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Enforcement is a hang-up for steps to end cellphone bill shock

Companies' compliance with an agreement to send customers alerts to help them avoid unexpected overages is voluntary. But regulators say they'll be watching.

By Jim Puzzanghera, Los Angeles Times

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Reporting from Washington—

The agreement reached between the wireless industry and federal regulators to rein in cellphone bill shock sounds good for customers, but it has a potential drawback: It's voluntary.

Consumer advocates who support the self-regulation plan nevertheless worry that the new standards to avoid sudden and unexpected spikes in cellphone bills may end up being largely ignored, as companies in many industries have done with plans for voluntary guidelines.

Attempts at self-regulation to protect online privacy, for instance, have fallen woefully short, said Mark Cooper, director of research for the Consumer Federation of America.

That's one reason the Federal Communications Commission will join with advocacy group Consumers Union to maintain a website to monitor industry compliance with the voluntary guidelines — and keep its year-old proposal for mandatory rules close at hand.

"The FCC will take a trust-but-verify approach," FCC Chairman Julius Genachowski said. "We will … be closely monitoring industry practices to make sure that all carriers provide this necessary information to consumers as promised, and if we see noncompliance, we'll take action."

The new standards, which the industry promised to implement within 18 months, would require that companies provide free alerts to customers approaching or exceeding monthly limits on voice, texting and data, as well as those about to incur costly international roaming charges.

The plan was unveiled Monday and included the FCC's agreement to shelve its proposed rules, for now.

It's always a gamble to trust companies to comply with voluntary guidelines, Cooper said. But government regulation can be awkward in a fast-changing sector such as the wireless industry, so he praised the FCC for trying a new approach.

"We will be infinitely better off if we make this kind of thing work than if we keep having this nuclear war over command-and-control regulation," said Cooper, a veteran of Washington rule-making battles.

Cooper said governance of Internet domain names, for instance, has been one of the few successful self-regulatory efforts.

Getting the public involved in monitoring companies for compliance with voluntary guidelines, as the FCC has promised, could become a new model.

"This is the kind of approach that I think is the 21st century solution," Cooper said. "If it doesn't work, we can always have a rule."

Members of CTIA, the leading wireless trade group, must begin providing two of the four alerts — voice, texting and data overages and potential international roaming charges — within 12 months and the rest within 18 months.

Some companies, such as Verizon Wireless, already provide some alerts. CTIA President Steve Largent said he anticipated companies would comply with the new guidelines ahead of schedule.

Member companies, for instance, recently complied with a new voluntary CTIA technology standard for creating a universal cellphone charger three months ahead of a January deadline.

Largent promised that companies would not charge customers more to offset any revenue they lost from decreased overage charges.

"Our companies are biting the bullet, and we're going to get this done," he said.

CTIA —whose members include carriers such as AT&T Inc., Verizon and handset manufacturers Nokia Inc. and Motorola Mobility Inc. — enacted a consumer code in 2003. Among its requirements are posting accurate coverage maps and giving new customers 14 days to cancel service without early termination fees.

But Bob Williams, director of HearUsNow.org, the telecommunications website for Consumers Union, said the group has received customer complaints that the coverage maps were inaccurate. And Verizon has used AT&T's coverage map in advertisements to argue its competitor's service is spotty.

"Any sort of voluntary guidelines, we approach with an arched eyebrow, " Williams said. "Because it's voluntary, there's not a real penalty if they don't comply."

Companies can be fined by regulators for unfair and deceptive practices if they promise something and then don't deliver, said Ed Mierzwinski, consumer program director at the U.S. Public Interest Research Group.

Failure to comply with voluntary standards can lead to additional regulations. When voluntary safety standards on baby cribs failed to work, for example, the Consumer Product Safety Commission enacted new mandatory standards last year.

Although self-regulation is better than government mandates, it's not better than true competition, said Jim Harper, director of information policy studies at the Cato Institute, a libertarian think tank.

Without the new guidelines, companies might have competed for customers by touting their wireless alerts, which could have led to innovations for that service, Harper said.

But wireless companies haven't been widely promoting their differing alerts, even though most offer some warnings. If they weren't competing on alerts, he said, the government would be warranted in helping to develop standards.

"We love to tout markets as the preferred alternative, and sometimes act as if they're the perfect alternative, and they're not," he said. "Sometimes they're slow to respond to things like this."

jim.puzzanghera@latimes.com