



Consumer Federation of America

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STATEMENT OF DR. MARK COOPER, DIRECTOR OF RESEARCH ON THE LAUNCH OF A SELF-REGULATORY APPROACH TO CONSUMER PROTECTION FOR CELLULAR SERVICE

Washington, DC – The decision of the Federal Communications Commission to foster a self-regulatory approach to the problem of bill shock is an important step in the right direction that is filled with promise and peril.

- The promise stems from the fact that in today's dynamic, digital marketplace it is extremely difficult for regulatory agencies to keep up with changes in the market. The dynamic market makes consumer protection more important than ever, but also more difficult than ever. Alternative approaches to regulation that elicit the support of both business interests and public interests through transparent, ongoing and collaborative processes can deliver much consumer protection that is more effective because it is flexible and attuned to marketplace developments.
- The danger is that the industry will see self-regulation as a way to avoid regulation – drawing up weak rules behind closed doors. When this happens, public interest groups will be vindicated in their concerns about self-regulation and become more adamant in their demands for traditional command and control solutions. The abysmal failure of self-regulation in the areas of online privacy and network neutrality should be a clear lesson for all stakeholders about what not to do. The resulting polarization and litigation serves neither consumers, who end up with weak regulatory regimes, nor the industry, which faces continuing uncertainty.

Over the past twenty years experiments in alternative regulation have been tried in several areas across many nations, with varying levels of success and failure. The key to building successful alternative regulation models is for all of the stakeholders to engage fully and openly in a multi-stakeholder collaboration.

Federal Communications Commission

- The FCC must make it clear that it retains the right to regulate if self-regulation fails. This provides an important incentive for business to act in good faith.
- The FCC must monitor the process and provide advice, if called on by the stakeholders, to keep the process on track.
- The final product could be implemented informally, or it could be adopted through a process known as regulatory negotiation, which is used by both Executive branch agencies (i.e. the Department of Energy) and independent agencies (the Environmental Protection Agency).

Stakeholders

- In order for alternative regulation to gain legitimacy, business and public interests must commit to a collaborative process that is transparent, inclusive and democratic.
- Enforcement of codes of conduct by the industry must ensure that corrective action is fair, certain and swift.
- Mechanisms for the public to monitor and report conduct that violates the code of conduct should be established.

The development of an effective model of alternative regulation for consumer protection to deal with a dynamic, mass market industry, like cellular service, would be an important step forward for the overall effort to ensure consumer protection and dynamic innovation in 21st century digital industries. We urge all stakeholders to embrace this effort and work to ensure its success.

The Consumer Federation of America is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education.