

FCC's Enforcement Bureau Adopts Consent Decree Addressing Verizon Wireless's "Mystery Fees"

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The FCC's Enforcement Bureau ("Enforcement Bureau") recently adopted a Consent Decree entered into between the Bureau and Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), which terminates the Bureau's investigation against Verizon Wireless for possible violations of Section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 201(b), and Section 64.2401 of the FCC's rules, 47 C.F.R. § 64.2401. See *In the Matter of Verizon Wireless Data Usage Charges*, File No. EB-09-TC-458, DA 102068, Order (rel. Oct. 28, 2010).

The Enforcement Bureau began investigating Verizon Wireless in January 2010 after large numbers of consumer complaints and press reports about unexplained data charges. The investigation focused on "pay-as-you-go" data fees -- charges of \$1.99 per megabyte that apply to Verizon Wireless customers who do not subscribe to a data package or plan.

The investigation found that approximately 15 million "pay-as-you-go" customers were or may have been overcharged for data usage over the course of three years, from November 2007 to the present. According to the settlement, the erroneous mystery fees from Verizon Wireless were caused by:

- unauthorized data transfers initiated automatically by applications (like games) built into certain phones;
- accessing certain web links that were designated as free-of-charge (e.g., the Verizon Wireless Mobile Web homepage);
- unsuccessful attempts to access data when there was insufficient network coverage to complete the requested data transfer; and
- unwanted data transfers initiated by third parties and affecting customers who had content filters installed on their phones.

The settlement requires Verizon Wireless to pay a record \$25 million payment to the U.S. Treasury -- the largest in FCC history. In addition to Verizon Wireless's payment to the U.S. Treasury, Verizon Wireless will immediately refund a minimum of \$52.8 million to approximately 15 million customers and ensure that consumers are no longer charged the mystery fees.

To further ensure that all affected consumers are repaid and the mystery fee issue is resolved, Verizon Wireless has agreed to key consumer protection measures, including:

No more mystery fees: Verizon Wireless must cease charging customers the incorrect fees. In addition, Verizon Wireless has agreed to take affirmative steps to prevent future unauthorized data charges.

Immediate repayment of 15 million customers: Customers who have been identified by Verizon Wireless as being potentially overcharged for data usage will receive refunds or credits on their October or November bills.

Right to appeal: Verizon Wireless's repayment obligations are not capped at the estimated \$52.8 million in refunds identified by it. Customers who do not receive a refund but believe they had unauthorized data charges have a right to appeal, receive a good-faith review, and reach resolution within 30 days. Verizon Wireless is required to disclose any unresolved complaints to the FCC.

Commitment to offer data blocks on request: Verizon Wireless must offer data blocks to any customer who seeks to avoid data charges on his or her bill.

Improved customer service: Verizon Wireless must launch several new customer service initiatives to provide more information and more options to consumers. These include:

- Plain-language explanations of "pay as you go" data charges and data plans, and the available tools to reduce those charges;
- An online video tutorial to help consumers understand their bills; and o Enhanced training on pay-as-you-go data charges to Verizon Wireless's customer service representatives who interface directly with consumers and respond to consumer questions or complaints.

Data Charge Task Force: Verizon Wireless must create a Data Charge Task Force, staffed by specially trained customer service experts who will monitor and resolve data charge complaints and other data charge-related issues going forward. The Task Force will issue regular reports to the FCC so the agency can ensure compliance.

Strong accountability and compliance monitoring: Verizon Wireless must submit periodic reports to the FCC on its refund, training, and customer service initiatives (including information on specific complaints) to ensure the company's compliance going forward.