



## **Bill Would Limit Cell Phone Early Termination Fees - by Phil Britt**

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Sen. Amy Klobuchar (D-MN) has introduced a bill to set limits on the early termination fees cell phone carriers charge consumers who want to get out of their cell phone contracts early.

The bill, introduced in December, also requires wireless providers to notify customers clearly about the fees and prorate them, not only at the time of purchase but for as long as they use the phone.

Klobuchar, along with Sens. Russ Feingold (D-WI), Jim Webb (D-VA) and Mark Begich (D-AK), are on record saying the fees are "budget-busters." They also claim long-term contracts and the fees required to get out of them—typically between \$150 and \$350—are unfair to consumers.

#### **Fees Cut Phone Costs**

Mark Conklin, director of e-procurement for Avotus Corp., a technology consulting group based in Mississauga, Ontario, says although the termination fees may seem hefty, they are justified.

Wireless carriers reduce the up-front cost of a phone valued up to \$500 to little or no cost to the consumer. Consumers are thus able to gain continuous improvement in the quality and technological innovation as they renew every couple of years.

"The carriers need to have a way to recover the up-front capital cost they pay equipment providers, and carriers recover the cost by committing consumers to two-year contracts. Then they get the money back over time," Conklin said. "If carriers are legally prevented from recovering their costs from consumers if they terminate early, then the only alternative a carrier can go back to is charging consumers full value for the phones when they buy them."

#### **Reaction to Verizon**

Klobuchar has previously introduced legislation to curb the cancellation fees, but her latest move was spurred by Verizon Wireless' November announcement it would start doubling its early termination fee for smartphone users from \$175 to as much as \$350, depending on how long a customer had agreed to the contract before switching to

another phone and provider.

Verizon Wireless spokesman Jeffrey Nelson said consumers always have the choice of buying a cell phone at full price without a one- or two-year contract.

"This is not about collecting fees; it's about putting state-of-the-art devices into the hands of the most people possible, at affordable prices," he said.

### **FCC Jumps In**

After the bill was introduced, the Federal Communications Commission (FCC) sent Verizon a letter asking the company why it increased its fees.

The FCC is also asking Verizon about \$1.99 data access fees that have appeared on the bills of customers who don't have data plans but accidentally initiated data access by hitting a button on their phones. Verizon says a few months ago it stopped charging when a customer starts a data service and then quickly turns it off.

### **Controlling Smart Phone Costs**

Both the proposed legislation and the FCC inquiry, critics say, are attempting to control pricing on the popular smartphones, even though the market already does this.

"People are buying these phones by the thousands," says Tom Pepe, cofounder of Missouri City, Texas-based Validas LLC, a firm that helps consumers track their wireless bills. "The cost of the devices is the No. 1 issue."

The costs are largely subsidized by the carriers, yet customer "churn"—change of carriers—is still high, which is why the carriers seek to recover the costs of these devices rather than absorbing them.

"These devices aren't cheap to provide," Pepe said.

### **Communication Problems Seen**

Besides, Pepe says, the early termination charge isn't as onerous as it might look at first blush.

"Carriers are giving customers incentives to switch," which reduces the consumer's cost of changing service providers.

Pepe says the carriers can do a better job providing full disclosures of these charges, however. The charges are in the contracts, but there would likely be fewer complaints if the early termination fees were pointed out more clearly at the point of sale.

"Data fees also would draw fewer objections if consumers and business users could tell more quickly what they are being charged rather than being shocked by a large bill at the end of a billing cycle," Pepe added.

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