

Senate

COMMITTEE HEARINGS

Committee on Privacy, Electronic Commerce and Financial Institutions

The committee will hold a public hearing and possible **executive session** on the following items at the time specified below:

Monday, December 6, 1999
6 - 9pm
Menomonie Public Library
600 Wolske Bay Rd
Menomonie, WI

Senate Bill 267

Relating to: prohibiting certain telephone solicitations, requiring the registration of telephone solicitors, requiring the exercise of rule-making authority, making an appropriation and providing a penalty.

By Senators Clausing, Erpenbach, Jauch, Decker, A. Lasee, Roessler, Moen and Darling; cosponsored by Representatives Black, Schneider, Lassa, Bock, Ryba, M. Lehman, Kreuser, Musser, Balow, Plouff, Hasenohrl, Steinbrink and Suder.

Senate Bill 248

Relating to: requiring certain disclosures in advertising per-minute rates for long distance service and providing a penalty.

By Senators Jauch, Erpenbach, Plache, Darling and Roessler; cosponsored by Representatives Wasserman, Hutchison, Schneider, Musser, Miller, Black, Bock, Gunderson, Sinicki, Williams, Berceau and Reynolds.

An Executive session may be held on these or any items currently available for action by the committee.

Senator Jon Erpenbach
Chair



State Senator
Chuck Chvala
SENATE MAJORITY LEADER

NOV 29 1999

November 23, 1999

The Honorable Jon Erpenbach
Wisconsin State Senator
Rm. No. 20 S., Capitol
Madison, WI 53703

Dear Senator Erpenbach:

The Senate Committee on Organization has approved your request for the Members of the Senate Committee on Privacy, Electronic Commerce and Financial Institutions to travel to Menomonie, Wisconsin on December 6, 1999 for the purpose of conducting a Public Hearing on telemarketing legislation and the "Minute Means a Minute" measure.

It is the Committee's understanding that you are seeking reimbursement for all actual and necessary expenses associated with the committee members' attendance at this hearing. It is further understood that you are seeking approval for additional staff support from the Senate Sergeant-at-Arms and transportation as needed.

Your request has been approved contingent upon the Senate not being in session. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Chvala".

CHUCK CHVALA
Chairman
Senate Committee on Organization

State Capitol, Post Office Box 7882, Madison, WI 53707-7882 ■ Phone: (608) 266-9170 ■ Fax: (608) 266-5087

Legislative Hotline (Toll-Free) 1-800-362-WISC (9472) ■ E-Mail: chuck.chvala@legis.state.wi.us

World Wide Web: <http://www.legis.state.wi.us/senate/sen16/sen16.html>



Printed on recycled paper SOY INK

JON ERPENBACH

STATE SENATOR

SB-248

**** MEDIA ADVISORY ****

December 6, 1999

CONTACT: Senator Jon Erpenbach
(608) 266-6670

***Senate Committee to hold a public hearing
in Menomonie, Wisconsin
on December 6, 1999***

The Senate Committee on Privacy Electronic Commerce and Financial Institutions, which is chaired by State Senator Jon Erpenbach (D-Middleton), has scheduled a public hearing on December 6, 1999 from 6:00—9:00 P.M. at the Menomonie Public Library, 600 Wolske Bay Road.

The committee will receive public testimony on two pieces of legislation, Senate Bill 267 and Senate Bill 248. Senate Bill 267, which is authored by Senator Alice Clausing (D-Menomonie), places new restrictions on telemarketing in Wisconsin. Senate Bill 248, which is authored by Senator Bob Jauch (D-Poplar), requires certain disclosures in advertising per-minute rates for long distance telephone service.

If you would like additional information about the hearing, please contact Senator Erpenbach at (608) 266-6670.

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 12/6/99

BILL NO. SB 248

OF
SUBJECT Telephone Rsk Representations

Bill Densched

(NAME)

Legt. of Ag, Trade & Consumer Protection

(Street Address or Route Number)

(City and Zip Code)

DATCP

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 12-6-1999

BILL NO. SB 248

OF
SUBJECT Telephone Rate Representations

Jim Rabbitt

(NAME)

2811 Agriculture Dr

(Street Address or Route Number)

Madison 53708

(City and Zip Code)

DATCP

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: _____
BILL NO. _____
OR
SUBJECT _____

DICKIE FLORES
(NAME)

(Street Address or Route Number)

(City and Zip Code)
MC

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: Dec 6 1999
BILL NO. SB 267
OR
SUBJECT PER MINNIE TELEPHONE CUB

DICKIE FLORES
(NAME)

(Street Address or Route Number)

(City and Zip Code)
CHICAGO, IL 60601
MC

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 12/5/99
BILL NO. 267 & 248
OR
SUBJECT TELEPHONE
& PER MINNIE TELEPHONE CUB

DICK ZENGER
(NAME)

(Street Address or Route Number)

(City and Zip Code)
MEMPHIS 38101

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: December 6, 1999

TO: Senate Committee on Privacy, Electronic Commerce and Financial Institutions

FROM: Division of Trade and Consumer Protection

RE: **Senate Bill 248**

We appreciate this opportunity to speak to you on Senate Bill 248. We strongly support the consumer protections created by SB 248, but we advise the committee that the bill should be enacted as part of Wis. Stats. s. 100.207 for the following reasons:

- In the Telecommunications Act of 1993, the legislature enacted Wis. Stats. s. 100.207. Among other things, this law regulates advertising and sales representations in the newly deregulated telecommunications industry. DATCP is assigned to administer this law, and both DATCP and DOJ are authorized to investigate and enforce its provisions.
- Under Wis. Stats. s. 100.207, a telecommunications provider may not make any statement or representation with regard to the provision of telecommunications services, including the rates for telecommunications services, which is false, misleading or deceptive. This law also prohibits the *omission* of any information necessary to make the statement not false, misleading or deceptive. The scope of this law covers the types of activities regulated by SB 248.
- Also under Wis. Stats. s. 100.207, DATCP has enacted rules which require telecommunications providers to inform customers of all the material terms of the subscription agreement, including rates, before they enter into the subscription agreement, and to inform customers of any changes to these terms before the changes take effect. In many cases, this rule will effectively prohibit the activities regulated by SB 248.
- Ch. 196 allows the PSC to take regulatory action against a telecommunications provider who violates the advertising and sales representation provisions of Wis. Stats. s. 100.207 or DATCP's administrative rules.
- Although Wis. Stats. s. 100.207 covers the kind of rate representations regulated by SB 248, it does so in a more general way. We believe that, by enacting SB 248 as part of s. 100.207, the legislature would be strengthening the enforcement authority under that law, and would be placing the investigation and enforcement responsibility in the hands of the agencies who are best equipped to fulfill that responsibility.



**MCI Telecommunications
Corporation**

Public Policy
205 North Michigan Avenue
Suite 3700
Chicago, IL 60601
312 470 2121
FAX 312 470 4929

**MCI WORLDCOM, INC
Senate Bill 248**

1999 Senate Bill 248 is designed to require long distance companies like MCI WorldCom to make certain disclosures in its advertisements for its interstate long distance services. These disclosures would include whether a rate is an introductory rate as well as the "per-minute cost of the long distance service to an average residential or business customer."

MCI Worldcom believes it is currently in line with the spirit of this proposal in both its advertisements and in providing customers with necessary information to make informed purchases. When a customer is solicited or contacts MCIW to sign up for long-distance service, they are informed by customer service of all fees and charges associated with the service. Additionally an independent third party verification system reviews the fees with the consumer and a "welcome kit" detailing the calling plan, charges and features is sent to the consumer. The consumer is free to switch services at any time.

The Department of Agriculture, Trade and Consumer Protection has already issued rules which require companies like MCI WorldCom to provide a toll free number customers can call to find out the specific rate for long distance telecommunications service between two points. The proposed legislation would appear to direct long distance carriers to provide consumers with information which is more general than the information the companies are already required to give pursuant to ATCP 123.02.

Also, the requirement that carriers give consumers the "per-minute cost of the long distance service to an average residential or business customer" may prove to be more misleading than informative, and may cause the companies to be in non-compliance with federal law.

As to the first point, the average per minute cost of a call depends largely on when the customer normally makes call and the duration of those calls. Not only would it be difficult to devise an "average rate" it might very well be misleading. For example, if MCI WorldCom discloses that the average rate is 5 cents per minute, for a customer making calls after 7:00 P.M. at night and on weekends, the consumer may be surprised to later learn that they paid an average of 10 cents per minute because they made several phone calls during business hours.

As to the second point, companies like MCI WorldCom are required to file tariffs with the Federal Communications Commission, "showing all charges" and "showing the classifications, practices, and regulations affecting such charges." 47 U.S.C § 203(a). The federal act makes it unlawful for a carrier to "charge, demand, collect or receive greater or less or different compensation for such communication...than the charges specified in the schedule then in effect" or to "extend to any person any privileges or facilities in such communication, or employ or enforce any classifications, regulations, or practices affecting such charges, except as specified in such schedule." 47 U.S.C. § 203(c). If MCI WorldCom were to disclose "average rates" as required by the Assembly Bill 509, MCI WorldCom might be accused of "demanding" a rate different than that contained in its FCC tariffs.



December 2, 1999

The Honorable Jon Erpenbach
Chair
Senate Committee on Privacy, Electronic Commerce and Financial Institutions
20 South State Capitol
Madison, WI 53701

RE: SB 267 and SB 248

Dear Senator Erpenbach:

I writing to express Sprint's opposition to SB 267 and SB 248 which are scheduled to be heard in your committee on December 6.

SB 267

When states attempt to create and maintain a Do Not Call list for their consumers, they seldom realize the amount of bureaucracy and expense they create for themselves. The challenges include: outputting updated files consistently to telemarketing firms; keeping the list up-to-date as consumers move within the state or change their telephone numbers; making area code changes when splits occur; removing telephone numbers that are recycled by the local telephone company; and removing consumers' records who move out of state or are deceased.

These are but a few of the technical considerations required to keep a State Do Not Call list functioning properly. Without all of this effort and expense on the part of the State, any list that is created will soon grow out of control with out-dated and incorrect information, making its use for telemarketers impossible to enforce. Telemarketers cannot be held accountable to remove telephone numbers that are no longer owned by the original consumers who requested to be put on the list. The new owner of the telephone number has a right to receive telcmarketing solicitations.

Sprint recommends a solution that meets the needs of the consumers with no cost or bureaucracy for the state. The Direct Marketing Association (DMA)'s Telephone Preference Service (TPS) is the answer. The DMA provides a FREE service to all consumers in the United States by maintaining a national "Do Not Call" list known as the TPS. Consumers can request to be added to this list free of charge. Sprint, like many telemarketing firms, already has efficient processes in place for using the DMA's file to eliminate unwanted calls to consumers. Attached is a print-out of a section of the DMA's web site (<http://www.the-dma.org>) that explains how consumers can request to be registered with the TPS. As a constituent service, I encourage you to inform people in your district about this free program.

Sprint recommends that SB 267 be amended to model the law in Connecticut. The Connecticut law is example of how states can effectively leverage the DMA's Do Not Call List to protect their consumers from unwanted calls. The law prohibits telephone solicitors from making unsolicited telephone sales calls to anyone who has registered with the TPS maintained by the DMA, and makes a violation of such an unfair trade practice. The law requires anyone who sells or offers to sell publications or compilations to telephone solicitors for marketing or sales solicitations purposes to exclude the names, addresses, and telephone numbers of everyone on the current TPS. The requirement applies whether or not the list was obtained from published telephone directories or from other sources. The list maker must also delete such consumer information from the database used to compile the list. Similarly, these requirements apply if someone whose name is not on the list makes a written request for deletion.

Sample verbiage from the Connecticut law:

(b) Prior to doing business in this state, a telephone solicitor shall access the Telephone Preference Service maintained by the Direct Marketing Association and delete from its list of consumers all Connecticut residents who have registered with said service.

(c) No telephone solicitor may make or cause to be made any unsolicited telephonic sales call to any consumer if the consumer's name and telephone number or numbers appear in the then current list of consumers registered with the Telephone Preference Service maintained by the Direct Marketing Association.

(d) (1) Any person who obtains the name, residential address or telephone number of any consumer from published telephone directories or from any other source and republishes or compiles such information, electronically or otherwise, and sells or offers to sell such publication or compilation to telephone solicitors for marketing or sales solicitation purposes, shall exclude from any such publication or compilation, and from the database used to prepare such publication or compilation, the name, address and telephone number or numbers of any consumer if the consumer's name and telephone number or numbers appear in the then current list of consumers registered with the Telephone Preference Service maintained by the Direct Marketing Association.

SB 248

Sprint is opposed to SB 248 because it attempts to legislate the manner in which companies advertise their rates to consumers. Many telecommunications companies are moving toward bundled offerings of services because that is what consumers are demanding. Consumers want to be able to receive multiple services, from one provider, and with only one bill.

It is impossible to state the effective per-minute rate for individual customers through a newspaper or television advertisement that is directed to thousands of people. Each consumer operates his own distinct calling pattern. When a person chooses to sign up with Sprint, that

phone call is verified by a third party. Within 7-10 days, the customer receives a fulfillment package that discloses the monthly reoccurring charge (if applicable), the rate in effect during specific times and days; and other fees that may be incurred. It is impossible to disclose all this information in a 20-second commercial or a 1/2 page in a newspaper. Once a consumer sees an advertisement that peaks interest, a call can be made to a 1-800 number to reach a Sprint customer service representative. Sprint's customer service representatives are trained to analyze potential customers' calling patterns and recommend the most cost-effective plan for the consumer.

If SB 248 were to be enacted, Sprint could not advertise in Wisconsin its new bundled local/long distance service it is advertising in New York. It is a flat rate plan. The fee is the same if you use 100 minutes a month or 300 minutes a month. Depending on how many minutes a customer uses in a certain month, the cost per minute changes.

With the current competition for long distance service and the anticipated competition from new providers of bundled services, Sprint believes that customers will have adequate options if they feel they have been misled by a particular provider. For these reasons, we hope the committee will not take any further action on SB 248.

If you have any questions, please contact me at 913-624-6825 or Chet Gerlach at 608-255-9337. Thank you.

Sincerely,



Laurie Itkin
Staff Director, State Government Affairs
Sprint

Telephone Preference Service: How to get your name off telemarketing lists.



What is the purpose of TPS?

How do I register with TPS?

What happens after I register with TPS?

Does registration with TPS mean an end to all advertising calls?

What happens when I move or get a new telephone number?

Can I request deletion from specific lists through TPS?

Who sponsors the Telephone Preference Service?

What is the purpose of TPS?

Many people enjoy receiving information about products or services in their homes over the telephone. Many consumers find telephone shopping to be a convenient way to shop. However, some consumers would like to receive fewer telephone marketing calls at home. The Telephone Preference Service (TPS), a do-not-call service, is a free service to assist those consumers in decreasing the number of national commercial calls received at home.

[Return to top...](#)

How do I register with TPS?

You may register with this do-not-call file by sending your name(s), home address, and home telephone number (including area code) and signature in a letter or on a postcard to:



Telephone Preference Service
Direct Marketing Association
P. O. Box 9014
Farmingdale, NY 11735-9014

Or, you may [print this page](#) from your browser and mail it in.

The DMA takes only postal mail requests for inclusion on the MPS and TPS files. This is because, as much as possible, we need to verify that the person who submits the request is the person whose name is being removed from

marketing lists. Receipt of a signed request via the Postal Service provides The DMA, MPS user companies, and consumers with a practical method for verification. E-mail does not provide safeguards to protect your privacy or a means to verify your identity.

You must register with TPS directly; second party requests cannot be processed.

What happens after I register with TPS?

When you register with TPS, your name, address and telephone number are placed on a do-not-call file. This "delete file" is updated four times a year -- January, April, July, and October -- and made available to telephone marketing companies who choose to use it. Your name remains on file for five years.



Typically you will see the number of calls you receive begin to decrease approximately two months after your name is entered onto the quarterly file.

[Return to top...](#)

Does registration with TPS mean an end to all advertising calls?

No. Although registration with TPS will help reduce the number of telemarketing calls you receive, it will not stop all telemarketing calls. You may continue to receive calls from local merchants, religious and charitable organizations, professional and alumni associations, and political candidates and office holders.

Calls of a business-to-business nature received at your place of employment are also not affected through registration with TPS. Business names, addresses and telephone numbers are not accepted on TPS, and companies that market to other companies do not use this consumer-oriented do-not-call file.

Note: Registration with TPS will not affect sequentially dialed automated recorded message (computerized) calls. If you receive a computerized call from a company you do not wish to hear from again, listen to the automated message to obtain the telemarketer's name and address or phone number. Then, contact the company directly and ask to be placed on the company's do-not-call list.

[Return to top...](#)

What happens when I move or get a new telephone number?

You may write again to register your new address and telephone number with the service. Or, if you turn in a change-of-address card at the Post Office, your old address will be removed from the TPS file and the new address and telephone number will replace it.

[Return to top...](#)

Can I request deletion from specific lists through TPS?

No. Name removal through TPS is general in nature. You may reduce the number of telephone marketing calls you receive from a specific company by asking the company to place your name and telephone number on the company's do-not-call list the next time the company calls you.

***Who sponsors the Telephone Preference Service?***

The Telephone Preference Service (TPS) is a free consumer service sponsored by the Direct Marketing Association (DMA).

Established in 1917, DMA is the oldest and largest national trade association serving the direct marketing field. Members of DMA market goods and services directly to consumers using such media as telephone, direct mail and catalogs, magazine and newspaper ads, and TV and radio advertising.

DMA is not the source of calling lists, and does not sell calling lists to other companies.

[Return to top...](#)

Copyright © 1999 Direct Marketing Association, Inc.

consumer@the-dma.org



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3657/1
MDK:jlg&kmg:km

1999 SENATE BILL 248

October 5, 1999 - Introduced by Senators JAUCH, ERPENBACH, PLACHE, DARLING and ROESSLER, cosponsored by Representatives WASSERMAN, HUTCHISON, SCHNEIDER, MUSSER, MILLER, BLACK, BOCK, GUNDERSON, SINICKI, WILLIAMS, BERCEAU and REYNOLDS. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

1 **AN ACT to amend** 196.219 (2) (b) and 196.219 (2) (c); and **to create** 196.219 (2)
2 (cm) and 196.219 (3m) of the statutes; **relating to:** requiring certain
3 disclosures in advertising per-minute rates for long distance service and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a telecommunications provider from advertising a per-minute rate for residential or business long distance service unless the advertisement clearly and conspicuously discloses all conditions, restrictions and charges associated with using the long distance service, including whether the rate is an introductory rate, and discloses the per-minute cost of the long distance service to an average residential or business customer of the telecommunications provider. In addition, if the per-minute rate is an introductory rate, the advertisement must clearly and conspicuously disclose the period during which the introductory rate is in effect and the rate that will be charged at the expiration of the introductory rate.

The bill also requires a telecommunications provider that charges a rate for long distance service that is not a per-minute rate to clearly and conspicuously disclose on the bill for the service the per-minute cost of the service under the rate that is charged.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 248

1 **SECTION 1.** 196.219 (2) (b) of the statutes is amended to read:

2 196.219 (2) (b) On petition, the commission may, except as provided in par.
3 (cm), grant an exemption from a requirement under this section upon a showing that
4 the exemption is reasonable and not in conflict with the factors under s. 196.03 (6).

5 **SECTION 2.** 196.219 (2) (c) of the statutes is amended to read:

6 196.219 (2) (c) On petition, the commission may, except as provided in par. (cm),
7 grant an exemption from a requirement under this section retroactively if the
8 application of the requirement would be unjust and unreasonable considering the
9 factors under s. 196.03 (6) or other relevant factors.

10 **SECTION 3.** 196.219 (2) (cm) of the statutes is created to read:

11 196.219 (2) (cm) The commission may not grant an exemption from the
12 requirements of sub. (3m).

13 **SECTION 4.** 196.219 (3m) of the statutes is created to read:

14 196.219 (3m) **PER-MINUTE LONG DISTANCE ADVERTISING.** (a) In this subsection,
15 “long distance” means interstate or intrastate interlata long distance within the
16 continental United States.

17 (b) A telecommunications provider may not advertise a per-minute rate for
18 long distance service unless the advertisement clearly and conspicuously discloses
19 each of the following:

20 1. All conditions, restrictions and charges associated with using the long
21 distance service, including whether the per-minute rate is an introductory rate.

22 1m. If the per-minute rate is an introductory rate, the period during which the
23 introductory rate is in effect and the rate that will be charged at the expiration of the
24 introductory period.

SENATE BILL 248

1 2. If the rate is for residential customers, the per-minute cost of the long
 2 distance service to an average residential customer of the telecommunications
 3 provider or, if the rate is for business customers, the per-minute cost of the long
 4 distance service to an average business customer of the telecommunications
 5 provider.

over the last 90 days

6 (bm) A telecommunications provider that charges a rate for long distance
 7 service that is not a per-minute rate shall clearly and conspicuously disclose on the
 8 bill for long distance service the per-minute cost of the long distance service under
 9 the rate that is charged.

10 (bs) The per-minute cost that is required to be disclosed under pars. (b) 2. and
 11 (bm) shall be calculated on the basis of all conditions, restrictions and charges
 12 associated with using the long distance service.

13 (c) Any person who violates this subsection may be required to forfeit not more
 14 than \$10,000 for the first offense and may be required to forfeit not more than
 15 \$50,000 for the 2nd or any later offense within a year. Each day of continued violation
 16 constitutes a separate offense. The one-year period shall be measured by using the
 17 dates of the offenses that resulted in convictions.

18 (d) Paragraph (b) applies to any advertising directed to a resident or business
 19 of this state.

SECTION 5. Effective date.

21 (1) This act takes effect on the first day of the 3rd month beginning after
 22 publication.

(END)

23