

Why the Feds are Singling Out T-Mobile for SMS Fraud

Ben Munson

The Federal Trade Commission Tuesday called out T-Mobile, [alleging the carrier made “hundreds of millions” from fraudulent premium SMS charges](#) [1].

The FCC also jumped in, saying it is collaborating with the FTC to investigate the complaints charged against T-Mobile.

T-Mobile CEO John Legere almost immediately fired back, saying the complaints are [“unfounded and without merit.”](#) [2] He pointed toward an announcement in December 2013 from AT&T, Sprint and T-Mobile that they were answering lawmakers’ call for a [crackdown on premium SMS](#) [3]. Together, they were all working to put an end to “cramming,” the practice of carriers and companies profiting from fraudulent third-party charges.

But Recon Analyst founder Roger Entner said the announcement was a culmination and that other carriers like AT&T and Verizon had already taken steps to end the practice.

“It was an industry-wide problem. It’s just that the reaction of the carriers was different,” Entner said. “Some carriers were more addicted to the premium SMS revenue than others.”

Although T-Mobile in late 2013 launched its efforts to end premium SMS, the FTC complaint alleges the carrier had evidence of the fraud much earlier than that. The complaint points to monthly refund rates at T-Mobile as high as 40 percent for some services as well as internal documents showing the carrier had received a large amount of complaints.

In his response, Legere said all carriers took the necessary steps to protect consumers but not all third-party companies acted responsibly. He insisted it is those companies that should be held accountable, not T-Mobile.

Brian Shull, an attorney in the FTC’s Bureau of Consumer Protection, said the Commission has filed a federal lawsuit against T-Mobile and anticipates the carrier will defend itself in a federal court in Seattle. He said the FTC has been very active in policing cramming practices and has filed over 25 lawsuits against crammers working over landlines. But the case against T-Mobile is only the FTC’s fifth lawsuit concerning wireless network practices.

“This is a particularly big deal for us because it will be our first case against a mobile telecom company for cramming,” Shull said.

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Entner said that T-Mobile contesting and arguing against the charges is not the best course of action for the carrier. He said that T-Mobile apparently profited from the fraud and didn't clean it up fast enough, so it must now act to preserve the consumer-first image it's worked to cultivate.

"[The charges] fly in the face of their positioning and makes them look like hypocrites," Entner said. "And it's a huge opportunity for the other three carriers to throw egg in T-Mobile's face."

Lynnette Luna, senior analyst at Current Analysis, said T-Mobile will likely pay a settlement in order to minimize the damage to their public image.

"I think companies just want [charges] to go away. It puts a negative light on them," Luna said. "They're better off settling this as soon as possible. Otherwise it gets dragged out in the media and they look bad."

In 2010, Verizon Wireless [settled complaints](#) [4] similar to ones T-Mobile is currently facing. Accused of charging data access fees to customers who didn't have data plans, Verizon agreed to pay \$25 million to the government and more than \$52 million in customer refunds.

Perhaps working proactively after that settlement, Verizon in 2011 [filed suit against a group of companies](#) [5] it alleged had been fraudulently charging its customers for premium SMS services.

Legere argues that T-Mobile was proactive in working against SMS fraud but, at this point, that likely won't stop the federal investigation. Entner said the best thing for T-Mobile to do now is to admit mistakes and apologize.

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[2] <http://www.wirelessweek.com/news/2014/07/t-mobile-ftc-charges-unfounded-and-without-merit>

[3] <http://www.wirelessweek.com/news/2013/11/t-verizon-sprint-t-mobile-stopping-most-premium-text-billing>

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