumers quickly realized their monthly bill was much more expensive than what they had anticipated. Consumers who couldn’t afford the higher bill might have wisely decided to either downgrade and cease service. But, those budget-conscious consumers were further harmed when they were charged an exorbitant termination fee to get out of their fixed-rate promotion.

Unfortunately for consumers, we have no reason



to believe that the increasing costs of company-imposed fees will slow down anytime soon, if ever. One of the most alarming facts our work uncovered was just how quickly these fees have risen in price, and the ever larger portion they comprise in a monthly cable bill. We fear that as these fees become more expensive, and because fees are not consistently disclosed in a transparent manner, the harm that company-imposed fees cause consumers will continue in lock-step.

The weight of the evidence convinces us that the consumer harm caused by company-imposed fees must be mitigated. Company-imposed fees routinely confuse consumers and add a significant cost to monthly bills. The cable industry does this by taking advantage of a decades-old regulation that permits the itemization of fees of all kinds. That legal right has been abused. In the next section, we make recommendations for reining in these practices.



## 5. Policy Recommendations for Eliminating Company-Imposed Cable Fees

Policymakers have a range of options to consider for cleaning the cable marketplace of excessive company-imposed fees. Consumers are frustrated, upset and tired of being forced to pay increasingly expensive and mandatory fees, like the Broadcast TV Fee. Legislators, regulators, and law enforcement officials can and should act to provide consumers much-needed relief. And consumers can pursue better purchasing choices in the pay-TV market that incur fewer fees.

### **Recommendation #1: Congress Should Change the Law to Eliminate the Separate Listing of All Fixed Fees Required for Service**

The surest and most effective way to get rid of company-imposed fees in cable bills would be for legislators to eliminate them in order to protect their constituents. Introduced earlier this year, the

Truth-In-Billing, Remedies, and User Empowerment over Fees (TRUE Fees) Act would require telecom providers, including cable companies, to list a single advertised price inclusive of all fees, government and company-imposed alike. Only taxes that vary by locality could be charged separately. The TRUE Fees Act was written by Representative Anna Eshoo and Senator Ed Markey and awaits consideration in the House and Senate.<sup>62</sup> The legislation is endorsed by Consumer Reports.

The bill would also allow consumers to end their contract without early termination fees, if the provider increases fees; prevents arbitrary price hikes on equipment fees, unless the equipment is actually improved; and prohibits forced arbitration clauses for wrongful billing errors.

The TRUE Fees Act is a modest measure that would inject true transparency into the opaque billing practices of the cable industry. Fees would no longer be hidden in the fine print, and the advertised package price would more accurately reflect what consumers will actually pay each month.

## Recommendation #2: The FCC Should Eliminate Line-Item Fee Permissibility of Company-Imposed Fees

The 1992 Cable Act permitted cable operators to identify certain fees as separate line-items, which had the practical effect of those fees being separated from the advertised price.<sup>63</sup> Section 622(c) of the statute indicates that certain fees can be itemized, including charges relating to franchise agreements, as well as “the amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber.”<sup>64</sup> The FCC was charged with writing the regulations to implement that law, and the Commission subsequently made it clear that cable operators were permitted, but not required, to itemize government-imposed fees (identified as regulatory pass-through fees in our analysis) in customer bills.

The Cable Act did not expressly limit itemization of fees to government-imposed costs. Specifically, the statute says government-imposed fees *may* be itemized, but it did not say that *only* those fees may be itemized.<sup>65</sup> So, when implementing the law the FCC opened the door to itemization of fees related to, for example, retransmission consent of broadcast or regional sports networks, stating:

We understand that the purpose of Section 622(c) is to assure that there are no regulatory obstacles placed in the way of cable systems identifying certain governmentally imposed costs on subscriber bills. System operators are not required by this provision to undertake any such itemization, *nor does the provision, by itself, preclude the itemization of additional costs (whether or not governmentally imposed) or otherwise mandate that subscriber bills have any particular format or content.*<sup>66</sup>

Specifically, the FCC stated, in a footnote, that fees related to copyright and retransmission consent obligations may be itemized if not prohibited by law.

We recognize that there will be costs associated with cable systems complying with their copyright and retransmission consent obligations. *These may be identified to*

*subscribers if that is done in a manner that does not conflict with other provisions of the law (e.g. prohibited by franchise agreement).*<sup>67</sup>

Notwithstanding those statements, and because the issue is not directly addressed by the statutory language, the FCC can and should change its position regarding itemization of company-imposed fees.

Though the initial deadline for filing a petition for reconsideration has long since expired, the FCC retains the authority to suspend, revoke, amend, or waive regulations, subject to the Administrative Procedure Act.<sup>68</sup> This can be done on the FCC’s own motion or, if “good cause” is shown, on a petition. And recent Supreme Court decisions confirm the Commission’s authority to change a long-standing policy—as long as it recognizes that it is making a change, ensures that the change is permissible under the statute, and provides good reasons for the new policy.<sup>69</sup> The findings of this report provide more than enough good reasons to justify abolishing company-imposed fees in cable bills through a new rulemaking proceeding.

## Recommendation #3: Overhaul or Evolve the Retransmission Consent Regime

As explained earlier, cable companies routinely cite the rising costs of obtaining programming from broadcasters as the reason they charge company-imposed fees like the Broadcast TV Fee. Congress has the authority to right this wrong. An ambitious approach would overhaul the 1992 Cable Act and do away with the retransmission consent regime altogether. Such solutions have been considered during Congressional hearings, and legislative proposals have been introduced in the past.

More recently, Representatives Eshoo and Steve Scalise introduced the Modern Television Act of 2019 on July 25, 2019. Among other things, this bill would scrap the current retransmission consent system in favor of private market copyright negotiations as the better way for pay-TV operators to obtain programming from broadcasters and others. The legislation would also enact new measures to protect consumers for station blackouts caused by failed negotiations,

and allow for binding arbitration as a way to broker deals between cable companies and broadcasters when all else has failed.

Congress must consider bold steps that rid consumers of a decades-old legal framework that has resulted in the expensive, mandatory Broadcast TV Fee, station blackouts, and other consumer harms. The Modern TV Act proposes an overhaul of the current retransmission consent regime and the time is right to at least discuss alternatives to the status quo.

Short of that, a more modest solution would improve the present system by adding more transparency. Currently, retransmission consent agreements between broadcasters and cable companies are private and can be kept confidential; therefore, consumers have no idea what cable companies are truly paying broadcasters for the right to carry network programming. Some cable companies have even claimed that their costs exceed what they are charging consumers.<sup>70</sup> But without seeing these actual contracts, who knows if this is true or not?

We propose that retransmission consent agreements should be published at the FCC and open to public inspection. This is not a new idea.<sup>71</sup> Alternatively, this data could be sent to the FCC and the Commission could certify that the fees subsequently charged to consumers are cost-based. Then, at the very least, consumers could be better assured that the steep escalation of company-imposed fees tied to broadcast and sports programming is indeed correlated to increased retransmission consent fees.

#### **Recommendation #4: Enforce the Law**

As detailed earlier, state attorneys general can enforce their states' consumer protection laws over cable companies, in particular the ability to police fraudulent or deceptive trade practices.

The very practice of burying company-imposed fees in the fine print and failing to include them in fixed-rate promotions may not be a fair business practice when consumers experience bill shock. Allegedly misrepresenting company-imposed fees by describing them as government fees prompted

the attorney general of Minnesota to file suit against Comcast. And placing company-imposed fees into consumers' bills without their consent was found illegal by a judge in Washington State.

We encourage more state attorneys general, as well as the federal government, to investigate how company-imposed fees are being charged and represented by cable companies. The results of our own secret shopper investigation suggest a disturbing amount of misrepresentation of company-imposed fees, and our survey results confirm consumer frustration with fees in telecom bills. Furthermore, a reasonable assessment of the serious allegations leveled against the cable industry in Massachusetts, Minnesota and Washington suggests that further investigation is warranted to determine if similar wrongdoing is occurring in other states.



#### **Recommendation #5: Cut the Cord**

Our final recommendations rely upon consumer action. Cord-cutting describes when a consumer cancels the video portion of her cable subscription and retains only internet service. (Some prefer the term “cord-shaving” because the consumer still relies on, and pays, the cable company for internet access service.) Cord-cutting is an effective way to avoid the majority of company-imposed cable fees because most are attached to video service. For example, an internet-only consumer doesn't pay a Broadcast TV Fee or a set-top box Rental Fee.

With only an internet connection provided by the cable company, some cord-cutters use an antenna to receive free over-the-air broadcast channels.

Other cord-cutters increasingly rely on other services—loosely called online video distributors (OVDs)—for video content, delivered via the internet. Some OVDs like Netflix, Amazon Prime and Hulu deliver content on a subscription basis, permitting consumers to access whole libraries of stored content as well as new content exclusive to the OVD. More recently, OVDs like SlingTV, PlayStation Vue, DIRECTV Now, YouTube Live, Fubo, and others offer packages of live streaming video services that replicate a traditional live television product. The actual number and types of channels vary by service, and may not include all local television channels.

Many if not all of these OVDs are provided free of company-imposed fees. Any hardware requirements are a small, one-time investment versus a recurring set-top box Rental Fee that averages close to \$20 a month according to our bill analysis. Not surprisingly, OVD service is becoming increasingly popular with consumers.<sup>72</sup>

Unfortunately, our bill analysis showed that dubious company-imposed fees are being attached to stand-alone internet access service, as if the cable companies are preparing for more cord-cutting and preemptively slapping the same kinds of add-on fees on cord-cutters. Bills issued by Frontier Communications contain an Internet Infrastructure Surcharge, and RCN bills include a Network Access and Maintenance Fee. Both fees are mandatory. Even more preposterous, Frontier is now charging consumers a \$10 a month Router Fee regardless of whether a consumer actually leases the router equipment from Frontier.<sup>73</sup> As such, cord-cutting is likely a limited and imperfect solution to the problem of company-imposed fees.

We are also concerned that the repeal of the FCC's net neutrality rules in 2018 threatens the future of these competing OVD services. Because the incumbent cable company who is losing market share to OVDs often provides the very internet access service that connects consumers to them, it is all-too-easy for anti-competitive mischief to emerge. Cable companies, who are also internet service providers, could employ future business models that favor their competing services over independent OVDs.<sup>74</sup> We fear that if such

practices spread, competition would be stifled, and consumer choice reduced if OVDs are forced out of the market.



### **Recommendation #6: Negotiate**

Finally, our last recommendation is old-fashioned, but sometimes effective: negotiate with the cable company. We learned from our consumer-led research, where nearly 300 Charter consumers contacted the company to complain about a second increase of the Broadcast TV Surcharge in just three months, that CSRs will occasionally cut a deal with consumers. Of the 285 consumers who contacted Charter, 19 were either given a fee waiver or credit, advice on how to cut costs (either by downgrading services or reducing the number of set-top boxes), a free channel or two, or enrolled in a new promotional package that effectively reduced the monthly price.

Unfortunately, the overwhelming response given to consumers was negative, that no bargains or fee credits were to be had, even when directly asked whether or not the fee could be waived or if the fee was negotiable. Because of this, we can only suggest negotiation as a solution to runaway fees with reservation—consumers are more likely than not to be refused any help by CSRs.



## APPENDIX A: Methodology for the “What the Fee?!” Campaign CR Cable Bill Report

The What the Fee?! Campaign analyzed data derived from actual cable bills collected from volunteers from Consumer Reports’ activist list between June and August of 2018 (only one month’s bill from each volunteer). We extracted itemized fee names and their respective amounts included within the total cable bill cost, as well as the customer’s name, general location, the company through which the customer receives the cable service, whether the service is Satellite or Non-Satellite, and what type of package the customer has with the company (e.g. internet service only, TV + internet + phone bundle, etc.). The fee information was categorized into six main fee categories: company-imposed fee(s), government fees & taxes, package fee, premium service fee(s), miscellaneous fee(s), and discounts. Within each fee category are several more descriptive fee types (e.g. within company-imposed fee(s), there are fee types such as broadcast and cable modem fees that itemized fees fall under).

To make the table Non-Satellite TV Customer Cable Bills 2019, we extracted and used only the data from non-satellite TV service customers, providing information from 787 bills. From these bills, we

counted the total number of fees that fell into one of the six fee categories. We also counted the total number of fees that fell into one of the several fee types within each category. From these counts we calculated the percentage of people who were affected by each fee type by dividing the fee type count by the total number of bills. The minimum, maximum, and average values for each fee type over all of the bills were also calculated. We also made similar tables that were company specific; we counted the total number of bills from each company, then counted the number of fees that fell into each fee type. The percentages of customers affected by the fees within each company were calculated by dividing the fee type counts by the total number of bills from each company.

The pie charts for Non-Satellite TV Customers used the same 787 bills as previously stated. We calculated the average cost a consumer would pay a month for their cable bill by finding the mean monthly cost of all of the 787 bills without the discounts (by adding the discount totals to the discounted bill of each applicable consumer). We also found the average cost of each of the five remaining fee categories from all 787 bills. The percentages in the pie chart for each fee category were calculated by dividing the average cost of the fee categories each by the average total cost a consumer would pay a month for their cable bill.

## APPENDIX B: CR Letters to Pay-TV CEOs and Responses

On May 18, 2018, Consumer Reports sent letters to 11 leading pay-TV companies to raise our concern about company-imposed fees and the confusion they cause consumers.<sup>75</sup> Letters were sent to: AT&T, Altice USA, CenturyLink, Charter Communications, Comcast Corporation, Cox Communications, DIRECTV, Dish Network, Frontier Communications, Verizon Communications, and RCN.

Attached below is a copy of the letter sent to Comcast. The text of the other 10 letters was the same.



May 18, 2018

Brian L. Roberts, Chairman & CEO  
Comcast  
One Comcast Center  
Philadelphia, PA 19103

Dear Mr. Roberts:

Consumers Union, the advocacy division of Consumer Reports, is an expert, independent, nonprofit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. We are writing to express concern about the growing reliance on added—and often hidden—fees among pay-TV and internet service providers (ISPs), and the confusion that they cause in the marketplace. We are seeking to open a dialogue with you regarding industry billing practices and the importance of transparency in consumer pricing.

Consumers often complain that pay-TV and ISP bills are confusing, and that the fees included within their bills make it close to impossible to predict the actual monthly expense or to understand how and when the bill may increase. These concerns are warranted. In a recent report, the FCC cited to a “relatively new strategy” among pay TV providers:

A relatively new strategy for addressing increased programming costs involves listing ‘broadcast fees’ and ‘regional sports fees’ separately on customers’ monthly billing statements. The strategy raises monthly bills while typically leaving the advertised prices for video packages unchanged.<sup>1</sup>

Consumers Union has long maintained that consumers should have access to full pricing information when they are comparison shopping. Whether purchasing an airline ticket, buying a vehicle, or subscribing to a telecom service, consumers should be able to rely on the fact that the advertised price of a product or service reflects the true and full amount they must pay, without any hidden extra costs. **We urge all pay-TV providers and ISPs to include the full cost of service in the base price so that consumers know the actual price they will pay, and can effectively compare the prices of different services.**

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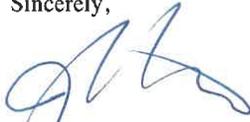
<sup>1</sup> FCC Report, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming (Eighteenth Report)*, Media Bureau (January 17, 2017), at ¶ 49; available at [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-17-71A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-17-71A1_Rcd.pdf); see also James Wilcox, *Your Cable Bill Probably Went Up More Than You Think*, Consumer Reports (March 14, 2018) <https://www.consumerreports.org/tv-service/your-cable-bill-probably-went-up-more-than-you-think/>.

This is not a new idea. The FCC's Consumer Advisory Committee (CAC) issued a recommendation in 2016 that pay-TV and other telecom 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.<sup>2</sup>

Given the incomplete information available about the fees charged in this marketplace, we will be reaching out to American consumers over the next few months asking them to share their detailed experiences with pay-TV billing and to provide us with copies of their bills. While this work with consumers is underway, we will also contact you to request a meeting with you and other leaders in your organization.

Our goal is to open a line of communication so that we can share our vision of a transparent marketplace for pay-TV and internet service and learn more about the billing practices at your company. We would welcome your response by June 22, 2018. Thank you in advance for your assistance.

Sincerely,



Jonathan Schwantes  
Senior Policy Counsel  
Consumers Union, Advocacy Division of Consumer Reports  
1101 17th Street, NW Suite 500  
Washington, DC 20036

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<sup>2</sup> FCC Consumer Advisory Committee, *Recommendation Regarding "No Surprises" Billing*, (October 14, 2016) available at [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-341797A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-341797A1.pdf).

Consumer Reports received written responses from Charter, Comcast, and Verizon. They are attached here for review. Frontier replied to us via telephone, and scheduled a conference call to discuss their response to our letter. The other seven companies did not respond.



**Catherine Bohigian**

Executive Vice President  
Government Affairs

August 17, 2018

Mr. Jonathan Schwantes  
Senior Policy Counsel  
Consumers Union, Advocacy Division of Consumer Reports  
1101 17<sup>th</sup> Street, NW Suite 500  
Washington, D.C. 20036

Dear Mr. Schwantes:

I am writing in response to your May 18, 2018 letter, regarding Charter's disclosure of certain fees to its video customers. Charter's long-standing practice has been to provide customers with simplified service packages and bills that are transparent about additional charges. In fact, Charter has been an industry leader in limiting the number of additional fees that are included on consumers' bills.

Although your letter focuses on a narrow set of common fees for video services, we believe it would be useful to provide a comprehensive overview of Charter's customer-friendly business practices, which the company has also been rolling out in former Time Warner Cable and Bright House Networks territories since the merger in 2016. Charter's approach is to offer simple, uniform pricing for its suite of services across our service area. As a result, Charter's pricing has provided customers with simplicity and the confidence of knowing that the same low pricing is offered wherever that customer may be located across Charter's footprint. Moreover, we do not impose early termination fees on any of our services. Consumers can terminate service at any time with no penalty, including all customers in former Time Warner Cable and Bright House Networks markets. With regard to our broadband service, Charter has taken significant steps to provide clear and simple pricing for our internet services by offering uniform pricing across our service area without any data caps, usage-based pricing, or modem fees. Charter also does not impose other separate additional fees on our voice services that are common in the industry such as federal Universal Service (USF) fees, state USF fees, subscriber line fees and E911 fees.<sup>1</sup>

With regard to our video service, Charter has also taken a pro-consumer approach based on simplicity and transparency. Charter's most widely purchased video service, Spectrum TV, does not have a stand-alone fee for regional sports networks. While all of Charter's customers are eligible to subscribe to Spectrum TV at any time, some customers, particularly in former Time Warner Cable and Bright House Networks service markets, have chosen to keep grandfathered video packages, which may include a Regional Sports Fee depending upon the package. However, the number of customers with grandfathered packages continues to shrink as more and more customers in these markets are making the transition to Charter's uniform pricing plans.

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<sup>1</sup> These broadband and voice fees continue to apply to certain legacy packages where the customer has not yet upgraded to our current service offerings. That number continues to decline as more customers transition away from the legacy packages.

Charter believes that it is also important for consumers to understand the factors that contribute to increases in their cable rates, but are outside of Charter's control. Under federal law, cable providers must obtain "consent" to carry local television broadcast signals. These local TV signals were historically made available at no cost or low cost. However, in recent years the prices demanded by local broadcast TV stations for retransmission consent have increased dramatically. In 2008, broadcast stations collected slightly more than \$500 million in retransmission consent fees.<sup>2</sup> According to SNL Kagan, gross retransmission consent fees are expected to rise 8.9% in 2018 to \$10.23 billion, from \$9.42 billion in 2017, and to \$12.82 billion by 2023.<sup>3</sup> We have therefore elected to identify these costs separately in the form of an itemized Broadcast TV Surcharge.<sup>4</sup> The FCC expressly permits cable video programming providers to separately itemize their programming costs on customer bills and other carriers have broken out these costs in a similar way.<sup>5</sup>

Whether signing up for Charter's services online or by phone, Charter discloses that monthly rates may be subject to fees and surcharges. For example, when ordering online, offers include language explaining that other fees and surcharges may apply. Charter discloses additional details about these fees and surcharges, including the exact amount of the Broadcast TV Surcharge, through a hyperlink made available on our website. Once the customer provides Charter with a location and selects a package, she or he is taken to a shopping cart, where Charter prominently displays the initial order total and the ongoing monthly charge for service, with a disclosure that additional fees and surcharges, including a broadcast fee may apply. The vast majority of the markets we serve already include an express reference to the Broadcast TV Surcharge during the online ordering process and the remaining markets are in the process of being updated.

As such, customers are providing their affirmative consent to all of the charges, including fees and surcharges, associated with their order *before* they incur any costs. Customers who order service over the phone are similarly provided with a complete list of services ordered and an "all-in" price before the order is completed.

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<sup>2</sup> See Lacey Rose, *The Retransmission War*, Forbes (Dec. 30, 2009), <https://www.forbes.com/2009/12/30/time-warner-cable-business-entertainment-fox-retransmission.html#6dbcd4bc66fc>.

<sup>3</sup> See Mary Collins, *Forecasting the Future for Retrans Revenue*, TVNewsCheck (May 11, 2018), <https://tvnewscheck.com/article/113507/forecasting-the-future-for-retrans-revenue/>.

<sup>4</sup> Charter is not alone in charging a Broadcast TV Surcharge. Others in the multi-video programming distribution industry, including AT&T U-Verse, DirecTV, Verizon FiOS and Comcast, have implemented similar fees to account for rising retransmission consent costs.

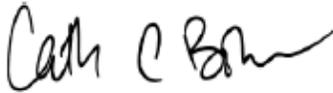
<sup>5</sup> See *In re Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992; Rate Regulation*, Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd. 5631 ¶ 547 & n.1402 (1993) ("recogniz[ing] that there will be costs associated with cable systems complying with their copyright and retransmission consent obligations," and stating that such costs can be separately itemized and "identified to subscribers if that is done in a manner that does not conflict with other provisions of the law (e.g. prohibited by a franchise agreement)").

Once an order is completed, Charter sends an email to the customer confirming the total monthly cost of service, including the Broadcast TV Surcharge and estimated taxes and fees. Additionally, if a customer subsequently decides to terminate service for any reason, as explained above, Charter allows all customers to cancel service *at any time* without incurring a penalty.

Finally, on the customer bill itself, Charter is careful to include the Broadcast TV Surcharge in a section that is separate from the fees associated with government-mandated taxes and fees. This approach complies with all applicable laws and regulations, and furthers transparency by preventing customer confusion between additional charges, such as the Broadcast TV Surcharge, and government-mandated fees.

I hope that this information is helpful to your inquiry. Please do not hesitate to contact me if you have any questions.

Sincerely,



Catherine Bohigian  
Executive Vice President, Government Affairs  
Charter Communications



Comcast Corporation  
One Comcast Center  
Philadelphia, PA 19103  
[www.comcastcorporation.com](http://www.comcastcorporation.com)

**Lynn R. Charytan**  
EVP, General Counsel,  
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Comcast Corporation  
215-286-8984 (Philadelphia)  
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[lynn\\_charytan@comcast.com](mailto:lynn_charytan@comcast.com)

June 20, 2018

Mr. Jonathan Schwantes  
Senior Policy Counsel  
Consumers Union, Advocacy Division of Consumer Reports  
1101 17<sup>th</sup> Street, NW Suite 500  
Washington, DC 20036

Dear Mr. Schwantes:

This letter responds to your May 18, 2018 inquiry regarding Comcast's disclosure of the regional sports network ("RSN") and broadcast television ("BTV") fees to consumers. We appreciate the opportunity to provide clarity on this matter. As detailed further below, Comcast discloses these fees to consumers in its rate cards, advertising, online, and during the ordering process so that customers have access to full pricing information from Comcast when they are comparison shopping and know what to expect on their first bill before they sign up for service. We also seek affirmative consent from customers during the ordering process to these and all fees and charges associated with the customer's order, so that there is no confusion about the pricing.

In recent years, we have vastly expanded the value of the service we deliver to our video customers by providing them, without charge, enhanced technology and applications available on the X1 platform (including Netflix, YouTube, Sling TV, Spotify, Pandora, among many others); engaging features such as our Sports App that takes a sports fan's experience to a new dimension; a rich and expanded catalogue of video on demand; the ability to watch customers' favorite shows and movies not just on TVs, but also on iPads, mobile devices, and PCs via Xfinity Stream; and more choice for our customers on ways to watch their preferred content -- via an SVOD on our X1 platform, free on demand, rental on demand, and electronic sell-through.

At the same time, the costs to carry regional sports programming and broadcast television have been going up dramatically, and we defray the increased costs of carrying RSNs and broadcast stations through the RSN and BTV fees. Itemizing these fees provides greater transparency for our customers about the source of the necessary increases to their programming packages. It is important to note that our industry peers, including AT&T U-Verse, DirecTV, Verizon Fios, and Charter, are also impacted by rising programming costs and have implemented similar fees.

Comcast's BTV fee was introduced in January 2014 and applies to all subscribers, as the Communications Act requires that all cable subscribers must receive local broadcast stations. Comcast's RSN fee was introduced in January 2015 and applies to subscribers in tiers that include RSNs, such as Digital Starter and Digital Preferred. Customers who subscribe to service tiers that do not include RSNs, such as Limited Basic and Digital Economy, are not assessed the RSN fee. The fees Comcast charges in a particular market are specifically designed not to exceed Comcast's broadcast/RSN-related costs in that market.

Throughout the customer experience – including in our marketing materials, sales and ordering process, annual rate cards, and our customer support and education channels – we disclose that customers will be subject to one or both fees. Because the amounts of the BTV and RSN fees vary across markets and depend in part on the level of service taken by a customer, our marketing materials cannot include a specific charge that would apply in all cases. For example, each offer online includes “Pricing and Other Info” that states, among other things: “Equipment, additional installation, taxes and fees, including regulatory recovery fees, Broadcast TV Fee (up to \$8/mo.), Regional Sports Fee (up to \$6.75/mo.) and other applicable charges [are] extra, and subject to change during and after the promo.” However, once a customer provides Comcast with information regarding location and choice of package, Comcast is able to provide the specific BTV and RSN fees that will appear on the customer's bill. As can be seen in the attached example, Comcast discloses the total cost of service to customers, including the BTV and RSN fees, *before* the customer completes the order for service, and additional details about the BTV and RSN fees are included in the “Offer & Pricing Details,” which expressly note that the BTV and RSN fees “are subject to change during your promotion or term agreement.”

Furthermore, as noted, customers must affirmatively consent to all of the charges associated with their order – including the specific BTV and RSN fees that apply to their services – prior to the order being placed. This full list of services being ordered, as well as associated prices and BTV and RSN fees, are presented to customers for approval whether the customer orders service online or over the telephone.

Once the customer completes the order, Comcast sends an e-mail confirmation reiterating this information. An example of an order confirmation e-mail is attached, which again highlights the BTV and RSN fees among the other charges and specifies “[i]mportant information about your offer,” including that the “Broadcast TV Fee and Regional Sports Fee are subject to change during your promotion or term agreement.” And if a customer was to later reconsider her order because of one or both of these fees, Comcast also allows all customers to cancel service within 30 days from the date service is installed/activated without incurring a penalty.

We note that the FCC has expressly permitted bill itemization of programming costs.<sup>1</sup> Comcast takes care to include the BTV and RSN fees in a separate section of the bill from the fees associated with government-mandated taxes, surcharges, and fees (such as franchise and PEG-related fees). This approach complies with all applicable laws and regulations and furthers transparency by preventing customer confusion between the BTV and RSN fees on the one hand, and government-mandated fees on the other.

I trust that this information is responsive to your request.

Sincerely,

A handwritten signature in blue ink that reads "Lynn R. Chang". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Executive Vice President & General Counsel

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<sup>1</sup> See *In re Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992; Rate Regulation*, Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd. 5631 ¶¶ 547 & n.1402 (1993) (“recogniz[ing] that there will be costs associated with cable systems complying with their copyright and retransmission consent obligations,” and stating that such costs can be separately itemized and “identified to subscribers if that is done in a manner that does not conflict with other provisions of the law (e.g. prohibited by a franchise agreement)”).

We need your approval on a few things.

Please review the details below and approve.

Monthly Charges

Your XFINITY Plan	
X1 STARTER TRIPLE PLAY <b>TV</b> <b>INTERNET</b> <b>VOICE</b>	\$104.99/mo
TV Digital Starter Internet Blast! Internet Voice CDV Unlimited Primary Line	
<ul style="list-style-type: none"> <li>The pricing for X1 Starter Triple Play is subject to the terms of your 24-month term agreement:                             <ul style="list-style-type: none"> <li>\$104.99 per month for 24 months</li> <li>\$230 Early Termination Fee for TV, Internet, Voice applies.</li> <li>You'll receive a \$150 Prepaid card, if you maintain this offer for 90 days.</li> <li>Your introductory pricing may be reduced by a \$5 monthly discount for signing up for EcoBill® paperless billing and automatic payments.</li> </ul> </li> </ul>	
Streampix	Included
Equipment & Services	
HD Technology Fee <ul style="list-style-type: none"> <li>Included for 24 months, then regular rates apply</li> </ul>	\$0.00/mo
DVR Service <ul style="list-style-type: none"> <li>Included for 24 months, then regular rates apply</li> </ul>	\$0.00/mo
Extreme 150 Internet	\$10.00/mo
Non-Published Listing	\$4.50/mo
Additional XFINITY Monthly Charges <a href="#">Why am I being charged?</a>	
BROADCAST TV FEE	\$7.00/mo
REGIONAL SPORTS FEE	\$4.50/mo
Taxes, Surcharges, & Fees	
Estimated Taxes, and Government & Other Fees	\$8.66/mo

Estimated Monthly Bill: \$139.65/mo  
[See Offer & Pricing Details](#)

One-Time Charges

Installation Fees	
Professional Installation	\$60.00

One-Time Charges Total: \$60.00

Order Summary

Estimated Monthly Bill	\$139.65/mo
One-Time Charges	\$60.00

Due Today

Due Today	\$100.00
<input type="checkbox"/> By checking this box and clicking on I Agree, I am representing that: <ul style="list-style-type: none"> <li>I am at least 18 years old</li> <li>I understand and agree that I will be billed for the applicable services and equipment described in this order.</li> <li>I agree to the Customer Agreement for Residential Services and the Comcast Customer Privacy Notice</li> </ul>	
<input type="button" value="I Agree"/>	



## We're working on your order!

Hello, check out a summary of your order below or online anytime at My Account.

[Go to My Account](#)

While you're signed in, you can manage upcoming installations and set your account settings. Your order summary is also available at [My Plan](#).

You'll need your **XFINITY username** to log in.  
Don't have one yet? [Set one up now](#).

As part of our commitment to deliver the best experience possible, if you see something isn't quite right with your order, please contact us right away and we will do our best to assist you with your concern.

### Your Installation Information

**Order Number:** 1000619285022104

**Installation Appointment:** Saturday, December 09, 3:00pm-5:00pm

**Service Address:** 660 MAINSTREAM DR RM T068 , FT CAMPBELL , KY , 42223

[Questions about your installation?](#) | [Prepare for installation](#)

## Here is a summary of your order

### Monthly Charges

#### Your XFINITY Plan

X1 STARTER TRIPLE PLAY	\$104.99 / mo
TV Digital Starter	
Internet Blast! Internet	
Voice CDV Unlimited Primary Line	

- The pricing for X1 Starter Triple Play is subject to the terms of your 24-month term agreement: \$104.99 per month for 24 months.  
\$230 Early Termination Fee for TV, Internet, Voice applies.  
You'll receive a \$150 Prepaid card, if you maintain this offer for 90 days.  
Your introductory pricing may be reduced by a \$5 monthly discount for signing up for EcoBill® paperless billing and automatic payments.

Streampix	Included
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#### Equipment & Services

Extreme 150 Internet	\$10.00 / mo
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Non-Published Listing	\$4.50 / mo
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HD Technology Fee	Included
● Included for 24 months, then regular rates apply	

DVR Service	Included
● Included for 24 months, then regular rates apply	

### Additional XFINITY Monthly Charges

Broadcast TV Fee	\$7.00 / mo
------------------	-------------

Regional Sports Fee	\$4.50 / mo
---------------------	-------------

### Taxes, Surcharges & Fees

Estimated Taxes, and Government & Other Fees	\$8.66 / mo
--	-------------

### One-Time Charges

#### Installation Fees

Professional Installation	\$60.00
Saturday, December 09, 3:00pm-5:00pm	

### Next Bill

<b>Estimated Monthly Bill</b>	\$139.65 / mo
(Excludes one-time charges.)	

Go to [xfinity.com/myplan](http://xfinity.com/myplan) for a view of your monthly services.

### Important information about your offer

Your statement is prepared one month in advance. Your next two bills may be different because of partial month charges or credits and any one-time charges.

Equipment, taxes, fees, and other charges, including Broadcast TV Fee and Regional Sports Fee, are subject to change during your promotion or term agreement.

### **Important note for XFINITY Internet customers**

An XFINITY Internet Data Usage Plan may apply. To learn more, visit the [XFINITY Data Usage Center](#).

### **Important note for XFINITY Voice customers**

When you disconnect your phone you won't be able to make or receive any calls, including 911. Until your equipment is reconnected and activated at your new place, be sure to have another way to get help in case of emergency.

### **Customer Agreements, Policies & Service Disclosures**

To view your user-level agreements, visit the Legal Agreements page in the Settings section of [My Account](#).

Your minimum term agreement will be available in My Account after your service installation.

Your XFINITY services are provided to you on the terms and conditions set forth in the [Comcast Agreement for Residential Services](#) and pursuant to the [Comcast Customer Privacy Notice](#). Should you have any questions, please [contact us](#). We will review and promptly respond to all questions.

Review your order details or for questions:

[My Account](#) | [Chat](#) | [XFINITY Store](#) | 1-800-XFINITY



All part of our commitment to you



\*Taxes and government and other fees are estimates and may include one-time sales taxes. Final taxes and fees will be calculated once your order is placed. Your regular monthly bill will reflect the final total tax, which includes state taxes, local taxes, and any applicable fees.

This is a service-related email. Comcast will occasionally send you service-related emails to inform you of service upgrades or new benefits.

Please do not reply to this email, it is not monitored. If you'd like to contact us, please visit our website [here](#).

Comcast respects your privacy. For a complete description of our privacy policy, click [here](#).

© 2017 Comcast. All rights reserved. All trademarks are the property of their respective owners.

Comcast Cable, One Comcast Center, 1701 JFK Boulevard, Philadelphia, PA 19103  
Attn: Email Communications

We need your approval on a few things.

Please review the details below and approve.

Monthly Charges

**Your XFINITY Plan**

X1 STARTER TRIPLE PLAY <span style="font-size: 0.8em; color: #0070C0;">TV</span> <span style="font-size: 0.8em; color: #0070C0;">Internet</span> <span style="font-size: 0.8em; color: #0070C0;">Voice</span>	\$104.99/mo
TV Digital Starter Internet Blast! Internet Voice CDV Unlimited Primary Line	
<ul style="list-style-type: none"> <li>• The pricing for X1 Starter Triple Play is subject to the terms of your 24-month term agreement. \$104.99 per month for 24 months.</li> <li>\$230 Early Termination Fee for TV, Internet, Voice applies.</li> <li>You'll receive a \$150 Prepaid card, if you maintain this offer for 90 days.</li> <li>Your introductory pricing may be reduced by a \$5 monthly discount for signing up for EcoBill® paperless billing and automatic payments.</li> </ul>	

## Offer & Pricing Details

An Early Termination Fee of \$230.00 for X1 Starter Triple Play will apply if you cancel all services, with the exception of XFINITY Mobile, during the term of the agreement. The Early Termination Fee will NOT apply if you cancel within THIRTY (30) DAYS of installation and it will decrease every MONTH.

\$150 Prepaid Card will be sent within 16-18 weeks of service activation. To qualify for your reward, you must confirm the XFINITY offer associated with this reward, maintain the services required for the offer for 90 days, and keep your account in good standing.

Monthly charges may be reduced by a \$5 monthly EcoBill paperless billing and automatic payments discount during the term agreement or promotional period. The discount will appear on your bill within 45 days of enrolling in EcoBill paperless billing and automatic payments.

Equipment, taxes, fees, and other charges, including Broadcast TV Fee and Regional Sports Fee, are subject to change during your promotion or term agreement.

Your statement is prepared one month in advance. Your next two bills may be different because of partial month charges or credits and any one-time charges.

Broadcast TV Fee recovers costs associated with retransmitting broadcast TV signals, so we can air content from some of your favorite local stations.

Regional Sports Network Fee recovers costs associated with distributing regional sports networks, so all you sports fans can cheer on your home teams.

In this order

- I agree to the Customer Agreement for Residential Services and the Comcast Customer Privacy Notice

Agree



John Cullina  
Vice President and Deputy General Counsel

1320 Courthouse Road  
Arlington, VA 22201  
703-351-3035  
[john.s.cullina@verizon.com](mailto:john.s.cullina@verizon.com)

June 22, 2018

Via Federal Express

Jonathan Schwantes  
Senior Policy Council  
Consumers Union, Advocacy Division of Consumer Reports  
1101 17<sup>th</sup> Street, NW Suite 500  
Washington, DC 20036

Re: May 18, 2018, letter to Mr. Lowell McAdam

Dear Mr. Schwantes,

Thank you for your May 18th letter to Lowell McAdam concerning pricing transparency for pay-TV and internet services. We share your interest in making sure consumers have the information they need in an easy and accessible way and we work to be certain that they do. In response to your questions, below is additional information on how we explain to customers our prices, fees, and taxes.

We work hard to ensure that our pricing for our Fios services is transparent to customers in our advertisements and through our online and phone-based sales channels. (Note that our efforts to provide customers with a full understanding of their bill apply also to our services provided over our legacy copper facilities.) Our advertisements disclose the price of the service or bundled services being advertised, and the existence of additional taxes and fees. Moreover, we specifically enumerate the costs of additional fees that may apply, including the amount of the Broadcast Fee and Regional Sports Network Fee if relevant to the service being advertised.

When customers call to purchase Fios services, as a matter of practice we discuss the price of any stand-alone service or bundled plan the customer may choose, the equipment options available and associated costs, any additional service(s) the customer may choose, and the total monthly cost, including taxes and fees. We offer customers the ability to review this information in writing in real time with our sales agent by clicking on a link texted or emailed to the customer by our agent:



**Review.  
Confirm.  
Enjoy.**

[Review your order details](#), including an estimate of your monthly bill. Plus, create an account to get instant access to view/change your order, track order status, view/change your installation date and more.

[Review order >](#)

Upon clicking the link, the prospective customer enters an online flow that includes both an itemized display of the price for the services the customer is buying, equipment charges, and taxes and fees, and a “bottom-of-the-bill” total the customer can expect to pay (absent additional purchases, such as a pay-per-view event):

		<b>Your order summary</b>	
		<b>Services ordered</b>	—
<b>Services and discounts</b>			<b>Monthly amount</b>
<b>Triple Play</b>			<b>\$ 109.99</b>
<ul style="list-style-type: none"> <li>• Fios Digital Voice Unlimited <a href="#">View Assigned Phone Number(s)</a></li> <li>• Fios TV Ultimate HD <a href="#">View included channels</a></li> <li>• Fios Gigabit Connection</li> <li>• \$10 Auto Pay and Paper Free Discount Included</li> <li>• \$10 Special 36 Mo. Discount thru Jun 1, 2021</li> <li>• \$5 Bundle 24 Mo. Discount thru Jun 1, 2020</li> <li>• \$55 Special Bundle Discount Included</li> <li>• \$10 Special 24 Mo. Discount thru Jun 1, 2020</li> <li>• \$10 Self-Install 24 Mo. Discount thru Jun 1, 2020</li> <li>• \$10 Special 36 Mo. Discount thru Jun 1, 2021</li> </ul>			
Multi-Room DVR Enhanced Service			\$20.00
Rent: HD Set-Top Box 3			\$36.00
Rent: Fios Quantum Gateway Router			\$10.00
<b>Estimated Monthly Subtotal</b>			<b>\$175.99</b>
Taxes, Fees and Other Verizon Charges			\$7.27
Regional Sports Network Fee			\$7.89
Fios TV Broadcast Fee			\$4.49
<b>Estimated Monthly Charges</b>			<b>\$195.64</b>

We also present to the customer as part of this flow what the customer can expect on her first month's bill, which may at times include one-time and prorated charges (though that was not true for this customer):

<b>What to expect on your Jun 01, 2018 bill *</b>	—
<small>Verizon bills a month in advance. Your first bill with these services will vary due to partial month charges, one-time charges and duration of promotional discounts.</small>	
<b>Estimated Monthly Subtotal</b>	<b>\$175.99</b>
<b>One-Time Charges</b>	
<b>One-Time Charges Subtotal</b>	<b>\$0.00</b>
<b>Estimated Bill Subtotal</b>	<b>\$175.99</b>
Taxes, Fees and Other Verizon Charges	\$7.27
Regional Sports Network Fee	\$7.89
Fios TV Broadcast Fee	\$4.49
<b>Estimated Bill</b>	<b>\$195.64</b>

\*These estimates are not your actual bills, which will vary based on activation date, changes you make after the order, duration of promotional discounts, usage, balance, adjustments, or installments.



We emphasize to our sales agents the importance of providing transparent pricing to our customers and, through their efforts, nearly 90% of new customers go through this process when placing their first order for Fios services with us.

Immediately following the sale, we email a customer a confirmation of her order that, among other things, reiterates what a customer should expect her recurring charges to be and also states what the one-time charges will be on the first bill, with the ability to click through to see an estimate of the first bill. The following is a portion of an order confirmation sent to a customer who ordered a Fios Triple Play in April:

Services Ordered:	Monthly Amount
Triple Play	\$79.99
-Fios Digital Voice Unlimited	
-Custom TV Home & Family	
-Fios Gigabit Connection	
-\$10 Special 12 Mo. Discount thru Apr 6, 2019	
-\$10 Auto Pay and Paper Free Discount Included	
-\$10 Fios Custom TV 36 Mo. Discount thru Apr 6, 2021	
-\$5 Special 12 Mo. Discount thru Apr 6, 2019	
-\$5 Special 24 Mo. Discount thru Apr 6, 2020	
-\$65 Special Bundle Discount Included	
Rent: HD Set-Top Box 3	\$36.00
Rent: Fios Quantum Gateway Router	\$10.00

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<b>Estimated Monthly Subtotal</b>	<b>\$125.99</b>
Taxes, Fees and Other Verizon Charges (see detail)	\$4.93
Regional Sports Network Fee	\$7.69
Fios TV Broadcast Fee	\$4.49

**Estimated Monthly Total\*** **\$143.30**

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One Time Charges:	Charge
Fios Setup	\$69.99

**View an Estimate of your Bill**

To view an estimate of your 04/05/16 bill, click [here](#)  
 Glossary and Terms at [verizon.com/billmglossary](http://verizon.com/billmglossary)

Subsequently, our bills depict clearly what we charge our customers for the services provided. For example, for the customer sent the order confirmation shown above, the customer's first bill identified his charges for the month and his discounts, included frequently asked questions and an explanation of the surcharges applied, and presented this itemization of his first-month charges:

### Details of Charges

Includes discounts shown on page 2.

#### Fios Internet, TV & Phone Bundle

Your bundle includes Fios Gigabit Connection, Custom TV Home & Family and Fios Digital Voice Unlimited

Bundle Price \$79.99 4/6 - 5/5

Your monthly price after the discounts shown on page 2 were applied.

#### Services & Equipment

##### Equipment

Rent: Fios Quantum Gateway Router 10.00

Rent: HD Set-Top Box 3 36.00

Subtotal \$46.00 4/6 - 5/5

Equipment and additional services to personalize your Fios service.

#### Your One-Time Activities

Fios Setup 99.99 4/5

Charges that vary monthly based on your account activity.

#### Fees & Other Charges

##### Taxes, Governmental Fees & Surcharges

DE Lessee Tax .92

Telecommunications Relay Service .02

E911 .60

##### Verizon Surcharges & Fees

Federal Universal Service Fee 1.31

DE Gross Receipts Tax - Cable 3.13

Regulatory Recovery Fee - Federal .08

Regional Sports Network Fee 7.89

Fios TV Broadcast Fee 4.49

FDV Administrative Charge .99

Subtotal \$19.43

Includes both Verizon fees and governmental taxes and fees. For details, visit [verizon.com/taxesandfees](http://verizon.com/taxesandfees).

**Total Due** \$245.41

The customer's second bill again stated his charges for the month and his discounts, included frequently asked questions and an explanation of the surcharges applied, and presented this itemization of the customer's second-month charges:

## Details of Charges

Includes discounts shown on page 2.

<b>Fios Internet, TV &amp; Phone Bundle</b>			Your monthly price after the discounts shown on page 2 were applied.
Your bundle includes Fios Gigabit Connection, Custom TV Home & Family and Fios Digital Voice Unlimited			
Bundle Price	\$79.99	5/6 - 6/5	
<b>Services &amp; Equipment</b>			Equipment and additional services to personalize your Fios service.
<b>Equipment</b>			
Rent: Fios Quantum Gateway Router	10.00		
Rent: HD Set-Top Box 3	36.00		
Subtotal	\$46.00	5/6 - 6/5	
<b>Fees &amp; Other Charges</b>			Includes both Verizon fees and governmental taxes and fees. For details, visit <a href="http://verizon.com/taxesandfees">verizon.com/taxesandfees</a> .
<b>Taxes, Governmental Fees &amp; Surcharges</b>			
DE Lessee Tax	.92		
Telecommunications Relay Service	.02		
E-911	.60		
<b>Verizon Surcharges &amp; Fees</b>			
Federal Universal Service Fee	1.31		
DE Gross Receipts Tax - Cable	1.01		
Regulatory Recovery Fee - Federal	.08		
Regional Sports Network Fee	7.89		
Fios TV Broadcast Fee	4.49		
FDV Administrative Charge	.99		
Subtotal	\$17.31		
<b>Total Due</b>	<b>\$143.30</b>		

The customer's second-month charges matched the estimate of monthly charges provided in the order confirmation (which also showed that the customer would incur a one-time charge of \$99.99 in the first month and allowed the customer to click a link to see an estimate of his first month's bill).<sup>1</sup>

For online sales, the process is similar. Our systems present the customer with various stand-alone and bundled service options, equipment selections, any additional services they may choose and their pricing. As the customer builds her package, she is presented with the total monthly price of the package she has chosen, including fees and taxes, as well as any one-time charges. That total monthly price is displayed before the customer commits to buying a service. Further, if the customer decides to purchase, she is sent a confirmation email reiterating this information.

For both online and telephone sales, Verizon discloses regional sports or broadcast fees as part of our point-of-sale disclosures and in our advertising. The costs of providing local broadcast and sports content has escalated rapidly and in excess of the rates of most other content we offer on Fios TV. These fees help customers understand one of the key drivers of increased pay-TV rates.

<sup>1</sup> We also provide additional tools online and in our My Fios application to allow customers to obtain additional details on their bills.

We believe that the steps that we take ensure our customers have access to full pricing information when they are comparison shopping. It's our intent to ensure our customers understand what they are purchasing and what they should expect to pay. Customer confusion about their bills creates a bad customer experience – which makes it harder for us to obtain and keep customers. We therefore focus our efforts on making sure consumers understand what they are purchasing and how their bill will be calculated.

Thank you for your invitation for a meeting to further discuss the research you are doing. We would welcome meeting with you.

Very truly yours,

A handwritten signature in blue ink that reads "John Cullina" followed by a stylized flourish.

John Cullina

# References

## 1. Introduction

1. Pay-TV providers for our purposes are multi-channel video programming distributors (MVPDs) which include cable companies, direct broadcast satellite (DBS) providers, and telephone companies that provide video and internet service (e.g, Verizon Fios or AT&T's U-Verse). Over-the-top (OTT) or online video distributors (OVD) are not included in our pay-TV definition. Consumer Reports' annual telecom survey ratings can be found at: James Wilcox, *People Still Don't Like Their Cable Companies, CR's Latest Telecom Survey Finds*, Consumer Reports (August 8, 2018) <https://www.consumerreports.org/phone-tv-internet-bundles/people-still-dont-like-their-cable-companies-telecom-survey/>.
2. Meredith Whipple, *Why is America Overpaying for Cable?*, Public Knowledge (Feb. 16, 2018), <https://www.publicknowledge.org/news-blog/blogs/why-is-america-overpaying-for-cable>.
3. *WTFee?! Survey, 2018 Nationally-Representative Multi-Mode Survey*, Prepared by the Consumer Reports Survey Research Department (January 3, 2019) (*hereafter* CR WTF?! Survey) available at: <https://advocacy.consumerreports.org/research/wtfeesurvey/>.
4. *Id.* at p. 6; *See also* Assurance of Discontinuance, *In the Matter of Comcast Cable Comm'ns LLC*, No. 18-3514 (Mass. Super. Ct. Nov. 9, 2018).

## 2. Understanding the Monthly Cable Bill

5. Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460, 1490 (1992) (*hereafter* Cable Act).
6. FCC Report, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming (Eighteenth Report)*, Media Bureau (January 17, 2017), at ¶ 49; available at [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-17-71A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-17-71A1_Rcd.pdf).
7. *Id.*
8. Karl Bode, *Charter Starts Charging 'Broadcast TV Surcharge' So They Can Raise Rates, But Leave the Advertised Price the Same*, DSLReports (Sep. 13, 2010), <http://www.dslreports.com/shownews/Charter-Starts-Charging-Broadcast-TV-Surcharge-110316>.
9. Jon Brodtkin, *Charter Raises Sneaky 'Broadcast TV' Fee for Second Time In Four Months*, ArsTechnica (Feb. 6, 2019), <https://arstechnica.com/information-technology/2019/02/charter-raises-sneaky-broadcast-tv-fee-for-second-time-in-four-months/>; *see also* Press Release, *Spectrum Hikes Broadcast Fee by 20% Just Months After Previous Fee Increase*, Consumer Reports (Feb. 5, 2019), [https://advocacy.consumerreports.org/press\\_release/spectrum-hikes-broadcast-fee-by-20-just-months-after-previous-fee-increase/](https://advocacy.consumerreports.org/press_release/spectrum-hikes-broadcast-fee-by-20-just-months-after-previous-fee-increase/).
10. Luke Bouma, *Spectrum is Raising its TV & Internet Pricing (The Third Price Hike on Broadcast TV in 12 Months)*, Cord Cutter News (Sep. 7, 2019), <https://www.cordcuttersnews.com/spectrum-is-raising-its-tv-internet-pricing-including-the-3rd-price-hike-on-broadcast-tv-in-12-months/>.
11. Phillip Dampier, *Charter Shareholders Love Spectrum's 20 percent Broadcast TV Increase; Second Rate Hike in 4 Months, Stop the Cap!* (Feb. 14, 2019), <https://stopthecap.com/2019/02/14/charter-shareholders-love-spectrum-20-broadcast-tv-fee-increase-second-rate-hike-in-4-months/>.
12. Descriptions of these fees were sourced from company explanations of them found on their websites. Examples of these explanations can be found online for Comcast at <https://www.xfinity.com/support/articles/most-common-taxes-fees-surcharges-on-your-bill>, for Charter at <https://www.spectrum.net/support/manage-account/understanding-your-bill-taxes-and-fees>, for Verizon Fios at <https://www.verizon.com/support/residential/account/understand-bill/billing-glossary>, and for Frontier at <https://frontier.com/helpcenter/categories/billing/read-and-pay-my-bill/understand-my-bill-residential>. *See also* FCC Report, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming (Eighteenth Report)*, Media Bureau (January 17, 2017), at ¶ 49; available at [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-17-71A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-17-71A1_Rcd.pdf).
13. Fees for renting a set-top box, often equipped with digital video recorder (DVR) capability, and related equipment are some of the oldest company-imposed fees. Over decades, consumers have grown accustomed to being made to "lease" a set-top box in order to receive cable video service. Congress recognized this as a problem and included language in the 1996 Telecommunications Act directing the FCC to open the set-top box market to competition, with the goal of freeing consumers from paying set-top box fees in perpetuity, often covering the cable company's equipment costs many times over. *See* 47 U.S.C. § 549 (codifying section 629 of the Telecommunications Act of 1996.) The FCC has tried on more than one occasion and as recently as 2016 to meet its obligations to subject this market to meaningful competition. *See* Tom Wheeler, *Op-Ed: FCC Chairman: Here Are the New Proposed Rules for Set-Top Boxes*, Los Angeles Times (Sep. 8, 2016), <https://www.latimes.com/opinion/op-ed/la-oe-wheeler-set-top-box-rules-20160908-snap-story.html>. Unfortunately, those efforts have come up short, and consumers continue to pay set-top box rental fees. Consumer Reports has long supported efforts to get rid of or at least offer alternatives to the legacy set-top box, but the status quo remains unchanged in many markets.
14. Because most cable companies also offer broadband internet access service, they rent cable modems and wireless routers necessary for installing a home WiFi network. A cable modem rental fee is similar to a set-top box fee in that consumers can end up repeatedly paying for the full cost of the "rented" equipment. Fortunately for consumers, however, a competitive market for cable modems and routers exists, and cable companies are required to allow interconnection of these independent devices to their networks. Consumers can usually avoid this fee by purchasing their own cable modems. However, we have learned that at least one provider, Frontier Communications, has begun charging its customers a \$10 Router Fee, even if they use their own modems. *See* <https://frontier.com/helpcenter/categories/internet/installation-setup/compatible-routers-and-modems>.

15. Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, 1490 (1992).

### 3. Analysis

16. We included bills from telephone providers (e.g., Verizon Fios, AT&T U-Verse, and Frontier Communications) in this category; although they are technically not cable companies, they are MVPDs and we considered their service offerings and billing practices as functional equivalents.
17. Bundle discounts appeared in just a little more than half of the bills we analyzed. Other discounts appeared as “internet” or “add-on” discounts for presumably a similar sort of promotional pricing. More infrequently, discounts appeared as recurring “credits” that could be extended to consumers who, for example, use their own cable modem or router. Also, a recent CR member survey found when consumers tried to negotiate a better deal with their cable company, the overwhelming majority—76%—succeeded in getting a discount or other perk. (See James Wilcox, *Cord Cutting Continues, Fueled By High Cable Pricing, Consumer Reports Study Finds*, Consumer Reports (September 17, 2019), <https://www.consumerreports.org/telecom-services/cord-cutting-continues-high-cable-pricing/>. Presumably, the rare “fee discount” we discovered—it appeared in less than 3% of the bills studied for this report—might represent a waived fee as a result of cutting a better deal. For a further discussion of discounts as a pricing strategy, see FCC Report, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming (Eighteenth Report)*, Media Bureau (January 17, 2017), at ¶ 45-46, 51-52; available at [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-17-71A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-17-71A1_Rcd.pdf).
18. Because premium services are optional, their cost was excluded.
19. FCC Report, *Communications Marketplace Report* (Dec. 26, 2018), at ¶ 53; see Fig. B-1. Available at <https://docs.fcc.gov/public/attachments/FCC-18-181A1.pdf>.
20. A more detailed breakdown of the math is as follows: From the 2018 FCC *Communications Marketplace Report*, we took the following 2017 MVPD subscriber numbers: 51,859,000 cable + 10,626,000 telephone = 62,485,000 subscribers. We then multiplied that number (62,485,000) times the average monthly cost of company-imposed fees across all 787 cable bills we analyzed (\$37.11) for a total of \$2,318,818,350. Further multiplying that number (\$2,318,818,350) by 12 months equaled \$27,825,820,200 a year in company-imposed fees charged, as an average, by the cable industry.
21. Jon Brodtkin, *Comcast Raises Cable TV Bills Again - Even if You're Under Contract*, ArsTechnica (Nov. 26, 2018), <https://arstechnica.com/tech-policy/2018/11/comcasts-controversial-tv-and-sports-fees-rise-again-hit-18-25-a-month/>.
22. Phillip Swan, *DIRECTV, U-verse Raising Prices in January 2019*, The TV Answer Man (Dec. 17, 2018), <https://tvanswerman.com/2018/12/17/directv-u-verse-raising-prices-in-january-2019/>.
23. Jon Brodtkin, *Charter Raises Sneaky 'Broadcast TV' Fee for Second Time In Four Months*, ArsTechnica (Feb. 6, 2019), <https://arstechnica.com/information-technology/2019/02/charter-raises-sneaky-broadcast-tv-fee-for-second-time-in-four-months/>. See also Luke Bouma, *Spectrum is Raising Its TV & Internet Pricing (The Third Price Hike on Broadcast TV in 12 Months)*, Cord Cutter News (Sep. 7, 2019), <https://www.cordcuttersnews.com/spectrum-is-raising-its-tv-internet-pricing-including-the-3rd-price-hike-on-broadcast-tv-in-12-months/>.
24. Karl Bode, *Charter Starts Charging 'Broadcast TV Surcharge' So They Can Raise Rates, But Leave the Advertised Price the Same*, DSLReports (Sep. 13, 2010), <http://www.dslreports.com/shownews/Charter-Starts-Charging-Broadcast-TV-Surcharge-110316>.
25. FCC Report, *Communications Marketplace Report*, (Dec. 26, 2018), at ¶ 53; see Fig. B-1. Available at <https://docs.fcc.gov/public/attachments/FCC-18-181A1.pdf>.
26. Luke Bouma, *Comcast Is Raising Their Modem Rental Fee (The Good News Is You Don't Have to Pay It)*, Cord Cutters News (Nov. 27, 2018), <https://www.cordcuttersnews.com/comcast-is-raising-their-modem-rental-fee-the-good-news-is-you-dont-have-to-pay-it/>.
27. Jon Brodtkin, *Frontier Customer Bought His Own Router—But Has to Pay \$10 Rental Fee Anyway*, ArsTechnica (July 2, 2019), <https://arstechnica.com/information-technology/2019/07/frontier-customer-bought-his-own-router-but-has-to-pay-10-rental-fee-anyway/>. See also <https://frontier.com/helpcenter/categories/internet/installation-setup/compatible-routers-and-modems> for Frontier’s explanation of its mandatory router fee: “Frontier charges you a monthly lease fee for your Frontier router or modem—whether you use it or not.”
28. Gerry Smith, *Comcast, Dish, AT&T to Raise TV Prices to Counter Cord-Cutting*, Bloomberg (Jan. 4, 2019), <https://www.bloomberg.com/news/articles/2019-01-04/comcast-at-t-raise-prices-to-counter-cord-cutting-higher-costs>.
29. For RCN’s online explanation of “Understanding Taxes” see <https://www.rcn.com/hub/help/understanding-taxes/dc-taxes>; for Frontier’s explanation of “Taxes and Surcharges” see <https://frontier.com/helpcenter/categories/billing/read-and-pay-my-bill/understand-my-bill-residential/bill-sections/taxes-and-surcharges>.
30. See Appendix A for a copy of the CR letter sent to Comcast as an example.
31. Letter from Lynn R. Charytan, EVP General Counsel, Comcast Cable and SVP Senior Deputy General Counsel, Comcast Corporation, to Jonathan Schwantes, Senior Policy Counsel, Consumer Reports (June 20, 2018) (*hereafter* Comcast Reply; see copy in Appendix B). Letter from Catherine Bohigian, Executive Vice President Government Affairs, Charter Communications, to Jonathan Schwantes, Senior Policy Counsel, Consumer Reports (August 17, 2018) (*hereafter* Charter Reply; see copy in Appendix B); Letter from John Culina, Vice President and Deputy General Counsel, Verizon, to Jonathan Schwantes, Senior Policy Counsel, Consumer Reports (June 22, 2018) (*hereafter* Verizon Reply; see copy in Appendix B). Note that Frontier Communications responded via telephone.
32. Charter Reply (citing *In re Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd. 5631 § 547 n. 1402 (1993)).
33. Comcast Reply.
34. Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, 1490 (1992).

35. For a survey of state consumer protection statutes, also known as “little FTC acts” see Carolyn L. Carter, *Consumer Protection in the States (A 50-State Report on Unfair and Deceptive Acts and Practices Statutes)*, National Consumer Law Center (Feb. 2009), [https://www.nclc.org/images/pdf/udap/report\\_50\\_states.pdf](https://www.nclc.org/images/pdf/udap/report_50_states.pdf). See also Christine Lipsey and Dylan Tuggle, *Little FTC Acts and Statutory Treble Damages-Traps for the Unwary*, American Bar Association (2017), [https://apps.americanbar.org/litigation/committees/businesstorts/articles/1109\\_lipsey.html](https://apps.americanbar.org/litigation/committees/businesstorts/articles/1109_lipsey.html).
36. Verizon Reply.
37. Comcast Reply. See also Charter Reply.
38. Comcast Reply. (Comcast wrote: “the costs to carry regional sports programming and broadcast television have been going up dramatically, and we defray the increased costs.”)
39. Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, 1471 (1992)
40. *Id.* at 1482.
41. Karl Bode, *Those Annoying Cable Channel Blackouts Are Only Going to Get Worse in 2018*, TechDirt (Jan. 8, 2018), <https://www.techdirt.com/articles/20180102/12243238911/those-annoying-cable-channel-blackouts-are-only-going-to-get-worse-2018.shtml> (citing to a letter to lawmakers from Dish Network).
42. Assurance of Discontinuance, *In the Matter of Comcast Cable Comm’ns LLC*, No. 18-3514 (Mass. Super. Ct. Nov. 9, 2018), (*hereafter* Mass. Settlement). See also Massachusetts Consumer Protection Act, G.L. c. 93A § 2.
43. Mass. Settlement at 3.
44. *Id.*
45. Mass. Settlement at 6.
46. *Id.*
47. Mass. Settlement at 9.
48. Mass. Settlement at 11.
49. Mass. Settlement at 12.
50. *State of Minnesota v. Comcast Cable Comm., LLC*, No. 27-CV-18-20552 (Hennepin Cty. D. Ct. Dec. 21, 2018), (*hereafter* Minn. Compl.).
51. Minn. Compl. at 10.
52. Minn. Compl. at 9.
53. Minn. Compl. at 20. See also Minn. Compl. at 16, where Minnesota cites internal Comcast reports that have been redacted for public viewing.
54. Minn. Compl. at 20.
55. Minn. Compl. at 28.
56. Minn. Stat. 325F.68-.694; Minn. Stat 325D.42-.48.
57. Compl., *State v. Comcast Corp.*, No. 16-2-18224-1 SEA (King’s Cty. Sup. Ct. Aug. 1, 2016), (*hereafter* Wash. Compl.).
58. *State of Washington v. Comcast Communications Management*, Superior Court of Washington (June 6, 2019), [https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press\\_Releases/ComcastRuling.pdf](https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/ComcastRuling.pdf).

#### **4. Conclusions: Cable Company-Imposed Fees Are Less Than Transparent, and Getting Worse**

59. Charter’s disclosure uses this language in its explanation of the Broadcast TV Surcharge found online: “As a direct result of local broadcast or “network-affiliated” TV stations in recent years dramatically increasing the rates to Charter Communications to distribute their signals to our customers, we’re forced to pass those charges on as a ‘Broadcast TV Surcharge.’” See <https://www.spectrum.net/support/my-account/broadcast-tv-surcharge/>.
60. CR WTF?! Survey, available at: <https://advocacy.consumerreports.org/research/wtffeesurvey/>.
61. National Economic Council, *The Competition Initiative and Hidden Fees* (Dec. 2016), [https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/hiddenfeesreport\\_12282016.pdf](https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/hiddenfeesreport_12282016.pdf).

#### **5. Policy Recommendations for Eliminating Company-Imposed Cable Fees**

62. TRUE Fees Act of 2018, H.R. 6987, 115th Cong. (2018). *Eshoo, Markey Introduce Legislation to Crack Down on Surprise Telephone, Cable, and Internet Fees* (Feb. 14, 2019), <https://eshoo.house.gov/news-stories/press-releases/eshoo-markey-introduce-legislation-to-crack-down-on-surprise-telephone-cable-and-internet-fees/>.
63. Cable Act, Pub. L. No. 102-385 § 14, 106 Stat. 1460, 1489 (1992) (codified as amended at 47 U.S.C. § 542(c)). “Section 622(c) of the Communications Act of 1934 (47 U.S.C. 542(c)) is amended to read as follows: ‘(c) Each cable operator may identify, consistent with the regulations prescribed by the Commission pursuant to section 623, as a separate line-item on each regular bill of each subscriber..’”
64. Cable Act, Pub. L. No. 102-385 § 14, 106 Stat. 1460, 1490 (1992).
65. *Id.*
66. 8 FCC Rcd. at 5967 (emphasis added).

67. *Id.* at 5969 n.1402 (emphasis added). *Id.* at 5967-5969, 5971-5972; H. Rep. No. 102-628, at 86 (1992); H.R. Rep. No. 102-862, at 84 (1992). For example, the reports detail whether the government-imposed costs can be itemized as separate fees beyond the total amount a cable operator charges for service. H. Rep. No. 102-628, at 86 (1992).
68. 47 C.F.R. § 1.3 (2017).
69. 47 C.F.R. § 1.3 (2017); *See also FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009). For conditions, see 514-15.
70. James K. Willcox, *Cable TV Fees Continue to Climb*, Consumer Reports (Feb. 21, 2019), <https://www.consumerreports.org/tv-service/cable-tv-fees/> (Citing an Altice spokesperson who said “We are also impacted by increasing fees charged by broadcasters and programmers, of which we pass along just a fraction of the rising costs to our consumers.”)
71. Press Release, *Sunlight Needed To Expose Broadcasters’ Private Price-Fixing Schemes, Trade Group Says*, American Cable Association (Dec. 27, 2011), <https://www.americancable.org/aca-calls-on-fcc-to-require-greater-transparency-from-tv-stations-that-coordinate-retransmission-consent-negotiations/>.
72. Jim Elayan & Abraham Thengugal, *Will the Second Wave of Online Video Distribution Services Drown Out U.S. Pay TV?* Cognizant 20-20 Insights (Apr. 2015), <https://www.cognizant.com/InsightsWhitepapers/will-the-second-wave-of-online-video-distribution-services-drown-out-us-pay-tv-codex1317.pdf>.
73. Jon Brodtkin, *Frontier Customer Bought His Own Router—But Has to Pay \$10 Rental Fee Anyway*, Ars Technica (July 2, 2019), <https://arstechnica.com/information-technology/2019/07/frontier-customer-bought-his-own-router-but-has-to-pay-10-rental-fee-anyway/>.
74. Karl Bode, *How the New AT&T Could Bully It’s Way To Streaming Domination*, The Verge (Dec. 18, 2018), <https://www.theverge.com/2018/12/18/18146186/att-time-warner-streaming-video-net-neutrality>.

## Appendices

75. At the time the letters were sent, our advocacy work operated under the name Consumers Union. In November of 2018, Consumers Union officially moved under the Consumer Reports (CR) banner. We were founded as the Consumers Union of America in 1936 and became known by millions of Americans for our award-winning magazine Consumer Reports. Consumer Reports is an organization with more than six million members that advocates for a fair, safe, and transparent marketplace, fueled by our trusted research, journalism, and insights. We believe this integration of our advocacy work under the CR name will communicate the depth and breadth of our mission and values, and will help us make an even greater impact to advance the issues that matter to consumers and the world.