

110TH CONGRESS  
1ST SESSION

# H. R. 3402

To require accurate and reasonable disclosure of the terms and conditions  
of prepaid telephone calling cards and services.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2007

Mr. ENGEL (for himself, Mr. FERGUSON, and Mr. TOWNS) introduced the  
following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To require accurate and reasonable disclosure of the terms  
and conditions of prepaid telephone calling cards and  
services.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Calling Card Consumer  
5       Protection Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) the prepaid telephone calling card industry  
9       in the United States is plagued by fraudulent and  
10       deceptive business practices; and

1           (2) the necessary protections relating to prepaid  
2 telephone calling cards must ensure that all adver-  
3 tising is truthful, accurate, and reasonably discloses  
4 the terms and conditions of prepaid telephone calling  
5 cards and prepaid telephone calling services.

6 **SEC. 3. DEFINITIONS.**

7 As used in this Act, the following definition apply:

8           (1) The term “prepaid telephone calling service  
9 provider” means any entity, corporation, company,  
10 association, firm, partnership, or person providing  
11 prepaid telephone calling service to the public using  
12 its own, or a resold telecommunications network or  
13 voice over Internet technology.

14           (2) The term “prepaid telephone calling serv-  
15 ice” or “service” means any prepaid telecommuni-  
16 cations service that allows consumers to originate  
17 calls through a local, long distance or toll-free access  
18 number and authorization code, whether manually or  
19 electronically dialed. Such term shall not include any  
20 service that provides access to a wireless tele-  
21 communications service account wherein the pur-  
22 chaser has a pre-existing relationship with the wire-  
23 less service provider or establishes a carrier-cus-  
24 tomer relationship via the purchase of the object.

1           (3) The term “prepaid telephone calling card”  
2           or “card” means any right of use purchased for a  
3           sum certain that contains an access number and au-  
4           thorization code that enables a consumer to use a  
5           prepaid telephone calling service. Such rights of use  
6           may be embodied on a card or other physical object  
7           or may be purchased by an electronic or telephonic  
8           means through which the purchaser obtains access  
9           numbers and authorization codes that are not phys-  
10          ically located on a card, its packaging, an Internet  
11          website, or other promotional materials. Such term  
12          shall not include cards or other rights of use that  
13          provide access to—

14                 (A) telecommunications service wherein the  
15                 card or other rights of use and telecommuni-  
16                 cations service are provided for free or at no  
17                 additional charge as a promotional item accom-  
18                 panying a product or service purchased by a  
19                 consumer; or

20                 (B) a wireless telecommunications service  
21                 account wherein the purchaser has a pre-exist-  
22                 ing relationship with the wireless service pro-  
23                 vider or establishes a carrier-customer relation-  
24                 ship via the purchase of the object.

1           (4) The term “prepaid telephone calling card  
2 distributor” means any entity, corporation, com-  
3 pany, association, firm, partnership, or person that  
4 purchases prepaid telephone calling cards from a  
5 prepaid telephone calling card provider or distributor  
6 and sells, re-sells, issues, or distributes such cards to  
7 one or more distributors of such cards or to one or  
8 more retail sellers of such cards. Such term shall not  
9 include any retail merchants or sellers of prepaid  
10 telephone calling cards exclusively engaged in point-  
11 of-sale transactions with end-user customers.

12 **SEC. 4. REQUIRED DISCLOSURES OF PREPAID TELEPHONE**  
13 **CALLING CARDS OR SERVICES.**

14           (a) **REQUIRED DISCLOSURE.**—Any prepaid telephone  
15 calling service provider or prepaid telephone calling card  
16 distributors shall disclose the following information relat-  
17 ing to the terms and conditions of the prepaid telephone  
18 calling card or service:

19           (1) The total value in dollars or the number of  
20 calling minutes available of the prepaid telephone  
21 calling card or service at the time of purchase.

22           (2) A description of any and all terms and con-  
23 ditions pertaining to, and associated with, the use of  
24 the prepaid telephone calling service and prepaid  
25 telephone calling card, including all fees, limitations

1 on the use of minutes available, and surcharges and  
2 applicable policies relating to refund, recharge, dec-  
3 rement, and expiration.

4 (3) The name of the prepaid telephone calling  
5 service provider.

6 (4) The prepaid telephone calling service pro-  
7 vider's customer service telephone number and hours  
8 of service.

9 (b) LOCATION OF DISCLOSURE AND LANGUAGE RE-  
10 QUIREMENT.—

11 (1) CLEAR AND CONSPICUOUS.—

12 (A) CARDS.—In the case of a prepaid tele-  
13 phone calling card, the disclosures required  
14 under subsection (a) shall be printed in plain  
15 English language in a clear and conspicuous lo-  
16 cation on the prepaid telephone calling card or  
17 its packaging. If the card is enclosed in opaque  
18 packaging, such disclosures shall be printed on  
19 the outside packaging of the card.

20 (B) ONLINE SERVICES.—In the case of a  
21 prepaid telephone calling service that consumers  
22 access and purchase via the Internet, the disclo-  
23 sures required under subsection (a) shall be dis-  
24 played in plain English language in a clear and  
25 conspicuous location on the Internet site that

1 the consumer must access prior to purchasing  
2 such service.

3 (C) ADVERTISING AND OTHER PRO-  
4 MOTIONAL MATERIAL.—The disclosures re-  
5 quired under subsection (a) shall also be print-  
6 ed on any advertising for the prepaid telephone  
7 calling card or service, including on any signs  
8 for display by retail merchants, any promotional  
9 emails, any Internet site used to promote such  
10 card or service, and on any other promotional  
11 material.

12 (2) FOREIGN LANGUAGES.—If a language other  
13 than English is predominantly used on a prepaid  
14 telephone calling card, its packaging, or in point of  
15 sale advertising, or promotional material of a pre-  
16 paid telephone calling card or prepaid telephone call-  
17 ing service, then the disclosures required by this sec-  
18 tion shall be disclosed in that language on such card,  
19 packaging, advertisement, or promotional material.

20 **SEC. 5. UNLAWFUL CONDUCT RELATED TO PREPAID TELE-**  
21 **PHONE CALLING CARDS.**

22 (a) UNDISCLOSED FEES AND CHARGES.—It shall be  
23 unlawful for any prepaid telephone calling service provider  
24 or prepaid telephone calling card distributor to assess any  
25 fee associated with the prepaid telephone calling card or

1 prepaid telephone calling service, or impose any charge for  
2 any permitted use of the prepaid telephone calling card  
3 or prepaid telephone calling service if such fee or charge  
4 is not disclosed as required under section 4.

5 (b) MINUTES AS PROMOTED AND ADVERTISED.—

6 (1) SERVICE PROVIDER.—It shall be unlawful  
7 for any prepaid telephone calling service provider to  
8 provide fewer minutes than the number of minutes  
9 promoted or advertised on any prepaid telephone  
10 calling card, any point of sale material relating to  
11 such card or the other advertising related to any  
12 prepaid telephone calling card or service. Any limita-  
13 tion on the period of time for which the displayed,  
14 promoted, or advertised minutes will be available to  
15 the customer shall be conspicuously displayed on the  
16 card, packaging, and promotional material that lists  
17 the minutes, consistent with section 4(b).

18 (2) DISTRIBUTOR.—It shall be unlawful for any  
19 prepaid telephone calling card distributor to dis-  
20 tribute any prepaid telephone calling card that the  
21 distributor knows that the prepaid telephone calling  
22 card provides fewer minutes than the number of  
23 minutes promoted or advertised on any prepaid tele-  
24 phone calling card, any point of sale material relat-  
25 ing to such card, any voice prompt indicating the

1 number of minutes available, or other advertising re-  
2 lating to any prepaid telephone calling card or serv-  
3 ice. Any limitations on the period of time for which  
4 the displayed, promoted, or advertised minutes will  
5 be available to the customer shall be conspicuously  
6 displayed on the card, packaging, and promotional  
7 material that lists the minutes, consistent with sec-  
8 tion 4(b).

9 (c) MINUTES PROMOTED AND ADVERTISED  
10 THROUGH VOICE PROMPTS.—

11 (1) SERVICE PROVIDER.—It shall be unlawful  
12 for any prepaid telephone calling service provider to  
13 provide fewer minutes than the number of minutes  
14 promoted or advertised through any voice prompt  
15 given to a customer at the time the customer places  
16 a call to a dialed destination with the prepaid tele-  
17 phone calling card or service.

18 (2) DISTRIBUTOR.—It shall be unlawful for any  
19 prepaid telephone calling card distributor to dis-  
20 tribute prepaid telephone calling cards that it knows  
21 provide fewer minutes than the number of minutes  
22 promoted or advertised through any voice prompt  
23 given to a customer at the time the customer places  
24 a call to a dialed destination with the prepaid tele-  
25 phone calling card or service.

1 (d) EXPIRATION.—Unless a different expiration date  
2 is clearly disclosed pursuant to the disclosure require-  
3 ments under section 4, it shall be unlawful for any prepaid  
4 telephone calling service provider or prepaid telephone  
5 calling card distributor to provide, issue, resell, or dis-  
6 tribute a prepaid telephone calling card or service that ex-  
7 pires—

8 (1) after a period of less than 1 year from the  
9 date on which such card or service is first used; or

10 (2) in the case of a prepaid telephone calling  
11 card or service that permits the consumer to pur-  
12 chase additional usage minutes or add additional  
13 value to the card or service, after a period of less  
14 than 1 year from the date on which the consumer  
15 last purchased additional usage minutes or added  
16 additional value to the card or service.

17 (e) CHARGES FOR UNCONNECTED CALLS.—It shall  
18 be unlawful for any prepaid telephone calling service pro-  
19 vider or service to assess any fee or charge for any  
20 unconnected telephone call. For purposes of this sub-  
21 section, a telephone call shall not be considered connected  
22 if the person placing the call receives a busy signal or if  
23 the call is unanswered.

24 (f) LIABILITY.—Liability under this section may not  
25 be avoided by stating that the displayed, promoted, or ad-

1 vertised minutes are subject to fees or charges, or by uti-  
2 lizing other disclaimers or limitations.

3 **SEC. 6. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-**  
4 **SION.**

5 (a) UNFAIR AND DECEPTIVE ACT OR PRACTICE.—  
6 A violation of section 4 or 5 shall be treated as a violation  
7 of a rule defining an unfair or deceptive act or practice  
8 prescribed under section 18(a)(1)(B) of the Federal Trade  
9 Commission Act (15 U.S.C. 57a(a)(1)(B)).

10 (b) AUTHORITY OF THE COMMISSION.—The Federal  
11 Trade Commission shall enforce this Act in the same man-  
12 ner, by the same means, and with the same jurisdiction  
13 as though all applicable terms and provisions of the Fed-  
14 eral Trade Commission Act were incorporated into and  
15 made a part of this Act.

16 (c) RULEMAKING AUTHORITY.—The Commission  
17 may issue regulations to carry out this Act.

18 **SEC. 7. STATE ENFORCEMENT.**

19 (a) IN GENERAL.—

20 (1) CIVIL ACTIONS.—In any case in which the  
21 attorney general of a State has reason to believe  
22 that an interest of the residents of that State has  
23 been or is threatened or adversely affected by the  
24 engagement of any person in a practice that is pro-  
25 hibited under this Act, the State, as *parens patriae*,

1 may bring a civil action on behalf of the residents  
2 of that State in a district court of the United States  
3 of appropriate jurisdiction, or any other court of  
4 competent jurisdiction—

5 (A) to enjoin that practice;

6 (B) to enforce compliance with this Act;

7 (C) to obtain damage, restitution, or other  
8 compensation on behalf of residents of the  
9 State ; or

10 (D) to obtain such other relief as the court  
11 may consider to be appropriate.

12 (2) NOTICE TO F.T.C.—

13 (A) IN GENERAL.—Before filing an action  
14 under paragraph (1), the attorney general of a  
15 State shall provide to the Commission—

16 (i) written notice of the action ; and

17 (ii) a copy of the complaint for the ac-  
18 tion.

19 (B) EXEMPTION.—

20 (i) IN GENERAL.—Subparagraph (A)  
21 shall not apply with respect to the filing of  
22 an action by an attorney general of a State  
23 under this subsection, if the attorney gen-  
24 eral of a State determines that it is not  
25 feasible to provide the notice described in

1           that subparagraph before the filing of the  
2           action.

3           (ii) NOTIFICATION.—In an action de-  
4           scribed in clause (i), the attorney general  
5           of a State shall provide notice and a copy  
6           of the complaint to the Commission at the  
7           same time as the attorney general files the  
8           action.

9           (b) INTERVENTION BY F.T.C.—

10           (1) IN GENERAL.—On receiving notice under  
11           subsection (a)(2), the Commission shall have the  
12           right to intervene in the action that is the subject  
13           of the notice.

14           (2) EFFECT OF INTERVENTION.—If the Com-  
15           mission intervenes in an action under subsection (a),  
16           it shall have the right—

17                   (A) to be heard with respect to any matter  
18                   that arises in that action ; and

19                   (B) to file a petition for appeal.

20           (c) CONSTRUCTION.—For purposes of bringing any  
21           civil action under subsection (a), nothing in this Act shall  
22           be construed to prevent an attorney general of a State  
23           from exercising the powers conferred on the attorney gen-  
24           eral by the laws of that State—

25                   (1) to conduct investigations;

1           (2) to administer oaths or affirmations; or

2           (3) to compel the attendance of witnesses or the  
3 production of documentary and other evidence.

4           (d) ACTION BY THE COMMISSION MAY PRECLUDE  
5 STATE ACTION.—In any case in which an action is insti-  
6 tuted by or on behalf of the Commission for violation of  
7 this Act, no State may, during the pendency of that action  
8 , institute an action under subsection (a) against any de-  
9 fendant named in the complaint in that action for violation  
10 of that section.

11          (e) VENUE; SERVICE OF PROCESS.—

12           (1) VENUE.—Any action brought under sub-  
13 section (a) may be brought in the district court of  
14 the United States that meets applicable require-  
15 ments relating to venue under section 1391 of title  
16 28, United States Code.

17           (2) SERVICE OF PROCESS.—In an action  
18 brought under subsection (a), process may be served  
19 in any district in which the defendant—

20                   (A) is an inhabitant; or

21                   (B) may be found.

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