IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CONSUMER FINANCIAL PROTECTION BUREAU, Plaintiff, v. CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, Defendants.	Civil Action No. Complaint

The Consumer Financial Protection Bureau ("Bureau") brings this action against Cellco Partnership d/b/a Verizon Wireless ("Verizon") and alleges as follows:

Identification of Parties (Local Rule 10.1)

1. The Bureau's address is 1700 G Street NW, Washington. D.C. 20552. Verizon's address is 1 Verizon Way, Basking Ridge, New Jersey 07920.

Introduction

2. Until at least January 2014, Verizon included third-party charges on its customers' wireless-telephone bills. Many of these third-party charges were never authorized by consumers and, as a result, wrongfully cost Verizon's customers millions of dollars each year.

3. Verizon unfairly charged its customers by creating a billing and payment-processing system that gave third parties virtually unfettered access to its customers' accounts. This access allowed third parties to "cram" unauthorized charges onto wireless bills.

4. Verizon automatically enrolled customers in its third-party billing system without their knowledge or consent. Many customers were therefore unaware of the unauthorized charges.

5. Verizon continued to operate its flawed system despite numerous red flags such as high refund rates and complaints from customers, law-enforcement agencies, and consumer groups.

6. Verizon profited from this system because it shifted the risk to its customers, who had to pay all charges under the company's terms and conditions of service ("Terms & Conditions"). While its customers suffered losses, Verizon retained 30% or more of the gross revenue it collected for third-party charges, totaling hundreds of millions of dollars.

Jurisdiction and Venue

7. This Court has subject-matter jurisdiction over this action because it presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

8. Venue is proper because Verizon transacts business and has corporate headquarters in this District. 12 U.S.C. § 5564(f).

Parties

9. The Bureau is an agency of the United States charged with regulating the offering and providing of consumer-financial products and services under "Federal consumer financial laws," 12 U.S.C. § 5491(a), including the Consumer Financial Protection Act of 2010 ("CFPA"). 12 U.S.C. § 5481(14). The Bureau's regulatory authority extends to persons who offer or provide a consumer-financial product or service. 12 U.S.C. § 5481(5).The Bureau has independent litigating authority to commence civil

actions by its own attorneys to address violations of "Federal consumer financial laws," including the CFPA. 12 U.S.C. § 5564(a)-(b).

10. Verizon extends credit to, and processes payments for, consumers in connection with third-party goods. Verizon is therefore a "covered person" under the CFPA. 12 U.S.C. § 5481(6), (15)(A)(i) & (vii).

Facts

I. Landline Third-Party Billing System Transferred to Mobile Phones

11. In the 1990s, telephone companies opened their billing platforms to third parties. Although third-party billing transformed telephone carriers into large-scale credit issuers and payment processors, they instituted few, if any, compliance measures to ensure that charges on customer bills were authorized and accurate.

12. By the late 1990s, federal and state authorities realized that nearly all third-party landline charges were fraudulent. In 1998, however, the larger telephone companies convinced government authorities to allow the industry to self-regulate through a set of voluntary guidelines.

13. Unauthorized billing not only persisted, but grew after self-regulation. In 2011, the Federal Communications Commission estimated that each year 15-20 million households were harmed by landline cramming. A 2011 report by the Senate Commerce Committee's staff concluded that about 300 million third-party charges appeared on landline bills each year, totaling more than $2 billion annually.

14. Despite common knowledge that the system invited unauthorized charges, Verizon replicated the landline third-party model – outsourcing compliance and billing functions to billing aggregators without adequate oversight – in its wireless business.

II. Unauthorized Charges for Premium Short Messaging Services

15. From about 2004 through 2013, nearly all wireless third-party billing involved goods called "premium text messages" or "premium short messaging services" ("PSMS") because they were frequently delivered by text messages. These digital products included one-time purchases or monthly subscriptions for ringtones, wallpaper, and text messages providing flirting tips, horoscopes, and other digital content. The typical PSMS charge for a Verizon customer was a $9.99 subscription, but some items cost as much as $14.99. Verizon retained at least 30% of the charge.

16. Some merchants advertised coupons or free giveaways unrelated to the digital content they purportedly provided. These advertisements were designed to trick customers into entering their cellphone numbers. When customers responded to the merchant's text for a coupon or free item, they unwittingly "purchased" a monthly subscription that continued until they canceled the service.

17. Many times, merchants simply crammed fabricated charges onto Verizon's bills without sending any communications or delivering any products to customers. It was relatively easy to cram charges onto bills because cellphone numbers, unlike credit-card numbers, are widely available. The unauthorized charges often continued undetected for many months.

18. Complaints from Verizon customers, spanning several years, describe how they were victimized by these or similar schemes. The complaints also show that Verizon often failed to respond adequately to complaints and provide full refunds.

19. By at least 2008, Verizon was on notice about significant wireless-cramming concerns and problems with third-party marketing tactics, yet Verizon's policies were lax and left wide gaps in consumer protection.

III. Verizon Unfairly Charged Its Customers

20. Verizon unfairly billed its customers for unauthorized PSMS charges by (a) enrolling customers in third-party billing without their authorization; (b) giving third parties access to its customers and its billing system without implementing adequate compliance controls; (c) failing to adequately resolve customer disputes; and (d) ignoring warnings from customers, government agencies, and public-interest groups.

a. Automatic Enrollment

21. Verizon automatically enrolled customers in third-party billing without their consent. This policy helped perpetuate wrongful third-party billing because many customers did not spot unauthorized charges, as they were unaware that third parties could place charges on their bills.

b. Inadequate Compliance and Controls

22. Verizon selected the merchants permitted to use its system and conducted some due diligence before onboarding them. It did not, however, directly interact with the merchants. Verizon, for example, did not directly require merchants to (i) obtain customer authorization for purchases; or (ii) comply with industry guidelines.

23. Verizon outsourced these compliance and payment-processing functions to vendors called billing aggregators without properly overseeing the aggregators. Verizon relied on "compliance with laws" provisions in its agreements with the aggregators, which provided Verizon with breach-of-contract remedies but did little to protect customers.

24. Verizon touted its aggregators' system, known as the "double opt-in," but this purported safeguard was porous and ineffective, as scammers repeatedly skirted it.

25. The lack of oversight created blind spots for Verizon that resulted in unauthorized charges being placed on its customers wireless bills. For example, one of Verizon's two primary billing aggregators knowingly helped merchants cram unauthorized charges onto bills from at least January 2011 to November 2013.

c. Failure to Respond to Customer Complaints

26. When customers contacted Verizon about unauthorized charges, Verizon often did not adequately resolve the disputes. In some instances, Verizon refused to provide refunds and only offered instructions on how to block future third-party charges.

27. Other times, Verizon refused to provide refunds and referred customers to the merchants. Verizon, at times, gave partial refunds or refunds for a few months, but rarely for all months that the customer incurred the unauthorized charges.

d. Failure to Heed Red Flags

28. Verizon ignored, or consciously avoided, numerous red flags highlighting the flaws in its third-party-billing system.

29. Among other things, Verizon failed to employ a basic mechanism that could have helped reveal the flaws and risks in its system. Verizon did not track customer complaints about unauthorized charges in a manner that would have enabled it to identify the third parties placing unauthorized charges on its customers' bills.

30. Verizon continued to outsource payment processing and compliance to billing aggregators even after those aggregators agreed to pay claims under wireless-cramming settlements.

IV. Verizon Transferred the Risk and Harm to Customers

31. While Verizon outsourced compliance and fraud-prevention to billing aggregators, it reaped lucrative profits from third-party billing because it maintained control over the collection, processing, and distribution of payments.

32. Verizon's Terms and Conditions did not differentiate between first-party and third-party charges. Non-payment subjected customers to potential late fees, service termination, collections, and reporting to credit bureaus. Customers had to pay unauthorized third-party charges unless Verizon elected to provide refunds, which it often did not.

Violation of the CFPA

33. The Bureau incorporates the allegations of paragraphs 1-32 of this Complaint.

34. As described above, Verizon's actions and omissions caused or were likely to cause substantial injury to consumers that they could not reasonably avoid and were not outweighed by countervailing benefits to consumers or competition.

35. Verizon's actions and omissions were therefore unfair acts and practices that violated § 1036(a)(1)(B) of the CFPA, 12 U.S.C. § 5536(a)(1)(B).

Demand for Relief

The Bureau requests that the Court:

a. permanently enjoin Defendant from committing future violations of the CFPA;

b. award damages or other monetary relief against Defendant;

c. order Defendant to pay restitution to consumers harmed by its unlawful conduct;

d. order disgorgement of ill-gotten revenue against Defendant;

e. impose civil money penalties against Defendant;

f. order Defendant to pay the Bureau's costs incurred in connection with prosecuting this action; and

g. award additional relief as the Court may determine to be just and proper.

Dated: May 12, 2015

Respectfully Submitted,

Anthony Alexis
Enforcement Director

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Deputy Enforcement Director

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Counsel for Plaintiff

LOCAL CIVIL RULE 11.2 CERTIFICATION

Pursuant to Local Civil Rule 11.2, I certify that the matter in controversy alleged in the foregoing Complaint is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

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LOCAL CIVIL RULE 101.1 DESIGNATION OF AGENT FOR SERVICE

Pursuant to Local Civil Rule 101.1(f), because the Consumer Financial Protection Bureau (the "Bureau") does not have an office in this district, the United States Attorney for the District of New Jersey is hereby designated as eligible as an alternative to the Bureau to receive service of all notices or papers in the above-captioned action. Therefore, service upon the United States Attorney's Office for the District of New Jersey, 402 East State Street, Room 430, Trenton, New Jersey 08608, will constitute service upon the Bureau for purposes of this action.

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