



Testimony of VPIRG Communications & Technology Director Zachary Tomanelli on S.255 - An act relating to regulating consumer fees for communications equipment

Testimony before the Senate Finance Committee
February 11, 2022

Introduction

Good morning. My name is Zachary Tomanelli and I am the Communications & Technology Director of VPIRG, the Vermont Public Interest Research Group. For 50 years, VPIRG has advocated for the public interest in policy debates concerning the environment, health care, consumer protection, and democracy, and so I thank you for this opportunity to share our thoughts on S.255.

This is a simple, straightforward consumer protection bill dealing with one of the more frustrating and fundamentally unfair transactions that consumers deal with: out-of-control telecommunication equipment rental fees.

VPIRG is strongly supportive of this measure and urges the committee to approve this legislation.

The problem

In recent years, VPIRG has advocated for affordable, high-speed internet for all. As a state, we have made significant progress very recently to stand up community-based internet solutions and expand telecommunications infrastructure to unserved and underserved locations. However, affordability remains an issue.

Internet affordability is a multi-faceted issue, and this isn't to suggest that addressing equipment rental fees alone solves that. However, we should recognize that telecom company-imposed fees do play a significant role in driving up the overall cost of monthly communications services.

Consider Consumer Reports' 2019 'What the Fee' Report which analyzed the average cost of monthly cable bills across CR's membership base. That report found that consumers paid, on average, \$37 per month in company-imposed fees (separate from mandatory government taxes and fees), a significant portion of which comes from equipment rental fees. Company-imposed fees added an extra 24% to the base cost of the average consumer's package.¹

Furthermore, the cost of equipment rental fees in the U.S. is uniquely high compared to other parts of the world.

¹ <https://advocacy.consumerreports.org/wp-content/uploads/2019/10/CR-Cable-Bill-Report-2019.pdf>

New America's 2020 Cost of Connectivity Report found that the average monthly equipment rental cost for modems and routers in the U.S. was \$12.56. Compare this to a cost of \$2.13 in Europe and \$1.88 in Asia.²

The issue with equipment rental fees, however, goes beyond the strict cost. The application of these particular fees is uniquely unfair – resulting in consumers paying what amounts to a massive markup for these devices.

Consider a hypothetical Vermonter who signed up for bundled internet and cable service through Comcast in 2015, rented a modem/router combo through the company and has continued that service through today. As of today, that consumer will have paid upwards of \$1000 for a device that charitably retails for \$150.

It's hard to think of any other situation where a 600% markup is considered acceptable.

In 2015, the Vermont legislature enacted a law (Act 55) addressing a similar dynamic in the rent-to-own industry. That law capped the total cost of an item purchased through a rent-to-own agreement at two times the cash price of the item.

Other considerations

Consumers can *often* avoid these fees by buying their own equipment and, thanks to the federal Television Viewer Protection Act of 2019, companies can no longer continue the unconscionable practice of charging an equipment rental fee even if the consumer owns their own equipment.

However:

- 1.) Sometimes specific equipment is required for compatibility reasons and is therefore unavailable for consumer purchase
- 2.) Consumers may not always be aware that they can buy their own equipment (the proposed legislation smartly seeks to rectify this by requiring a disclaimer alerting the consumer that they can buy the equipment from another source)
- 3.) Even if it is possible to buy the equipment *and* the consumer is aware, the consumer may still face other barriers to doing so such as the up-front cost of purchasing a device or a worry that they might buy an incompatible device/be responsible for the maintenance and upkeep of the equipment.

A consumer who decides to forgo the purchase of their own devices might expect to pay some premium for the convenience of renting equipment through the telecom provider, but a 600%+ markup is exorbitant.

VPIRG also recognizes that these equipment rental fees represent a substantial revenue stream for these telecommunications companies. In 2014, it was estimated that cable modem rental fees accounted for more than \$1 billion in annual revenue for Comcast alone.³

² <https://www.newamerica.org/oti/reports/cost-connectivity-2020/global-findings>

³ <https://www.forbes.com/sites/kenkam/2014/09/19/comcast-cable-modem-rentals-contribute-more-than-olympics/?sh=2c689fd85170>

It's possible, then, that should the state move to regulate these fees, the companies would look to recover that revenue by shifting that cost to the base rate of their service. Nevertheless, we believe that taking this step is a benefit to consumers. In cases where companies don't shift the cost, consumers clearly benefit by paying less. But even if telecommunications companies raise their base rates as a result, consumers benefit from increased transparency into the actual cost of the service being provided.

Right now, telecom companies are able to offer advertised base rates that are well below the actual monthly cost of service once company-imposed fees are included. This practice is frustrating for consumers because it makes budgeting and comparison-shopping extremely difficult. Anything that takes these hidden fees and puts them in the sunlight is good consumer protection policy.

Specific recommendations

With regards to the specifics of S.255, VPIRG supports this legislation and would advocate for it as drafted.

If the committee were to determine that the Attorney General's office was the appropriate venue for any rulemaking pertaining to this legislation, we'd certainly not object to that.

We would urge the committee to consider being more prescriptive in the guidance that it gives to whatever rulemaking body it deems appropriate. The committee might consider offering a formula similar to that offered in the aforementioned Rent-to-Own law. Or you may want to look to legislation that's been introduced in Illinois that states "Cable or video providers shall cease charging customers for modems and routers, whether rented together or separately, when the customer has paid to the provider the wholesale cost of the modem or router, or modem and router if rented together, plus a reasonable mark-up not to exceed 5% of the modem, router, or modem and router wholesale cost to the provider. Cable and video providers shall provide notice regarding the discontinuance of rental charges to the customer in each billing statement. The notice shall include a disclosure of rights and responsibilities relating to the maintenance of modems and routers."

Conclusion

VPIRG appreciates the committee's attention to this matter and urges you to support this legislation.