

HOUSE COMMITTEE ON SMART GROWTH AND COMMERCE

February 9, 2001
3:30 PM

Hearing Room 50
Tapes 24 – 26

MEMBERS PRESENT: Rep. Rep. Bill Witt, Chair
Rep. Betsy Johnson, Vice-Chair
Rep. Tim Knopp, Vice-Chair
Rep. Alan Bates
Rep. Alan Brown
Rep. Janet Carlson
Rep. Richard Devlin
Rep. Bill Garrard
Rep. Jerry Krummel
Rep. Laurie Monnes-Anderson
Rep. Vicki Walker

STAFF PRESENT: Daniel Clem, Committee Administrator
Renee' Lunsford, Committee Assistant

MEASURE/ISSUES HEARD: HB 2214 Public Hearing
Introduction of Committee Bills
HB 2535 Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 24, A		
003	Chair Witt	Calls the committee to order at 3:40 p.m. and opens a public hearing on HB 2214.
<u>HB 2214 PUBLIC HEARING</u>		
006	Rep. Al King	House District 44. Testifies in favor of HB 2214. States he introduced the slamming bill, HB 2821.
023	Chair Witt	States he will give Rep. King's bill consideration before finalizing HB 2214. Closes the public hearing on HB 2214 and opens a work session for the purpose of introducing committee bills.
<u>INTRODUCTION OF COMMITTEE BILLS</u>		
033	Rep. Devlin	Asks if LC 2263 will come back to this committee.
035	Chair Witt	Answers it may, but there is no guarantee.
046	Rep. Johnson	Asks if they need to reserve the opportunity to oppose the bills on the record.
049	Chair Witt	States they do not. Explains that the committee is introducing the bills and this does not mean they support or oppose them or that the bills will come back to this committee.
050	Rep. Witt	MOTION: Moves LC's: 1839, 1840, 1841, and 2263 BE INTRODUCED as committee bills.
		VOTE: 11-0
051	Chair Witt	Hearing no objection, declares the motion CARRIED. REP. WITT will lead discussion on the floor.
052	Chair Witt	Closes the work session and reopens the public hearing on HB

2214.

HB 2214 PUBLIC HEARING (CONTINUED)

055	Dan Clem	Committee Administrator. Gives staff preliminary report on HB 2214.
086	Jeff Bissonnette	Citizens' Utility Board of Oregon. Testifies in favor of HB 2214.
109	John Glascott	Representing the American Association of Retired Persons. Submits written testimony (EXHIBIT A) and testifies in favor of HB 2214.
120	Rep. Krummel	Asks if a person was offered local and long-distance telephone service because their current service was being discontinued and was offered free caller identification, would that be a violation in this statute.
135	Bissonnette	Responds it depends on the consumer awareness.
160	Ken Strobeck	Representing Voice Stream Wireless. Submits written material (EXHIBIT B) and testifies on HB 2214 and his proposed amendment. States that he would like to clarify that this bill does not apply to cellular or wireless communication services.
183	Richard Kosesan	Representing Verizon. Testifies on HB 2214. States that he would like to see explicit language that clearly excludes wireless service from this bill.
216	Cheryl Pellegrini	Financial Fraud and Consumer Protection Division, Department of Justice. Testifies in favor of HB 2214. Gives history of complaints and enforcement procedures. Outlines what penalties could be enacted should violations occur.
333	Rep. Johnson	Asks how the attorney fee recovery process works.
340	Pellegrini	Explains which cases are acted on and why.
350	Rep. Johnson	Asks for clarification involving complaint process. Asks if the 13 cases chosen for follow-up are representative of a pattern.
366	Pellegrini	Answers affirmatively.
371	Chair Witt	Asks how a consumer would suffer an ascertainable loss of money or property.
380	Pellegrini	Explains how this may happen.
448	Chair Witt	Asks when punitive damages would arise in a situation like this.
4449	Pellegrini	States that a plaintiff would have to establish that it was a particularly grievous violation or that it was an on-going pattern or practice.
469	Chair Witt	Noting the civil penalty of up to \$25,000, asks if this is the current maximum penalty for unlawful trade practice.
439	Pellegrini	Answers affirmatively.
442	Chair Witt	Gives an example of a specific pitch—subscribe with MCI and get airline mileage—and asks if that example would pertain to the language.
492	Pellegrini	States she does not believe it would.
478	Chair Witt	States the language could be interpreted more broadly and that it needs to be defined more clearly.

TAPE 25, A

040	Rep. Devlin	Asks how long it takes for most consumers to become aware that they have had a change of service.
051	Pellegrini	Replies when there is a large change in the cost of their long distance services.
061	Rep. Devlin	Asks if any of the “slammers” kept their rates low at first and then increased them later.
065	Pellegrini	Responds that most cases are immediately charged.
069	Rep. Walker	Refers to punitive damages and asks for clarification that the

076	Pellegrini	department would not pursue those claims.
082	Rep. Walker	Responds affirmatively. Explains further.
084	Pellegrini	Asks if civil penalties go into a fund for other programs.
		Replies if the penalty is designated a civil penalty it goes to the General Fund.
090	Rep. Walker	Asks if the State of Oregon gets 60-65% of punitive damage awards.
093	Pellegrini	Replies that she is not sure.
120	Bruce Shaull	Representing Sprint. Submits written testimony (EXHIBIT C) and testifies in opposition to HB 2214.
143	Chair Witt	Asks Mr. Shaull what specifically in the bill he objects to.
148	Shaull	States he thinks that \$25,000 is an excessive fine for a violation.
167	Rep. Johnson	Asks if a carrier isn't slamming, what is the concern about the fine.
168	Shaull	Responds there are always some situations in marketing that are unclear.
179	Rep. Johnson	Asks Mr. Shaull how he would feel if the fine were lower.
181	Shaull	Responds that they could consider that, depending on how low.
184	Chair Witt	States that the penalty should be commensurate with the offense.
188	Rep. Brown	Asks if the company doing the slamming was located out-of-state, could they be pursued across the state line.
198	Rep. Garrard	Responds that if it is a federal offense with the FCC, they could be sued under federal guidelines.
205	Rep. Bates	Asks if they are looking at an area that might be a little gray yet, for example, in regard to customer misinterpretation.
215	Shaull	Responds this can happen any time there are commercial transactions. Cites examples.
225	Chair Witt	Closes the public hearing on HB 2214 and opens a public hearing on HB 2535.

HB 2535 PUBLIC HEARING

233	Clem	Gives staff preliminary summary on HB 2535.
294	Shelly Jensen	Regulatory and Governmental Affairs Manager, Verizon. Submits written testimony (EXHIBIT D) and testifies in support of HB 2535.
325	Brant Wolf	Representing Oregon Telecommunications Association. Submits written testimony (EXHIBIT E) and testifies in support of HB 2535.
346	Rep. Garrard	Asks if these revenues are drawn from the Public Utility Commission (PUC), is it going to have an effect on the consumer.
351	Jensen	Responds that if this legislation passes, the next time a local exchange customer is in front of the PUC for a rate adjustment, the revenues from the directory company will no longer be included.
372	Chair Witt	Adds that the company could incur losses and rates could be raised.
375	Rep. Walker	Asks why the PUC did this initially.
381	Jensen	Explains how the process developed.
417	Chair Witt	Asks if the current PUC practice of inputting revenues and costs from the directory business into the regulated business lowers the incentive to the directory business in a profitable manner.
427	Jensen	Responds it can put businesses at a competitive disadvantage.
436	Chair Witt	Asks if there is information available regarding the directory

		advertising and money spent and generated. Asks what is the trend compared to 20 years ago.
456	Jensen	Responds she does not have that information, but will look into it.
494	Chair Witt	Asks Ms. Jensen if Verizon faces a broad range of new competitors that weren't there ten years ago.
495	Jensen	Responds affirmatively.
500	Chair Witt	Asks if the PUC would allow Verizon to take a loss in the directory business and use it to increase the rate structure of the regulated business.
512	Jensen	Responds no.
517	Rep. Bates	States that in a small community, yellow pages are attached to their regular phone books, but their rates have gone very high. Asks if there have been any provisions to separate the books.
TAPE 24, B		
045	Jensen	States she is not aware of anything like that.
064	Ginny Lang	Representing Qwest. States that Qwest is not affected by this legislation.
071	Shaul	Representing Sprint. Testifies in favor of HB 2535.
087	Rep. Devlin	Asks what percent of Oregon's market Qwest covers and whether they have more territory than Verizon.
090	Lang	Responds that she does not know what percent is covered, but that they do have more territory than Verizon.
101	Glascott	Submits written testimony (EXHIBIT F) and testifies in opposition to HB 2535.
159	Chair Witt	States that at one point Mr. Glascott referenced \$14 million in advertising revenue and \$140 million in asset and estimated revenues. Asks Mr. Glascott if he is talking about two different things there.
162	Glascott	Responds that the \$140 million is the asset value.
175	Bissonnette	Submits written testimony (EXHIBIT G) and testifies in opposition to HB 2535.
209	Rep. Krummel	Asks why ratepayers would be charged an extra two dollars per month if the phone books are provided free of charge, and how the customers become the venture capitalists in the phone book business.
220	Bissonnette	Responds the directories have become profitable and there is currently a sharing mechanism between the company and the ratepayers.
237	Rep. Krummel	Asks Mr. Bissonnette if he could provide a rate structure that phone companies charge for advertising in the yellow pages.
288	Chair Witt	States the argument is being put forth that the directory is worth \$140 million. Asks if they are talking about Verizon.
280	Bissonnette	Responds yes.
294	Chair Witt	Asks if the company took revenues from the regulated business and used them to develop the directory business or were they using separate revenues that were not regulated.
305	Bissonnette	Responds that he believes ratepayers paid for the development of the directory business and at the time of the development it was part of the regulated business.
328	Rep. Krummel	States that Mr. Bissonnette mentioned the rights of the customers to the revenue and the rights of the customers to the assets. Asks what the responsibilities are that go along with these rights.

340	Bissonnette	Responds that the responsibility is to be a customer in good standing.
350	Rep. Krummel	States his phone service is a privilege not a right and that if he does not want to pay for the directory, he doesn't have to buy the service. Asks Mr. Bissonnette if he would agree with that.
377	Bissonnette	Replies he wouldn't say that phone service is a privilege. Notes that the customers pay for the revenues he is referencing.
424	Rep. Krummel	States that he lives in Wilsonville, which is on the line between Washington and Clackamas counties, and notes that Wilsonville is serviced by two phone companies. Asks whether the phone companies should provide a directory free-of-charge for both.
410	Bissonnette	Responds that the company's responsibility is to provide a directory of its customers in a service area.
477	Rep. Devlin	States we have a situation where there seems to be a great deal of competition between directories.
TAPE 25, B		
034	Bissonnette	States that although there is a lot of competition, the local monopoly phone company was the only one who received help from ratepayers.
066	Rep. Devlin	Asks if Mr. Bissonnette's argument is that since the subscribers paid for the directories at a time when they were not profitable, they should receive the benefits when they are profitable.
075	Bissonnette	Responds affirmatively.
077	Chair Witt	States that the 1999 legislation passed the House, but it did not get advanced to the Senate.
080	Roger Hamilton	Commissioner, Public Utility Commission of Oregon (PUC). Submits written testimony (EXHIBIT H) and testifies in opposition to HB 2535.
293	Rep. Devlin	Asks if it is in the best long-term interest of a competitive market not to have the subsidization.
311	Hamilton	Responds theoretically, yes, but in a practical sense, he doesn't think so.
344	Chair Witt	Asks about the Qwest price caps analogy and whether there were some trade-offs.
353	Hamilton	Responds the he was merely stating facts. Explains further.
374	Chair Witt	Asks if GTE and Verizon used revenues from its regulated business to invest in an unregulated directory business.
377	Hamilton	Responds he doesn't know.
362	Mark Allman	States that he does not think anyone could make an argument that profits from the regulated business were used.
367	Chair Witt	States that even if they used profit that came from a rate-of-return regulation and they invested those profits into the directory business, that doesn't make them a public asset.
416	Allman	States the reason why commissions across the country recognize profitable revenues is because of its connection with the regulated business.
442	Rep. Krummel	Asks about the rate increases and whether other services were taken into account and included when calculating these rates, and are they part of the filing.
445	Allman	Explains how the rate increase was calculated.
TAPE 26, A		
040	Rep. Krummel	Asks if the company can use other services as a means of being able to subsidize their basic rates.

046	Allman	Responds affirmatively and explains why.
050	Rep. Walker	Asks Mr. Allman and Mr. Hamilton to explain why Verizon has to return their revenues back to supplement the ratepayers, but internet service providers are not required to do the same.
055	Hamilton	Says he thinks they are comparing apples and oranges. Notes that most internet customers are not considered captive customers.
078	Rep. Krummel	States he would like some statistics on the real cost of basic service.
088	Chair Witt	Closes the public hearing on HB 2535 and adjourns the committee at 5:35 p.m.

Submitted By,

Reviewed By,

Renee' Lunsford,
Committee Assistant

Daniel Clem,
Committee Administrator

EXHIBIT SUMMARY

- A – HB 2214, written testimony, John Glascott, 1 p**
- B – HB 2214, written material, Ken Strobeck, 3 pp.**
- C – HB 2214, written testimony, Bruce Shaull, 3 pp.**
- D – HB 2535, written testimony, Shelly Jensen, 3 pp.**
- E – HB 2535, written testimony, Brant Wolf, 1 p**
- F – HB 2535, written testimony, John Glascott, 2 pp.**
- G – HB 2535, written testimony, Jeff Bissonnette, 2 pp.**
- H – HB 2535, written testimony, Roger Hamilton, 5 pp.**