

**City of Iowa City Comments on FCC Notice of Inquiry
In the Matter of Consumer Information and Disclosure; Truth-in-Billing and Billing
Format; IP-Enabled Service**

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Introduction

As the local cable TV franchising authority the City of Iowa (hereafter “City”) is particularly well positioned to address some of the issues raised in this Notice of Inquiry. The local cable TV provider, Mediacom, offers cable TV, Internet, and landline phone service. Although the City’s legal authority is limited to cable TV the City Cable TV Office frequently receives inquiries, complaints, and comments regarding all three services, in part due an active public relations campaign to inform consumers that the City can assist consumers with their problems and issues. Given the breadth of consumer input the City has received over the years there are several issues raised in this NOI in which the City has insight and suggests possible remedies.

The comments herein will address the questions raised in paragraphs 25, 26, 29, 30, 31, and 33.

Choosing a Provider Has Long-term Consequences

Service providers actively compete to get subscribers because they know that once they have signed them it is impractical and costly for consumers to choose another provider. Cable operators now typically offer Internet and wireline telephone services and usually give large discounts to new subscribers, particularly if they chose multiple services. Satellite video and wireless phone providers often require a two-year contract. Internet providers capture subscribers by controlling their email address. For consumers and the initial choice of a provider has long-lasting consequences making the need for clear information about rates and services vital for adequate consumer protection.

Promotional Periods and Unbundling

One method used by cable operators that offer Internet and telephony is to offer large discounts for the first year of service for consumer who subscribe to variety services. For example, Mediacom offers a bundled package of video, Internet and phone for a monthly charge of \$89.95 (\$1,079.40 annually) to new customers for one year. When the promotional period ends the charge jumps to \$134.95 (\$1619.40 annually), an increase of 50 per cent. If a consumer is not satisfied with any of the three services in the package and wants to move to another provider, the charges for the other services the consumer wishes to keep are substantially increased. For example, if a subscriber decides Mediacom’s telephone service is unsatisfactory and decides to move to another provider, their monthly bill would go up by \$30. For new subscribers the first year of service is a good deal but it is the existing subscribers who are essentially subsidizing the marketing techniques of cable providers designed to lock in new subscribers. While cable operator advertisements touting the new subscriber bundled service rate do indicate in fine print that the rate is only for one year, the rate at the end of the promotional period is typically lacking. The City has found subscribers are frequently surprised with the rate they will be charged subsequent to the promotional period and complain they were unaware of the rate increase until after it had taken effect.

Full Disclosure of All Charges

Cable operators will soon no longer be transmitting in both analog and digital making the need for the purchase or rental of a digital converter necessary for a large number of subscribers. Equipment rental fees need to be fully understood by the consumer at the time they are making a decision regarding service providers and at the point of initiating service. Current marketing campaign practices often fail to inform consumers of additional fees they will be charged for equipment rental. While Mediacom does not charge a cable modem rental fee many providers do. The City has found many subscribers were unaware that of the full extent of all the charges they would be accessed for the provision of services.

Broadband Internet Service

Consumers are frequently misled as to the actual Internet speeds they will experience using cable modems and DSL. Cable modem Internet speeds are subject to a multitude of factors and while it is unreasonable to expect that experienced speeds will always be at or near that of the advertised "up to" speeds consumers should be made aware of what speeds they will actually experience. DSL providers can make a determination of delivered speed based on the distance of the consumer's service location and the switching station. Cable modem Internet providers are also in a position to know what speeds they are actually delivering. They also know system traffic patterns and have the data at their disposal to provide actual download and upload bandwidth speeds to subscribers in a manner that would adequately inform consumers. For example, average download and upload speeds during specific time periods should be made available to consumers as well as an overall average of actual download and upload speeds delivered. Specifically, consumers need to know when a 3-hour period of peak use will occur and what speeds to expect. Consumers cannot make an informed choice among Internet providers if they are only provided with information on "up to" speeds. For example, if a consumer subscribes to an 8 megabit service but generally only uses the service during hours of heavy system use and experiences only 2 megabits, his choice of providers based on the 8 megabit claim as compared to a cheaper 1.5 megabit DSL service was not based on sufficient information. If cable modem Internet providers were required to provide this information to consumers not only would consumer protection be advanced, cable modem Internet providers would have an inducement to split nodes when necessary to prevent traffic bottlenecks during peak periods when their delivered speeds would not compare favorably with their DSL competitors. More importantly, consumers would have the information they need to make an informed choice in the marketplace.

Outages

Consumers need to know the frequency and duration of system outages to make an informed market decision. The City has found that outages are a frequent source of subscriber dissatisfaction. Many subscribers are dependant on the Internet for their businesses and more and more for wireline telephony. Public policy has long acknowledged the importance of reliable phone service is for the safety and health of citizens. With VOIP gaining market share and the supporting infrastructure subject to much more frequent outages than traditional wireline service, it is vitally important that consumers be fully aware of the history of the frequency and duration of outages. The monthly average of the amount of time a broadband service is down in geographic areas would be a valuable piece of information for consumers deciding on a broadband provider. The geographic area should correlate with the network architecture. For example, a DSL provider might use subscribers served by a particular switching facility and a cable modem provider might use subscribers served by a headend.

Consumer Information Proposal

While this NOI does not address the marketing practices providers use to attract subscribers it should be noted that full disclosure of all charges and fees, particularly subsequent to a promotional period, are rarely provided. The City has found that even when consumers inquire directly from a provider full extent of charges is often not explained. The fact that marketing campaigns and provider's own disclosures to potential subscribers appears to be inadequate to inform consumers the FCC needs to adopt regulations to protect consumers. The City proposes a simple measure that could be undertaken to further that goal. At the point that a consumer initiates service they must be provided a document that clearly and precisely summarizes all charges over time (i.e. in relation to promotional periods), all charges related to the provisioning of service, a realistic expectation of broadband Internet speeds likely to be experienced, and the frequency and duration of system outages. This information should be required to be included on any document used to establish service, contract, or other document(s) a service provider generates before service is initiated. Additionally, a summary document should be made available to consumers contemplating initiating service with a provider. The location of this information should be in at least a 14 point font and in a larger size than the other text. The location of the charges on any document should be in close proximity to any location requiring a subscriber's signature and at the top of the very first page of any document. In addition, service operators should be required to inform subscribers of the rate they will be paying at the end of a promotional period at least 30 days in advance. Notification should be by a subscriber's monthly billing statement or by mail if billing statements are electronic. Additionally, Internet subscribers should be informed by email.

First Amendment Considerations

The modest proposals contained herein are clearly within the framework established in *Central Hudson* regarding regulation of commercial speech. The first prong of *Central Hudson*, a substantial government interest is, as noted in the NOI citing the *Truth-in-Billing First Report and Order*, self-evident. The second prong, the advancement of the substantial interest, again is met as the proposal seeks to better inform consumers of their choices in the marketplace. The third prong, that the regulation is not more extensive than necessary to serve that interest (an informed consumer) is also met. These proposals require little more of service providers than giving information they already have to subscribers. These proposals are very modest, of no burden to service providers, and advance a well-established regulatory goal.

Conclusion

The proposal offered by the City is but one small measure the FCC could undertake to protect consumers. The experience of the City is that consumers are frequently unaware or misinformed with regard to the fees they will be charged and what level of service to expect. Consumers frequently have no information with which to make a choice except that of marketing campaigns that do not fully and clearly disclose conditions of service. The City hopes the FCC will consider the merits of this proposed consumer information requirement and incorporate the concept into any future rulemaking derived from this NOI.