

United States Senate

***PERMANENT SUBCOMMITTEE ON
INVESTIGATIONS***

Committee on Homeland Security and Governmental Affairs

Rob Portman, Chairman

Claire McCaskill, Ranking Member

**SOME CABLE AND SATELLITE
COMPANIES DO NOT REFUND
CUSTOMER OVERCHARGES**

STAFF REPORT

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UNITED STATES SENATE



SENATOR ROB PORTMAN
Chairman

SENATOR CLAIRE MCCASKILL
Ranking Member

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

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GAO Detailee

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SOME CABLE AND SATELLITE COMPANIES DO NOT REFUND CUSTOMER OVERCHARGES

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EXECUTIVE SUMMARY

As part of its investigation of cable and satellite television companies, the Subcommittee reviewed how five companies—Charter Communications, Comcast, Time Warner Cable,¹ DirecTV, and Dish (also known as “multichannel video programming distributors” or “MVPDs”)—identify and correct overcharges caused by company billing errors.²

Each MVPD has millions of subscribers and generates millions of bills annually. Each bill, in turn, contains a number of line items (*e.g.*, a base television package, an HBO subscription, a leasing fee for a set-top box), resulting in hundreds of millions of line items a year.³ Predictably, customer billing records do not always match customer equipment and service records, meaning that some customers are billed for items they have not ordered while others erroneously escape being charged for services or equipment they use.

The Subcommittee reviewed how the MVPDs investigate and remedy these billing errors, with particular focus on their efforts to make overcharged customers whole. We found that the MVPDs vary greatly with respect to how they handle billing overcharges.

First, throughout the time period examined by the Subcommittee, Time Warner Cable and Charter made no effort to trace equipment overcharges to their origin unless customers specifically asked them to and did not provide notice or refunds to customers.

Second, other MVPDs have invested effort and resources to prevent overcharges and provide refunds or credits to customers who have overpaid. Comcast and DirecTV provide automatic refunds or credits to overcharged customers, while Dish’s billing system is designed to prevent these types of overcharges from occurring in the first place.

¹ During the course of the investigation, Charter acquired Time Warner Cable. Because it will take years to integrate Time Warner Cable’s billing practices into Charter’s, we treat them as separate entities for purposes of this report.

² In this report, we use the term “billing error” to refer to billing errors caused by flaws in MVPDs’ billing systems. Similarly, the term “overcharges” refers to an overcharge caused by this type of error. These do not constitute the only type of billing error or overcharge a customer may encounter.

³ See Interview with Ernie Pighini, Comcast Senior Vice President and Controller (June 9, 2016) (hereinafter “June 9 Pighini Interview”) (noting that Comcast has approximately 287 million discrete “billing events” each year); see Letter from Michael Bopp, Counsel to Time Warner Cable, to Senators Rob Portman and Claire McCaskill, at 2 (June 10, 2016) (“Any company that issues millions of bills each month (with multiple service elements on each) inevitably will encounter some errors....”).

Third, based on data provided by Time Warner Cable and Charter, the Subcommittee estimated how much Time Warner Cable and Charter have overbilled customers nationwide.

- Between January and April 2016, Time Warner Cable overbilled customers nationwide an estimated \$639,948. The Subcommittee projects that, in 2016, Time Warner Cable will overbill customers nationwide a total of \$1,919,844.
- Charter has not yet completed the underlying work necessary to determine how much it has overbilled customers. But it has informed the Subcommittee that it overbilled customers by at least \$442,691 per month.

Fourth, the Subcommittee sought information about the number of customers overcharged in Ohio and Missouri. Time Warner Cable estimates that, in 2015, it overbilled 40,193 Ohio customers a total of \$430,393 and 4,232 Missouri customers a total of \$44,152. Time Warner Cable also told the Subcommittee that, during the first five months of 2016, it overbilled customers in Ohio for 11,049 pieces of equipment, totaling \$108,221. Charter estimates that it has annually overcharged approximately 5,897 Missouri customers a total of \$494,000 each year. Charter does not provide service in Ohio.

Fifth, as a result of this investigation, both Time Warner Cable and Charter have taken steps to address these issues. Each month, Time Warner Cable performs an audit comparing its billing records with service records. Going forward, the company will provide an automatic one-month credit to anyone who is identified in the audit as having been overcharged. Time Warner Cable will not, however, investigate when it began overcharging customers unless customers bring specific concerns to the company's attention, nor will it provide a full refund dating back to when the overcharge began. Similarly, Charter will provide customers with a one-year credit for any equipment overcharges. Charter has also implemented systemic controls that it says will prevent equipment overcharges in the future.

DISCUSSION

During the six and a half year time period covered by the Subcommittee's investigation, Time Warner Cable and Charter did not automatically refund or credit customers for equipment overcharges they discovered.⁴ By contrast, Comcast and DirecTV provided full refunds to overcharged customers, and Dish's sophisticated billing system is designed to prevent these types of issues from occurring in the first instance.

⁴ All five MVPDs have uniform policies with respect to undercharges. Each MVPD corrects the error prospectively and does not attempt to bill customers retrospectively for items the MVPDs erroneously left off their bills.

I. Time Warner Cable and Charter Do Not Automatically Refund or Credit Overcharged Customers.

Two MVPDs—Time Warner Cable and Charter—have procedures for identifying overcharges and removing them from customers’ bills prospectively. Neither company, however, has automatically provided full retroactive refunds or credits for past overcharges. Instead, Time Warner Cable and Charter have generally granted refunds or credits only upon customer request.

A. Time Warner Cable’s Policies and Practices.

To understand Time Warner Cable’s policies, the Subcommittee studied how the company identifies billing errors. Each month, Time Warner Cable runs an internal audit comparing its billing records to its equipment and programming records.⁵ Due to legacy acquisitions, Time Warner Cable has two separate billing systems, called ICOMS and CSG, and it performs its monthly audit on both systems.⁶ Using data from the audit, Time Warner Cable’s Revenue Assurance Department (a staff of seven people) generates a list of “inconsistencies”—instances in which the company’s billing records do not match the company’s equipment or programming records.⁷

If the audit shows that a customer has not been billed for equipment or services that the customer has received, the company treats those inconsistencies as undercharges and adds the appropriate charge to the customer’s bill going forward.⁸ Time Warner Cable does not attempt to retroactively charge the customer for previous months in which that customer was undercharged.⁹

If the audit shows that a customer has been billed for equipment or services that he or she does not have, the story is more complicated. In some cases, customers agree to pay for equipment they do not actually have so that they can receive a cheaper package price—for example, a consumer who wants only internet

⁵ Interview with Erik Walder, Time Warner Cable, Senior Director, Accounting Policy and Revenue Assurance; Ray Remnarce, Time Warner Cable, Director, Billing Operations; Wendy Rasmussen, Time Warner Cable, Vice President, Marketing Operations; David Baran, Time Warner Cable, Group Vice President, Pricing and Promotion; Jeff Zimmerman, Time Warner Cable, Senior Vice President and Deputy General Counsel; Mike Quinn, Time Warner Cable, Group Vice President and Chief Counsel, Regulatory (May 11, 2016) (hereinafter “Time Warner Cable Refund Briefing”). Time Warner Cable further explained that, until 2013, its “review process occurred at a regional level” but that, “[i]n 2013, as part of an internal restructuring, the process was centralized and placed in the Corporate Controller’s organization.” Letter from Michael Bopp, Counsel to Time Warner Cable, to Senators Rob Portman and Claire McCaskill, at 3 (June 10, 2016).

⁶ See TWC 17,668 (showing billing errors for ICOMs and CSG customers).

⁷ Time Warner Cable Refund Briefing.

⁸ *Id.*

⁹ *Id.*

service might decide her cheapest option is a promotional package including both internet and cable television. By participating in the promotion, the customer agrees to pay a monthly rental fee for a set-top box but may instruct the company not to provide her with that set-top box.¹⁰ In such a case, the customer's billing records will show a *charge* for a set-top box, but the customer's equipment records will show that he or she does not physically *have* a set-top box.¹¹ Nevertheless the charge is correct.

To weed out such examples from the audit results, Time Warner Cable investigates each potential overcharge. In the example at hand, Time Warner Cable's subsequent investigation will show that removing the set-top box charge would void the customer's promotional offer and increase her total price—which the company presumes the customer does not want.¹² In such cases, the company will conclude that the customer is being appropriately charged and will not adjust the customer's bill.¹³ Time Warner Cable performs this type of investigation for all potential overcharges. In April 2016, for example, Time Warner Cable identified 49,132 pieces of equipment associated with overcharges; of those 49,132 pieces of equipment, 37,653 (approximately 77 percent) were not “correctable” overcharges because they were associated with accounts participating in promotional offers.¹⁴ Time Warner Cable told the Subcommittee that its billing-error rate for video equipment is 0.07 percent.¹⁵

Once Time Warner Cable identifies bona fide billing errors, it attempts to correct them prospectively. It does so using a software program that enables mass additions or deletions of charges from a large number of customer bills; the company refers to the program as a “macro.”¹⁶ That macro, however, is prone to errors. In some months, such as May 2016, the program crashes, and Time Warner Cable is unable to correct any billing errors.¹⁷ When that occurs, depending on how quickly the macro can be corrected, the company may wait until the next month to run the program again.¹⁸ And even when the program does not crash, Time Warner

¹⁰ FCC regulations long-required cable companies to provide cable service using set-top boxes equipped with CableCARDS and, even under recent regulatory reforms, cable operators have a limited ability to provide television service without providing and charging customers for a set-top box. Time Warner Cable informed the Subcommittee that it has invested in, and has begun rolling out, technology that will enable it to provide television service without providing a set-top box.

¹¹ *See, e.g.*, TWC 17,678.

¹² Time Warner Cable Refund Briefing.

¹³ *Id.*

¹⁴ TWC 17,668.

¹⁵ Time Warner Cable Refunds Briefing.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

Cable told the Subcommittee that its aim is to correct only 80 percent of billing errors through the macro.¹⁹

Time Warner Cable does not attempt to trace billing errors to their origin and provide a refund or credit to overcharged customers for the total amount they have overpaid.²⁰ Instead, Time Warner Cable provides only a *partial* credit for the month in which the error was discovered. Customers must call the company to request a refund or credit to make up for overcharges from previous months.²¹ As the graphic below shows, Time Warner Cable does, however, provide its customer service representatives with notice that customers have been overcharged and instructs them that the company “can offer customer credits on request.” But the company does not alert the customers themselves of the possibility (indeed, the likelihood) that they have been overcharged on past bills.

TV Service Adjustment – Carolinas, Midwest, Northeast

A recent account review identified a billing error with TV service on approximately 18,000 customer accounts in ICOMS markets. These customers have been overbilled for modem and CableCARD equipment. We will remove the additional items from customers' accounts as soon as they are identified. We can offer customer credits on request.

To determine the full scope of this problem, the Subcommittee requested data concerning the number of overcharges and the associated dollar amount. The chart below shows Time Warner Cable’s nationwide losses and gains resulting from undercharges and overcharges between January and April 2016. It shows that Time Warner Cable overcharged customers \$639,948 and undercharged customers \$3,595,498. Based on the data below, the Subcommittee estimates that, for 2016, Time Warner Cable will overbill a total of \$1,919,844.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

Month	Actual Undercharges	Potential Overcharges	Estimated Correctable Overcharges
Jan. 2016	\$909,157	\$742,746	\$170,832
Feb. 2016	\$959,564	\$707,036	\$162,618
Mar. 2016	\$852,784	\$736,501	\$169,395
Apr. 2016	\$873,993	\$596,098	\$137,103
Total	\$3,595,498	\$2,782,381	\$639,948

Sources: TWC 17,686, 17,687.

The Subcommittee also requested information about overcharges to Ohio and Missouri customers. In response, Time Warner Cable produced data from 2015 and 2016. Time Warner Cable estimates that, in 2015, it overbilled 40,193 Ohio customers for a total of \$430,393.²² It estimates that it overbilled 4,232 Missouri customers for a total of \$44,152.²³ As shown below, the company also provided data showing Ohio overcharges in the first five months of 2016. Those figures show that Time Warner Cable overbilled for 11,049 pieces of equipment, at a total of \$108,221.

Month	Pieces of Equipment	Total Overcharge Amount
January 2016	2,526	\$24,087
February 2016	1,998	\$19,711
March 2016	2,460	\$24,489
April 2016	2,110	\$20,757
May 2016	1,955	\$19,177
Total	11,049	\$108,221

Source: Letter from Michael Bopp, Counsel to Time Warner Cable, to Senators Rob Portman and Claire McCaskill, at 2 (June 16, 2016).

Time Warner Cable defends its policy on the ground that it is efficient. Going through months of customer bills to identify overcharges would be costly and time consuming, the company argues. The company also claims that the customer is best positioned to notice an overcharge and bring it to Time Warner Cable's attention.²⁴

The Subcommittee's industry-wide review, however, casts considerable doubt on Time Warner Cable's belief that remedying past overcharges is infeasible. As described below, Comcast's method of identifying overcharges is substantially

²² Letter from Michael Bopp, Counsel to Time Warner Cable, to Senators Rob Portman and Claire McCaskill, at 2 (June 20, 2016).

²³ *Id.*

²⁴ Time Warner Cable Refunds Briefing.

similar to Time Warner Cable's—but unlike Time Warner Cable, Comcast takes the additional step of determining how long a customer has been overcharged and uses that information to grant automatic refunds or credits to customers.

In short, during the time covered by the Subcommittee's investigation, Time Warner Cable made no effort to trace the billing error to its origin; did not notify customers of identified overcharges so that customers might determine when they began and request a refund; and did not provide a full refund for the month in which the overcharge was detected.

B. Charter's Policies and Practices.

The Subcommittee also discovered that Charter's practices for identifying and correcting overcharges have been substandard. According to Charter, prior to August 2015, the company did not run any systematic audits to reconcile its billing records with equipment records. Charter's failure to perform regular audits means that overcharged customers could not even receive a prospective correction of their bill unless they noticed the problem themselves and contacted Charter. Beginning in August 2015, however, Charter began taking steps to identify equipment overcharges currently on its system. Charter will complete that process in June 2016.²⁵

Charter informed the Subcommittee that it utilizes several procedures to ensure that customers are properly billed, including for equipment. First, Charter has implemented systemic controls to ensure that employees do not add or delete services or equipment from a customer's account without triggering a corresponding change to the customer's billing record.²⁶ Charter developed these controls to minimize human error during the order entry process. The Subcommittee discovered that Dish has used a comprehensive set of similar controls since it was launched in 1996.²⁷

Second, Charter's Billing Quality Assurance team, which comprises 21 employees, samples bills to ensure accuracy.²⁸ As explained to the Subcommittee, Charter sometimes changes its bill (*e.g.*, in how it groups charges), and the Billing Quality Assurance team is tasked with reviewing applicable bills to ensure that a billing change has not introduced mass errors into customer bills.²⁹ The Billing

²⁵ To be clear, Charter has identified certain service overcharges and corrected those overcharges retroactively. For example, in October 2015, Charter identified a systemic issue with certain digital receivers which caused approximately 50,000 subscribers to be charged for Video-On-Demand content that they may not have purchased. Charter notified the affected customers and credited their accounts.

²⁶ Interview with Mike Ciszek, Charter Vice President, Billing (May 25, 2016).

²⁷ *See infra* Part II.C.

²⁸ Interview with Mike Ciszek, Charter Vice President, Billing (May 25, 2016).

²⁹ *Id.*

Quality Assurance team also reviews a random sample of bills to check for additional systemic errors that should be corrected.³⁰ The team is unlikely, however, to detect one-off errors, including when customers are overcharged for equipment or programming.

Third, beginning in August 2015, Charter undertook what it calls a “controller reconciliation,” in which the company has begun to reconcile its billing records with equipment data from its 35 “controllers” throughout the country.³¹ Controllers are pieces of equipment that communicate with set-top boxes to support the delivery of video services by activating or deactivating the set-top box. They hold equipment information at a single point in time but are not designed to be a reporting tool and do not store historical data. As a result, account history and reporting information is unavailable through the controller. Despite these limitations, Charter can send a signal from its billing system to its controllers and identify each set-top box operating on a customer’s account and the associated authorized services. Charter treats that data as the definitive source of what hardware is actually in use by each account and what services are authorized.³²

To date, Charter has completed its controller reconciliation for 27 of its 35 controllers.³³ Charter will finish that process for the remaining eight controllers in June 2016.³⁴ So far, Charter has identified approximately 11 million set-top boxes in use.³⁵ Charter told the Subcommittee that the dollar amount associated with overcharges was \$442,691 per month.³⁶ Moreover, Charter told the Subcommittee that its controller reconciliation had identified 5,897 Missouri customers who were overcharged,³⁷ for an annual value of approximately \$494,000.³⁸ But because the controllers do not store historical data, Charter says it is unable to estimate the total amount of revenue it has generated from equipment overcharges.

Fourth, Charter has instituted a daily systemic reconciliation of equipment charges with equipment in use. That daily reconciliation identifies all customers whose equipment charges exceed the number of pieces of equipment on the customer’s account. The company then removes any excess set-top box charges from

³⁰ *Id.*

³¹ Each of Charter’s 35 controllers correspond to a particular coverage area. For example, Charter has a St. Louis controller that is used to communicate with customers’ set-top boxes located in 20 Missouri municipalities. Charter 40,187.

³² Interview with Mike Ciszek, Charter Communications, Vice President, Billing (May 25, 2016).

³³ Email from Brian Benczkowski, Counsel to Charter Communications, to PSI (June 8, 2016).

³⁴ *Id.*

³⁵ Interview with Mike Ciszek, Charter Communications, Vice President, Billing (May 25, 2016).

³⁶ Letter from Brian Benczkowski, Counsel to Charter Communications, to Senators Rob Portman and Claire McCaskill, at 2 (June 10, 2016).

³⁷ *Id.*

³⁸ *Id.*

the customer's account via an automated process. According to the company, that process should prevent all equipment overcharges in the future.

Charter explains that it was not able to conduct further investigation into how long customers had been overcharged because its controllers do not automatically and continuously log the equipment in use.³⁹ Nonetheless, the limits of the controller data do not mean that Charter is powerless to identify how long a customer has been overcharged and nothing prevents Charter from reviewing affected customers' bills and equipment records to identify when a charge appears.

* * *

It is possible for both Time Warner Cable and Charter to do better by their customers. As discussed below, other MVPDs have implemented practices that either (1) use brute manpower to identify how long a customer has been overcharged and automatically grant a refund or credit or (2) do more to minimize mismatches between billing records on one hand and equipment and programming records on the other.

II. By Contrast, Comcast, DirecTV, and Dish Automatically Grant Credits or Refunds to Overcharged Customers.

By contrast to Time Warner Cable and Charter, Comcast and DirecTV provide automatic refunds or credits to customers who have been overcharged by their billing systems, while Dish's billing system is designed to prevent these types of overcharges from occurring in the first place.

A. Comcast's Policies and Practices.

During the course of a year, Comcast processes approximately 35 million "transactions," constituting approximately 287 million "billing interactions"⁴⁰—the total number of line items billed to Comcast customers.

Comcast informed the Subcommittee that it has never relied solely on customers to detect system overcharges and trigger the need for refunds or credits.⁴¹ Instead, Comcast uses an audit process similar to Time Warner Cable's—except that, once Comcast identifies an overcharged customer, it takes steps to identify how long the customer has been overcharged, notify the customer, and automatically apply a credit or provide a refund to the customer's account. Using a program calling Lavastorm CPE, Comcast compares its billing records to its

³⁹ *Id.*

⁴⁰ Letter from Reginald Brown, Counsel for Comcast Corporation, to Senators Rob Portman and Claire McCaskill, at 1 (June 21, 2016).

⁴¹ Interview with Ernie Pighini, Comcast Corporation, Senior Vice President and Controller (May 10, 2016) (hereinafter "May 10 Pighini Interview").

equipment and programming records to identify mismatches.⁴² Historically, Comcast performed these checks on a monthly basis, but starting in late 2015, it began to perform these checks on a weekly basis, in order to maintain more accurate billing records.⁴³ Comcast believes that its billing-error rate is 0.3 percent.⁴⁴ Once Comcast has identified mismatches between billing and equipment records, it investigates each individual mismatch to determine if the customer has been improperly billed.⁴⁵ Comcast has several groups of employees responsible for conducting those investigations, including a team of 20 employees who work in Revenue Assurance at Comcast's Philadelphia headquarters and additional employees scattered across the country who perform similar functions.⁴⁶ In addition, Comcast's West Region has approximately 40 employees dedicated to investigating instances of undercharging and overcharging.⁴⁷

After weeding through the list of billing mismatches, Comcast then corrects customers' bills. Like the other MVPDs, Comcast corrects undercharges prospectively but does not impose retroactive charges on customers.⁴⁸ In the case of overcharges, Comcast takes an additional, resource-intensive step that Comcast described as a "challenge."⁴⁹ For each overcharge, groups of Comcast employees use customer billing, service, and equipment records to determine how long the customer has been overbilled.⁵⁰ Once it has that information, Comcast automatically applies a credit to the affected customers' accounts.

B. DirecTV's Policies and Practices.

DirecTV uses a substantially different method of identifying and correcting billing errors than its competitors. Instead of conducting regular audits, employees in DirecTV's Revenue Assurance Department use a commercial off-the-shelf software product called SAS Enterprise Miner to develop and implement business-analytics tools that continuously search for billing errors.⁵¹ DirecTV says its ultimate goal is to identify and correct errors before bills are sent out, obviating the

⁴² June 9 Pighini Interview.

⁴³ *Id.*

⁴⁴ Letter from Reginald Brown, Counsel for Comcast Corporation, to Senators Rob Portman and Claire McCaskill, at 1 (May 2, 2016).

⁴⁵ May 10 Pighini Interview.

⁴⁶ *Id.*; June 9 Pighini Interview.

⁴⁷ May 10 Pighini Interview.

⁴⁸ *Id.*

⁴⁹ June 9 Pighini Interview.

⁵⁰ *Id.*

⁵¹ Interview with Kent Mader, AT&T, Inc., Vice President, Customer Risk Management (June 10, 2016).

need for it to take further action, but it also uses these tools to identify and correct errors on past bills.⁵²

When DirecTV identifies past billing errors, it uses a macro to fix the error. Like the other MVPDs, DirecTV corrects undercharges prospectively only.⁵³ When DirecTV identifies an overcharge, it uses a macro to correct the error prospectively and then uses its business-analytics tools to determine how long customers have been overcharged.⁵⁴ DirecTV told the Subcommittee that it goes as far back as necessary to determine how long the customer has been overcharged.⁵⁵ In some cases, DirecTV has granted credits worth thousands of dollars.⁵⁶

DirecTV's Revenue Assurance Department consists of 12 employees, who are tasked with detecting flaws in the logic of DirecTV's billing system that can lead to billing errors and implementing business-analytics tools to detect those flaws.⁵⁷ According to DirecTV, Revenue Assurance employees accomplish this task using several techniques: When DirecTV rolls-out new offers for customers or otherwise changes a billing practice, Revenue Assurance employees study the changes being made, anticipate what could go wrong, and implement analytics tools to detect potential problems.⁵⁸ The Revenue Assurance Department also notifies the division of DirecTV responsible for fixing the problem.⁵⁹ In addition, Revenue Assurance employees interact with employees from all over the company regarding billing errors and implement analytics tools to identify those problems.⁶⁰

C. Dish's Policies and Practices.

Like DirecTV, Dish does not rely on regular audits to identify and remedy billing errors.⁶¹ Instead, Dish's billing and provisioning systems (which Dish employees use to add or remove equipment and programming from an account) are linked, meaning that any changes to a customer's equipment or programming are

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ DirecTV 94,676.

⁵⁷ Interview with Kent Mader, AT&T, Inc., Vice President, Customer Risk Management (June 10, 2016).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Interview with Shannon Picchione, Dish Network, Vice President, Billing and Credit Operations (June 9, 2016). One possible exception is that Dish regularly monitors customers' credit balances to determine if a customer is accruing a large positive balance. When Dish identifies a customer with a large credit balance, it credits the customer's account and contacts the customer to inform him or her of the situation.

automatically reflected on the customer's bill.⁶² According to Dish, it is impossible to add or remove equipment without altering the customer's billing records.⁶³

Dish provides each customer with one free "receiver"—Dish's term for the equivalent of a set-top box—and charges \$7.00 to \$15.00 per month for each additional receiver a customer has.⁶⁴ That is the only equipment charge. Dish's system will only send a television signal to receivers that have been "activated," which happens as part of the installation process.⁶⁵ Once a receiver has been activated, the customer's billing information is automatically updated to reflect that addition.⁶⁶ That system ensures that no receiver is added to a customer's account unless it has been activated.

Dish customers return their receivers by mail. Dish provides a packaging label so that it can track the receiver once it has been mailed. When the receiver returns to the Dish warehouse, an employee scans the barcode on the receiver, which removes the receiver from the customer's provisioning records and, in turn, from the customer's bill.⁶⁷

Dish informed the Subcommittee that its billing and provisioning systems have been linked in this way since the company was launched in 1996.⁶⁸ As a relatively new market entrant—at least compared to the incumbent cable companies—Dish has enjoyed the benefit of more advanced billing and provisioning software throughout its history, enabling it to create a billing system that simply avoids many of the billing errors some of its competitors must confront on a regular basis. But Dish has also invested substantial resources in keeping its systems up-to-date: It spent many millions between 2009 and 2011 to upgrade its billing system.⁶⁹

* * *

All MVPDs make billing errors, but unlike Comcast, DirecTV and Dish, Time Warner Cable and Charter have failed to provide refunds or notice to overcharged customers. Although both Time Warner Cable and Charter point to technical limitations that make it difficult to determine how long a customer has been

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Dish 6,596.

⁶⁵ There are two ways to activate the receiver. First, a Dish technician can scan a barcode on the receiver. Second, the customer can provide the receiver's serial number to a customer service agent, who enters the serial number into Dish's provisioning system.

⁶⁶ Interview with Shannon Picchione, Dish Network, Vice President, Billing and Credit Operations (June 9, 2016).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

overcharged, their competitors' systems demonstrate that it is possible to implement more effective policies.

III. Actions Taken as a Result of the Subcommittee's Investigation.

As a result of the Subcommittee's work, both Time Warner Cable and Charter have changed some of their policies for handling overcharges.

As explained above, each month Time Warner Cable performs an audit to find overcharges. Going forward, the company will provide an automatic one-month credit to all customers for each piece of overbilled equipment or service. Time Warner will not investigate when it began overcharging those customers unless customers bring specific concerns to the company's attention. Nor will the company automatically provide a full refund dating to when the overcharge began. But the company's new policy will at least provide customers with notice that they have been overcharged, making it easier for overcharged customers to determine whether they should request a larger credit or refund.

Charter has decided to give its customers a one-year credit for any equipment overcharges. In addition, Charter has implemented systemic controls that it claims will prevent equipment overcharges in the future. Although neither Time Warner Cable nor Charter's new policies represent complete solutions to the problems highlighted during the Subcommittee's investigation, they are a first step toward ensuring that they credit or refund customer overcharges.