

**REPORT TO THE LEGISLATURE**

**ON**

**CRAMMING AND SLAMMING**

**Required by Supplemental Report to the 2000 Budget Act  
Item 8660-001-0462**

**Submitted**

**April 10, 2002**

**CALIFORNIA PUBLIC UTILITIES COMMISSION**

## EXECUTIVE SUMMARY

Cramming and slamming continue to be serious problems for California consumers, but through its aggressive enforcement efforts, the Commission has seen a downward trend in both cramming and slamming violations against California consumers. In 1999, the Legislature, with the support of the Commission and consumer groups, enacted a new consumer protection and enforcement program to address cramming and slamming issues. With its increased enforcement authority under the new program, the Commission has taken a proactive stance against these market abuses through aggressive, targeted investigations, prosecutions and punishment of entities engaged in these activities.

*Cramming is the submission or inclusion of unauthorized, misleading, or deceptive charges for products or services on a subscriber's local telephone bill and is unlawful under Public Utilities (PU) Code Sections 2889.9 and 2890.*

*Slamming is the unauthorized switching of a subscriber's telephone service to another carrier and is unlawful under PU Code Section 2889.5.*

The Commission has ordered the most egregious violators to pay fines and restitution after successful investigative and prosecution efforts by Commission staff. The Commission also has instituted new procedures that enable management to direct its limited staff resources in targeting egregious violators for the greatest consumer benefit.

Specific concrete steps the Commission has taken to assist in the investigation, prosecution and punishment of telecommunications companies and other related entities violating consumer protection rules include:

- *revising the Commission's Consumer Complaint Tracking System (CCTS) to incorporate the 90-day complaint threshold required by Public Utilities (PU) Code 2889.9 (e) <sup>1</sup>;*
- *redirecting limited staff resources to address the proliferation in cramming and slamming incidents experienced by California consumers;*
- *opting into the FCC's program for resolving slamming complaints, which refers slamming complaints previously forwarded to the FCC, to the Commission to resolve;*
- *adopting interim rules governing the inclusion of non-communications-related charges on telephone bills;*
- *forming the Strategic Planning Unit within the Commission's Consumer Services Division to analyze internal and external complaint data, and focus the Commission's enforcement efforts on entities engaged in adverse market behavior;*

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<sup>1</sup> Public Utilities Code Section 2889.9(e) requires the Commission to investigate whenever it receives more than 100 cramming complaints against a single entity within a 90-day period.

- ordering all billing telephone companies and billing agents to report their cramming complaints to the Commission on a quarterly basis<sup>2</sup>; and,

*A billing telephone company is a telephone corporation that bills a subscriber for products and services provided by a third party, including corporate affiliates.*

- expending 112,041 staff hours (63.5 PYs) on cramming and slamming matters involving Consumer Affairs Branch

*A billing agent is any entity that provides billing services for service providers directly or indirectly through a billing telephone company.*

*Representatives, Investigators, Attorneys, Administrative Law judges and Support Staff.*

Under this new consumer protection and enforcement program, the Commission has:

- resolved 17,321 **informal** cramming and slamming complaints which generated consumer refunds of over \$1.326 million;
- initiated and prosecuted fifteen (15) **formal investigations** against entities engaged in cramming and slamming activities generating fines and penalties in excess of \$22.979 million and restitution in excess of \$7.6 million (pending matters could result in additional fines of up to \$40 million and restitution in excess of \$5.5 million) as well as revocation of operating authorities and other business penalties;
- adjudicated seven (7) **formal** cramming and slamming **complaints** resulting in fines, penalties, and consumer refunds of over \$9.4 million; and,
- initiated a Rulemaking proceeding to establish rules for protecting consumer rights in the competitive telecommunications services marketplace.

As a result of the Commission's proactive enforcement and consumer protections initiatives, it has:

- observed a 40% reduction between 1999 and 2000, and a further 36% reduction between 2000 and 2001, in cramming complaints received by the Commission;
- observed only a 4% reduction in cramming complaints reported by billing telephone companies/billing agents between 2000 and 2001;
- observed a 13% reduction between 1999 and 2000 in slamming complaints received by the Commission;
- observed a 59% increase in slamming complaints between 2000 and 2001 partly due to Federal Communications Commission (FCC) rule changes permitting

<sup>2</sup> Prior to this time, Pacific Bell was the only entity reporting cramming complaints to the Commission. Information received from these reports, Pacific Bell and Verizon's Preferred Interchange Carrier (PIC) dispute reports (slamming) and the CCTS assist the Commission in monitoring industry trends and targeting entities engaged in cramming and slamming activities for investigation.

*complainants to file interstate slamming complaints with state regulatory commissions; and,*

- *observed a 24% reduction in slamming complaints reported by Pacific Bell/Verizon between 1999 and 2001.*

Continued monitoring and industry trend analysis will enable the Commission to continue its aggressive, proactive enforcement efforts so that California consumers can reap the benefits of consumer choice with limited exposure to market abuses.



## BACKGROUND

The ***Supplemental Report of the 2000 Budget Act*** (Item 8660-001-0462) directs the Commission to submit a report to the Legislature detailing the Commission's workload related to "cramming" complaints and investigations. The report is to include:

- ❑ Monthly trend data showing the number of cramming complaints received by the Commission and the expected trend for the future
- ❑ Number of formal and informal investigations initiated, including a breakdown of which ones are of companies reaching the statutory complaint threshold that "triggers" a mandatory investigation and which ones are of companies that did not reach the threshold
- ❑ Number of hours each Commission staff member working on cramming spent on cramming complaints and/or investigations and a description of the specific activities each performed
- ❑ Discussion of slamming complaints and investigation trends and workload

This report covers the period of January 1999 through December 2001.

Competition in the telecommunications industry allows California consumers to choose from a multitude of new products and services offered by hundreds of newer and smaller market entrants. Along with this freedom of choice, California consumers face an expanding array of unfair and unlawful activities by unscrupulous companies. In a competitive environment, it is important that California consumers be protected from these unlawful activities. The Commission's role is to protect California consumers from market abuses while encouraging robust competition in the state.

Both the Legislature and the Commission recognize the Commission's key role in protecting California consumers from unfair and unlawful activities. The Legislature enacted a new consumer protection and enforcement program in 1999, with the support of the Commission and consumer groups, to address a proliferation in cramming and slamming incidents in California. With its increased enforcement authority under the new program, the Commission has taken a proactive stance against these consumer abuses through aggressive, targeted investigations, prosecutions and punishment of entities engaged in these activities.

In March 2000, the Commission ordered all billing telephone companies and billing agents to report their cramming complaints to the Commission on a quarterly basis. Prior to this time, Pacific Bell was the only entity reporting cramming complaints to the Commission. Information received from these reports, Pacific Bell and Verizon's Preferred Interchange Carrier (PIC) dispute reports (slamming), and the Consumer Complaint Tracking System (CCTS) assist the Commission in monitoring industry trends and targeting entities engaged in cramming and slamming activities for investigation.

The Commission also implemented two management tools to assist in the investigation, prosecution and punishment of telecommunications companies and other related entities that violate consumer protection rules. They include the revision of the CCTS and the creation of the Strategic Planning Unit (SPU).

### **Consumer Complaint Tracking System**

The CCTS allows the Commission to proactively investigate and enforce consumer protection regulations by monitoring industry trends that adversely affect consumers. In 1999, the Commission revised the CCTS to incorporate an ad hoc report that is sent to key Commission managers immediately upon an entity reaching the 100 complaints within a 90-day period as required by PU Code 2889.9. The Commission staff use data compiled in CCTS to monitor the types of complaints received by the Commission's Consumer Affairs Branch (CAB), ensure efficient disposition and resolution of consumer complaints, assist management in directing limited staff resources to achieve the greatest consumer benefit, alert management to potential problem areas to ensure timely proactive enforcement activities, and provide statistical data to analyze industry sectors for compliance trends.

### **Strategic Planning Unit**

The SPU provides a focal point for analysis of internal and external complaint information relating to utility compliance with PU Code provisions and a means to proactively initiate investigations based on identification of adverse service provider behavior. The unit generates comprehensive initial investigative reports designed to aid the Commission in selecting service providers whose business practices warrant in-depth investigation and potential prosecution by the Commission.

The SPU's initial focus is on telecommunication service providers, with potential expansion to other utility sectors. Currently SPU consists of two investigators who collect and analyze complaint data from the Commission's CCTS, billing agents, Incumbent Local Exchange Carriers (ILEC), and, where available, other state utility commissions and consumer advocacy agencies. The SPU compiles data from these sources to establish a composite picture of specific service provider behavior in the marketplace. This information is captured in one database, along with anecdotal data pertaining to each company's management structure, history of litigation activity and other pertinent information, providing a comprehensive historical perspective. The database also provides an opportunity to track a "Watch List" of the worst offenders for constant monitoring and early warning signs of unfavorable business practices.

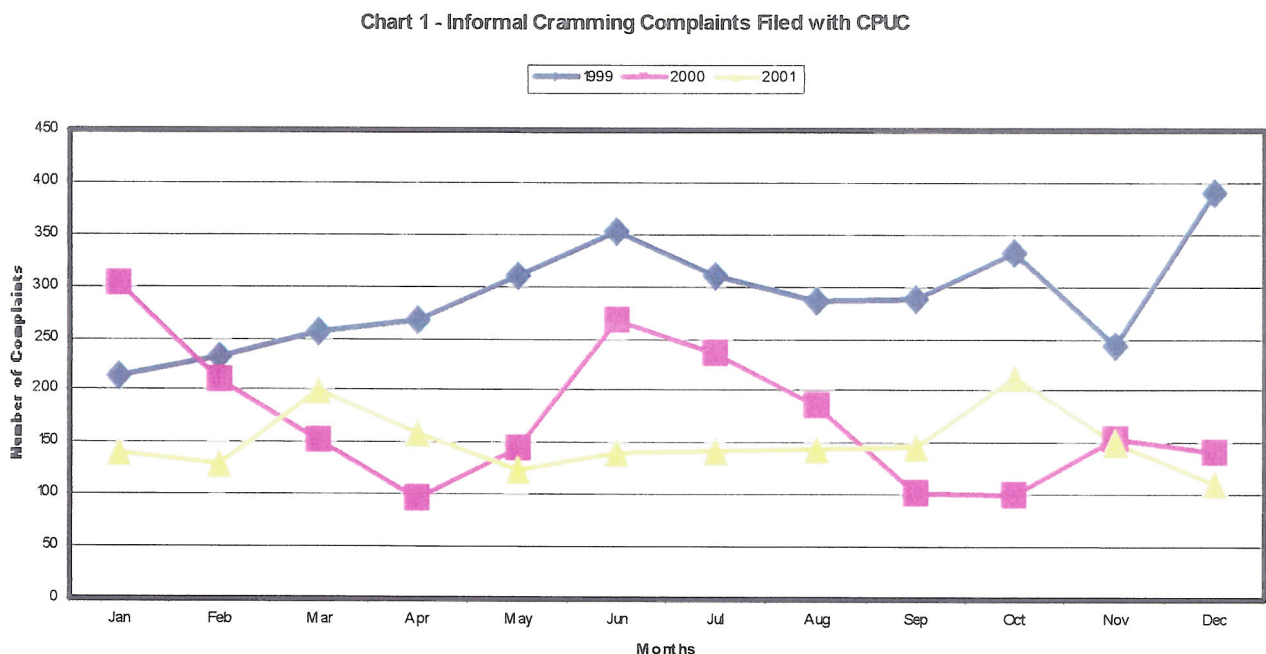
Since its inception last year, the SPU has: 1) recommended nine new investigations, 4 of which are currently underway, 2) identified 116 communications service providers on its "Watch List", 3) identified 209 communications service providers that may be in violation of registration requirements, and 4) identified the top twenty producers of consumer complaints received by internal and external sources. These companies were culled from a list of 1,728 communications service providers currently conducting business in California.



## MONTHLY TREND DATA - CRAMMING

### Number of Cramming Complaints Received by the Commission

The Commission received 7,391 **informal**<sup>3</sup> cramming complaints from consumers between January 1999 and December 2001, which generated consumer refunds of over \$725,000. The monthly average of 290 cramming complaints in 1999 has been reduced to 150 in 2001. This represents a 40 % reduction between 1999 and 2000 and a further 36% reduction between 2000 and 2001. The Commission attributes these reductions to aggressive, proactive enforcement efforts. **Chart 1** shows the monthly trend for the period of January 1999 through December 2001.



The Commission also adjudicated the one **formal** cramming complaint received during this time period:

- **Sawaya vs. Pacific Bell and Sprint** (C. 99-04-037) involves both cramming and slamming issues; the Commission imposed a \$2,500 fine on Pacific Bell and awarded \$8,200 in compensation to the complainant.

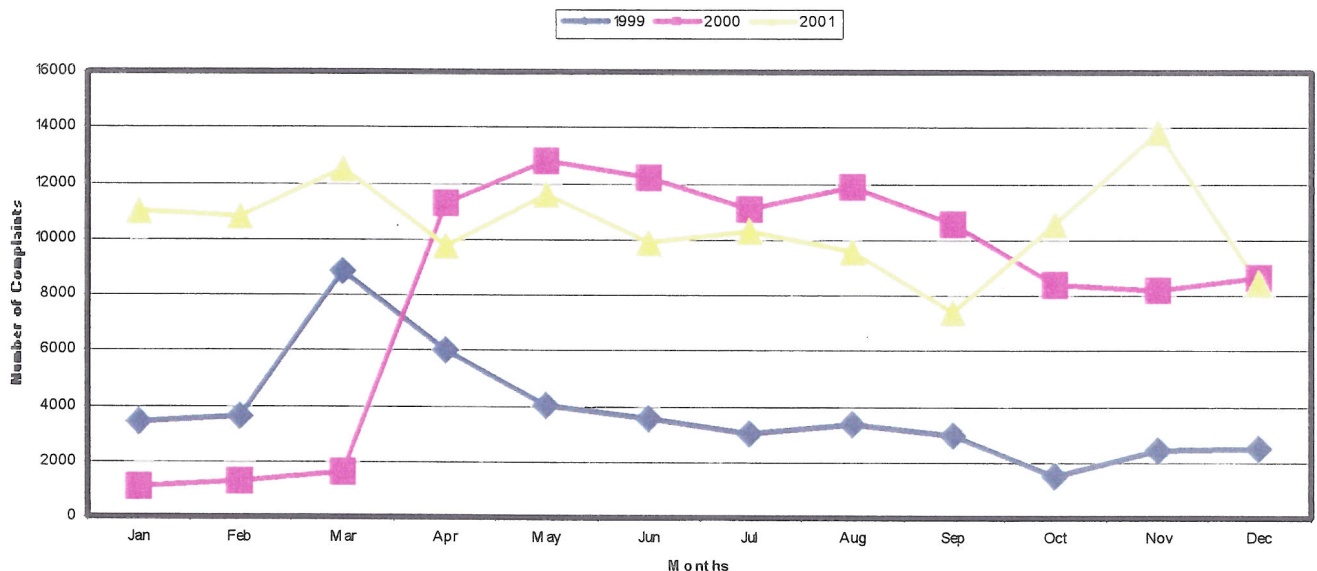
<sup>3</sup> The informal complaint process is an administrative remedy used to resolve disputes between consumers and utilities. Commission staff work with both the consumer and utility to informally resolve the dispute to avoid escalation to the quasi-judicial formal proceeding.

## Number of Cramming Complaints Reported to the Commission by Billing Telephone Companies/Billing Agents

Since consumers call their billing telephone companies and/or billing agents first to resolve their complaint issues, these entities receive a significantly higher volume of complaints than the Commission. Many consumers either resolve their complaints with these entities or choose not to escalate the matter to the Commission.

Billing telephone companies and billing agents reported 270,680 cramming complaints between January 1999 and December 2001. However, between January 1999 and March 2000, Pacific Bell was the only entity reporting cramming complaints to the Commission. Beginning April 2000, Commission Decision 00-03-020 required all billing telephone companies and billing agents to report their number of cramming complaints to the Commission on a quarterly basis, thus accounting for the sharp increase between March and April 2000 in the chart below. A comparison of the last nine months of 2000 and 2001 (fully reported quarters) shows only a 4% reduction in cramming complaints for 2001. **Chart 2** shows the monthly trend for the period of January 1999 through December 2001.

Chart 2 - Cramming Complaints Reported by Billing Telephone Companies/Billing Agents



**NOTE:** Between January 1999 and March 2000, Pacific Bell was the only entity reporting cramming complaints to the Commission. Beginning April 2000, the Commission ordered all billing telephone companies and billing agents to report their number of cramming complaints to the Commission on a quarterly basis.



## **Expected Future Trend**

The volume of cramming complaints received by both the Commission and billing telephone companies/billing agents is on a downward trend. However, recent PU Code changes, which have not fully impacted the industry, could alter this.

Chapter 1005, statutes of 1999, added Section 2890 to the PU Code to prohibit telephone companies from billing customers for anything except communications-related goods and services on their telephone bills until January 1, 2001. Chapter 931, statutes of 2000, extended this prohibition, until July 1, 2001 to enable the Commission to adopt rules governing the inclusion of non-communication-related charges on telephone bills. On July 12, 2001, the Commission adopted interim rules designed to prevent cramming and authorizing non-communication-related charges to be billed on a subscriber's bill only under certain conditions.<sup>4</sup> Going forward, the Commission will monitor cramming complaints to determine to what extent companies are, in fact, billing for non-communication-related charges and whether the new interim rules are proving effective in preventing cramming.

Consumer protection law enforcement is the key to mitigating any adverse impacts of competition on California consumers. The Commission's proactive enforcement policies have realized substantial consumer benefits, but continued diligence is required to ensure that egregious violators are prevented from harming consumers. The Commission, in its role as guardian of consumer rights, will closely monitor industry trends and target potential problem areas for aggressive enforcement efforts.

As a result, the Commission expects its enforcement activities to generate an increase in investigative and litigation workload. Using the data collected by the SPU and efficiently managing limited staff resources, the Commission's enforcement activities will benefit California consumers by controlling market abuses in the competitive marketplace.

## **FORMAL AND INFORMAL CRAMMING INVESTIGATIONS**

Since January 1999, the Commission has prosecuted eleven utilities for cramming allegations. These utilities did not reach the statutory complaint threshold as cited in PU Code Section 2889.9(e), but were targeted for investigation based on data the Commission received from billing telephone companies and billing agents. To date, the statutory complaint threshold has not triggered any cramming investigations. Besides these eleven formal investigations, the Commission is conducting four informal investigations to determine whether sufficient evidence exists to initiate formal proceedings against the involved entities.

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<sup>4</sup> Commission Decision 01-07-030 set forth the following conditions:

- 1) the subscriber has affirmatively "opted in", i.e., provided a general one-time authorization directly to the billing telephone company to open up the subscriber's account to non-communications charges, **AND**
- 2) the subscriber has authorized the specific charge placed on the account.

**Table 1** shows the **formal** investigations adjudicated since 1999 by the Commission and their disposition. Six (6) completed investigations (FTC, Coral, USP&C, Coleman, Vista, and MCI/World Comm) have resulted in fines in excess of \$22.979 million and restitution to consumers in excess of \$7.6 million. The remaining pending cases could result in fines up to \$40 million and restitution to consumers in excess of \$5.5 million. In addition to assessing these fines and orders to pay restitution to consumers, the Commission revoked operating authorities, imposed sanctions against doing business in California and referred some cases for further prosecution in criminal and civil courts.

**TABLE 1 – Formal Cramming Investigations**

<b>Entity</b>	<b>Statutory Complaint Threshold</b>	<b>Number of Consumers Affected</b>	<b>Monies Fines (F) Restitution (R)</b>	<b>Resolution</b>
FTC <sup>5</sup>	No	30,000	\$529,050 (F) \$500,000 (R)	Revocation of Operating Authority, Barred from doing business in CA for 10 yrs, Referred & prosecuted in Criminal Court
Coral	No	300,000	\$5.1 ml (F) \$4.6 ml (R)	Fined, Ordered to pay restitution to consumers
Accutel	No	44,000		<b>Pending Decision:</b> fines, credit on consumers' bills
Telmatch	No	120,000		<b>Pending Decision:</b> fines, restitution to consumers; revocation of operating authority
USP&C	No	12,000	\$1.75 ml (F)	Fined, All LECs ordered to cease providing billing and collection services to USP&C
Coleman	No	9,700	\$245,000 (R)	Settlement Agreement: ordered to pay restitution and carrier surrendered Operating Authority
VarTec/US Republic	No	1,700		<b>Proceeding Open:</b> allegation of unauthorized charges for web page service; pending granting operating authority
MCI/World Comm	No	713	\$8.5 ml	<b>Pending Decision:</b> Settlement Agreement to impose injunction, penalties, and reimbursement of costs of investigations
Talk America	No	4,000		<b>Pending Settlement Agreement</b>
Vista	No	10,773	\$7 ml (F) \$215,420 (R)	Fined, Ordered to pay restitution to consumers
Qwest	No	6,553		<b>Pending Decision:</b> fines; restitution to consumers

<sup>5</sup> In October and November 1999, staff investigators assisted the Los Angeles City Attorney's Office in preparation of its criminal prosecution of FTC's President. Staff investigators re-contacted about ninety consumer and industry witnesses it had previously interviewed at the beginning of the Commission's investigation to arrange for their testimony to be given in Los Angeles' criminal prosecution.



## STAFF HOURS AND ACTIVITIES INVOLVING CRAMMING ISSUES

### Staff Hours Involving Cramming Complaints/Investigations

The Commission expended 70,208 staff hours or 39.8 PYs <sup>6</sup>on cramming issues for the period of January 1999 through December 2001. Total staff hours for this period are shown below for each of the following classifications: Consumer Affairs Branch (CAB) Representative/Supervisor, Public Utilities Regulatory Analysts (Investigator), Public Utilities Counsel (Attorney), Administrative Law Judge and Support Staff.

CAB Representative/Supervisor	Total Hours	Total PYs	PY/Yr
	16,734	9.5	3.2

#### Activities:

- Analyze complaint to determine nature of complaint, entities involved, amount of disputed charges involved, status of bill (paid or unpaid), status of consumer's service (jeopardy of disconnection)
- Input complaint data into CCTS
- Request information from entities involved
- Open a complaint file with copy of complaint and other related documentation
- Send copy of complaint/supporting documentation to affected carrier and local exchange carrier
- Send an acknowledgement letter to consumer
- Review information provided by affected carrier to determine compliance with utility tariffs, PU Code and/or FCC rules
- Determine if consumer's service has been returned to carrier of choice
- Determine if all applicable charges have been adjusted properly
- Ensure that all consumer concerns have been addressed and resolved
- Determine if all matters/issues resolved and send closing letter to consumer
- Answer CAB consumer hotline phone

Public Utility Regulatory Analysts (Investigators)	Total Hours	Total PYs	PY/Yr
	28,363	16.1	5.4

#### Activities:

- Interview consumers
- Draft consumer declarations, investigative reports, discovery requests
- Review and analyze utility records
- Respond to discovery requests
- Assist Commission attorney in preparing OII
- Testify in Commission and/or Criminal/Civil Court proceedings
- Assist Commission attorney in prosecuting the case and drafting briefs
- Assist district attorneys, as needed, if matter referred to criminal/civil courts
- Interface with industry and consumer groups, and legislative representatives

<sup>6</sup> A Person-Year (PY) is 1764 hours.

Public Utilities Counsel (Attorney)	Total Hours	Total PYs	PY/Yr
	13,292	7.5	2.5

**Activities:**

- *Monitor consumer complaints: meet with investigators to review complaints, identify violations*
- *Develop investigation and case: decide merit, assist in discovery requests, review information gathered, assess facts/scope of violations, conduct legal research*
- *Participate in Formal Investigations: assist investigator with declaration draft, prepare proposed OII, prepare statement of case, conduct discovery, prepare pretrial motion/responses*
- *Participate in Litigation or Settlement Negotiations: attend/prepare for pre-hearing conferences and hearings, review testimony, develop direct/cross examination, prepare witnesses, prepare opening/closing statements/briefs, review/comment on decision, appeals or requests for review of decisions, negotiate Settlement Agreements, draft settlement documents and motions to adopt settlement, hold settlement conferences, respond to protests*
- *Participate in Post Investigation Matters: seek modification of prior decisions, if required, assist staff in attempts to obtain compliance from utilities*
- *Act in Advisory Capacity: advise Commissioners on issues related to formal enforcement actions, respond to applications for rehearing and related appellate court issues, defend related suits filed in federal court*

Administrative Law Judge	Total Hours	Total PYs	PY/Yr
	2508	1.4	0.5

**Activities:**

- *Review staff declarations*
- *Rule on motions and other pleadings*
- *Preside over pre-hearing conferences and evidentiary hearings*
- *Prepare draft decisions*
- *Consult and work with staff on appeals*
- *Preside over Rulemaking proceeding addressing cramming/slamming issues*
- *Report requirements of Public Utilities Code Section 2889.9*

Support Staff	Total Hours	Total PYs	PY/Yr
	9,311	5.3	1.8

**Activities:**

- *Answer CAB consumer hotline phone*
- *Direct consumer inquiries to appropriate CAB Representative*
- *Input consumer complaint information into CCTS*
- *Perform general clerical duties (photocopy, type, file, schedule meetings, etc)*
- *Maintain Commission Central Files*
- *Docket formal proceedings for Commission Agenda*
- *Transcribe formal proceeding records*



## MONTHLY TREND DATA - SLAMMING

In addition to cramming, slamming continues to be a serious problem for California consumers, although new statutes and the Commission's proactive enforcement efforts have made a positive impact.

### Number of Slamming Complaints Received by the Commission

The Commission received 9,930 **informal** slamming complaints between January 1999 and December 2001, which generated consumer refunds of over \$600,000. The monthly average of 254 slamming complaints in 1999 increased to 352 in 2001. This represents a 13% reduction between 1999 and 2000, but an increase of 59% between 2000 and 2001. The Commission partly attributes this sharp increase to its election in January 2001 to handle all slamming complaints brought by California consumers. Slamming complaints frequently cross state/federal jurisdictional boundaries, because slamming impacts both the consumers' interstate and intrastate calling activity.

Section 258 of the Telecommunications Act of 1996 makes it unlawful for any telecommunications carrier to change a consumer's telephone carrier except in accordance with the Federal Communications Commission's (FCC's) verification procedures. Any carrier that violates these procedures is liable to the subscriber's authorized carrier for all charges collected.

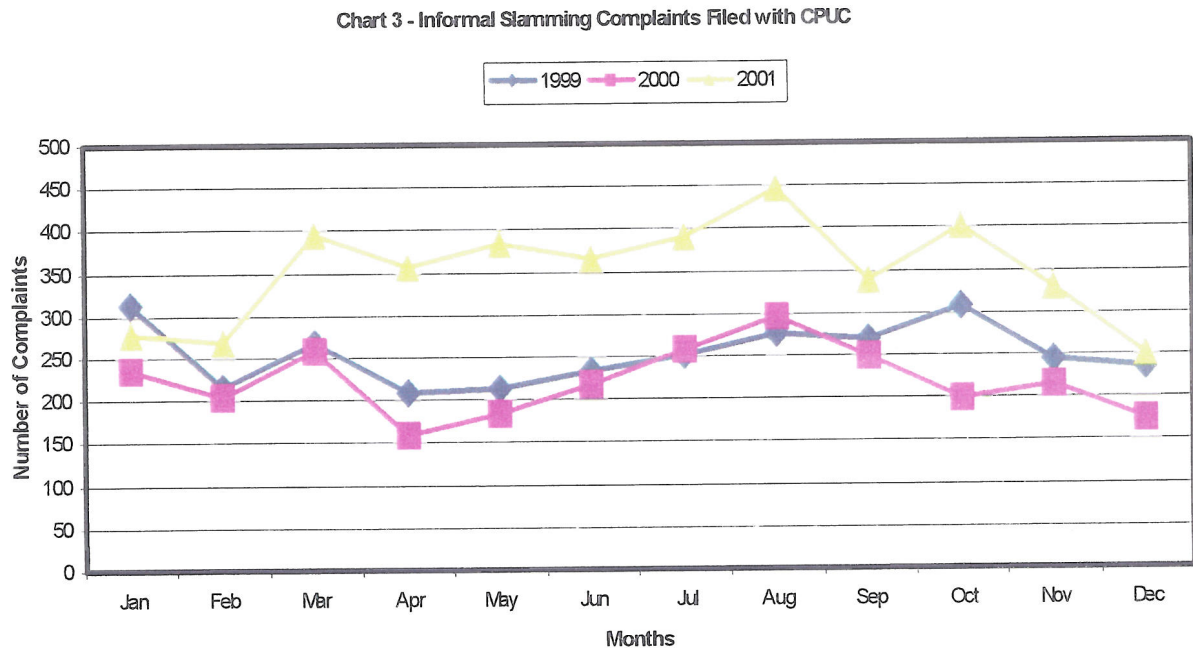
To strengthen its anti-slamming rules, the FCC released the Second Report and Order and Second Further Notice of Proposed Rulemaking in December 1998. The Order:

- adopted aggressive new liability rules designed to take the profit out of slamming;
- broadened the scope of the slamming rules to encompass all telephone carriers; and,
- imposed rigorous verification measures.

Many of the rules adopted in the Second Report and Order released in December 1998 took effect, but the D.C. Circuit Court stayed the slamming liability rules. To address the issues relating to the court stay, the FCC released the First Order on Reconsideration in May 2000. This Order modified the slamming rules and also modified the procedures for administering them, allowing the state commissions to act as the primary administrators of slamming complaints. State commissions, through the National Association of Regulatory Commissioners (NARUC), asked the FCC to allow them to handle slamming complaints instead of a Third Party Administrator proposed by the industry.

State commissions are uniquely positioned to handle slamming complaints brought by their respective citizens. Prior to the Commission opting into the FCC program, a consumer who was the victim of slamming would have come to this Commission to handle the intrastate portion of his complaint and to the FCC to handle the interstate

portion of his complaint. The consumer benefits by having his complaint handled by one agency. In addition, the Commission benefits by accumulating more information on market activity that strengthens its enforcement program. Since the Commission chose to participate in the FCC program, it is experiencing an increasing number of complaints directly from consumers and also from complaints forwarded to the Commission from the FCC. **Chart 3** shows the monthly trend for the period of January 1999 through December 2001.



The Commission also adjudicated the six **formal** slamming complaints received during this time period:

- **San Francisco Sales, Inc. vs. Pacific Centrex Services** (C. 01-01-031) was dismissed at the request of the complainant.
- **Thatcher vs. Sprint** (C. 01-10-033) alleges complainant was connected to long distance carrier without consent. A Commission decision is pending.
- **UCAN vs. MCI Metro Access Transmission** (C. 98-06-016) was closed after the Commission ordered MCI to issue \$9.4 million in refunds to affected California consumers.
- **Korn vs. Pacific Bell** (C. 98-10-25), alleging Pacific Bell acted as billing and/or collection agent for other companies and for slamming practices, was denied.



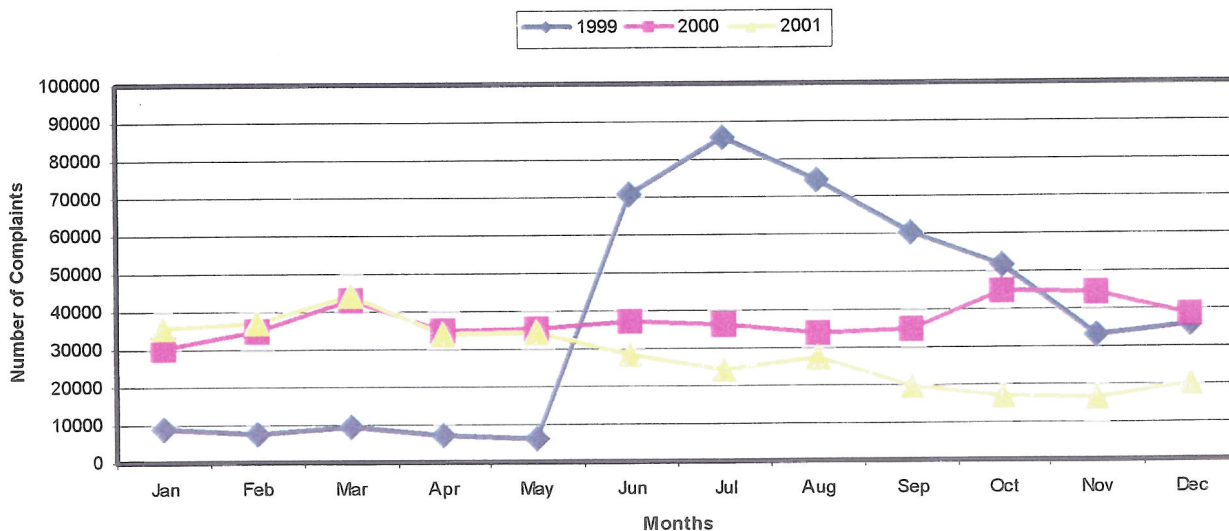
- **AT&T Communications vs. Pacific Bell** (C. 99-12-029) alleges slamming violations by Pacific Bell and also involves the determination into whether Pacific Bell's billing system improperly billed AT&T for unauthorized charges under Pacific Bell's "winback" program. The Commission is reviewing these claims and the accuracy of Pacific Bell's process for tracking slamming complaints.
- **Pacific Bell vs. AT&T Communications** (C. 00-02-027) is a counter complaint filed by Pacific Bell against AT&T relating to intraLATA slamming complaints against California consumers. A Commission decision is pending.

### Number of Slamming Complaints Reported to the Commission by Pacific Bell/Verizon

Pacific Bell and Verizon reported 452,550 slamming complaints in 1999; 450,015 in 2000; and 342,036 in 2001, a 24% reduction over three (3) years. As with cramming, consumers call their telephone companies first when they are slammed to resolve their complaint. As a result, Pacific Bell and Verizon received a substantially higher volume of slamming complaints than the Commission.

Until mid-1999 Pacific Bell reported only slamming complaints about long distance service. While the local toll market was opened to competition in 1996, vigorous competition did not commence until 1999. In mid-1999, Pacific Bell began reporting slamming complaints about both long distance and local toll service. Local toll calls are calls within the local access and transport area (LATA)<sup>7</sup> that exceed 12 miles. This reporting change resulted in a sharp increase in the volume of slamming complaints reported to the Commission. **Chart 4** shows the monthly trend for the period of January 1999 through December 2001.

Chart 4 - Slamming Complaints Reported by Pacific Bell and Verizon



<sup>7</sup> Local Access and Transport Areas (LATA) were established by the Department of Justice as a result of the AT&T divestiture.

## Expected Future Trend

Currently, the Commission is receiving increasing numbers of slamming complaints due to its election to handle slamming complaints forwarded to the FCC. Despite this, the overall volume of slamming complaints received by both the Commission and Pacific Bell and Verizon is on a downward trend. Again, the Commission expects this trend to continue due to proactive, aggressive Commission enforcement efforts. However, as with cramming, the Commission will continue efforts to minimize adverse effects on consumers due to abuses in the marketplace. The Commission's proactive enforcement policies have realized substantial consumer benefits, but continued diligence is required to ensure that egregious violators are prevented from harming consumers. By closely monitoring industry trends, the Commission can target potential problem areas to mitigate any adverse impacts on consumers and fulfill its role as guardian of consumer rights in a competitive marketplace.

## FORMAL AND INFORMAL SLAMMING INVESTIGATIONS

The Commission has monitored over 1.2 million slamming complaints reported by Pacific Bell and Verizon (formerly GTE) in addition to the complaints consumers send directly to the Commission. The Commission uses the data concerning these complaints to target egregious violators for potential investigation and prosecution. As a result, the Commission has initiated and prosecuted four (4) **formal** investigations against entities engaged in slamming activities resulting in revocations of operating authorities, fines and/or restitution to consumers. **Table 2** shows the formal investigations undertaken by the Commission and their disposition.

Table 2 - Formal Slamming Investigations

Entity	Number of Consumers Affected	Monies Fines (F) Restitution (R)	Resolution
ACI Communications <sup>8</sup>	5,500	\$200,000 (R)	Revocation of Operating Authority; ordered to pay restitution to consumers
Long Distance Charges, Inc	4,000		<b>Proposed Decision:</b> Approval of Settlement Agreement (Fines/Restitution)
Communication Telesystem		\$100,000 (F) \$1.9 million (R)	<b>Fine/Restitution</b>
Qwest	90,000		<b>Proposed Decision:</b> Fine/Restitution

<sup>8</sup> On February 25, 1999, ACI went into receivership and the San Diego County Superior Court appointed a receiver for the company.



## STAFF HOURS AND ACTIVITIES INVOLVING SLAMMING ISSUES

### Staff Hours Involving Slamming Complaints/Investigations

The Commission dedicated a total of 41,833 staff hours or 23.7 PYs on slamming issues for the period of January 1999 through December 2001. Total staff hours for this period are shown below for each of the following classifications: Consumer Affairs Branch (CAB) Representative/Supervisor, Public Utilities Regulatory Analysts (Investigator), Public Utilities Counsel (Attorney), Administrative Law Judge and Support Staff.

Table 3 – Allocation of Staff Hours for Slamming

Classification	Total Hours	Total PYs	PY/Yr
CAB Representatives/Supervisors	23,625	13.4	4.5
PURA/Investigators	4,890	2.8	0.9
PU Counsel/Attorney	5,858	3.3	1.1
Administrative Law Judge	1,009	0.6	0.2
Support Staff	6,451	3.7	1.2

### Activities Involving Slamming Complaints/Investigations

The staff activities listed under cramming apply to slamming complaints and investigations.

## CONSUMER BILL OF RIGHTS

In February 2000, the Commission instituted a Rulemaking Proceeding (R. 00-02-004) to establish rules for protecting consumer rights in the competitive telecommunications services marketplace. Interested parties were invited to comment on the analysis and recommendations contained in a report prepared by the Commission's Telecommunications Division, ***Telecommunications Division Staff Report and Recommendations: Consumer Protections for a Competitive Telecommunications Industry***.

The rulemaking advances fifteen (15) rules based on basic consumer rights (disclosure, privacy, choice, public participation, oversight and enforcement, and accurate bills and redress), ranging from maintaining the privacy of customer records to giving new subscribers of any telephone service written notice of all terms and conditions of service. The results of this rulemaking will engender a robust compliance and enforcement effort.

The Commission has carefully considered parties' comments and will mail a draft decision to interested parties for comment by April 30, 2002. After a 30-day comment period, the Commission expects to vote on a final decision no later than June 2002.

## **CONCLUSION**

New consumer protection laws and the Commission's proactive enforcement efforts have made a positive impact against the proliferation of cramming and slamming incidents in California. However, continued vigilance is needed to deter egregious violators from preying on California consumers. The Commission intends to continue monitoring industry trends and to proactively pursue entities that adversely impact competition in California. The Commission recommends that the Legislature continue its support of the Commission's role as guardian of consumer rights.