



Legislation Text

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Int. No. 1102

By Council Members Koo, Grodenchik, Salamanca, Kallos, Reynoso, Vallone and Rivera (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to providing comprehensive protections to cable service subscribers.

Be it enacted by the Council as follows:

Section 1. Title 23 of the administrative code of the city of New York is amended by adding a new chapter 13 to read as follows:

CHAPTER 13

CABLE OPERATOR SERVICE CONSUMER PROTECTIONS

§ 23-1301 Applicability. This chapter applies to the provision of cable operator services to retail subscribers receiving the services for their own use, and not for resale, within the city of New York.

§ 23-1302 Definitions. The following terms shall, for purposes of this chapter, have the following meanings:

Cable operator service. Any service provided over a cable system that is offered by a cable operator to retail customers.

Cable operator. Any person or group of persons who (a) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (b) otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

Cable franchise. A franchise contract with the city of New York pursuant to section 1072 of the

charter authorizing a cable operator to use the inalienable property of the city for the provision of (a) cable service, or (b) cable service and one or more other cable operator services.

Cable service. (a) The one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable system. Facilities consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that are designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, not including (a) facilities that serve only to retransmit the television signals of one or more television broadcast stations, or (b) facilities that serve subscribers without using any public right-of-way within the city of New York.

Customer service representative. A customer service representative of a cable operator who is available to answer a cable operator's customer service telephone line to handle inquiries from subscribers and potential subscribers, receive and handle reports of service and billing issues and schedule service and installation appointments.

Department. The department of information technology and telecommunications.

Non-covered service. Any cable operator service provided by a cable operator, in operation on or after the effective date of this chapter, which is not subject to the consumer protection standards set forth in the cable operator's cable franchise.

§ 23-1303 Consumer protections applicable to non-covered services. Every cable operator that offers any non-covered service within the city of New York shall comply with the requirements of this section with respect to such non-covered services, and shall be subject to the remedies set forth in subdivision c of this section and in section 23-1305 for non-compliance with such requirements.

a. Notice, transparency, and accessibility.

(1) Written notice of services and rates. A cable operator shall provide annually, to a subscriber

of any of its non-covered services, via email or postal service mail at the election of the subscriber, a list of every available non-covered service plan and associated prices, including all applicable rates, fees, charges, and other costs that a subscriber must pay to receive the service, and terms and conditions that apply to the service.

(2) Service change notice. A cable operator shall provide every subscriber with advance written notice of any change in billing practices, rates, fees, charges, or terms and conditions associated with any non-covered service to which the subscriber is subscribed. Such notice shall be sent separately by mail, or by email if the subscriber has previously consented to receiving such notice by email, at least 30 days prior to the effective date of any such change. A cable operator shall further make such notice readily available on the cable operator's website. Such notice shall describe the change with particularity, and shall state the date on which the change is expected to take effect. Such notice shall be in a clear and conspicuous format and in twelve point font or larger and shall contain a heading, in bold capital letters in no less than 14-point font, that reads "NOTICE OF CHANGE." Such notice shall include options for viewing the notice in languages other than English and in a manner that is accessible to persons with disabilities. The department shall promulgate rules mandating the specific language and accessibility requirements for such notices.

(3) Customer service telephone number. A cable operator shall make available to a subscriber or potential subscriber one or more local customer service telephone numbers that may be used to request and schedule a repair or installation of a non-covered service, to report service and billing issues to which the cable operator's customer service representatives shall respond, and to make and receive responses to inquiries regarding a non-covered service. The cable operator shall make such customer service representatives available for at least the same periods of time as it makes customer service representatives available to its cable service subscribers.

b. Respect for subscriber's time.

(1) Service and installation windows. A cable operator shall offer a subscriber or potential subscriber windows of time during which such subscriber or potential subscriber may request a repair or

installation of a non-covered service, and during which the cable operator's installer or repairperson will arrive to perform the repair or installation. Such windows of time shall match the windows of time such cable operator offers to its cable service subscribers for cable services.

(2) Prompt answering time. A cable operator shall ensure that a telephone call regarding a non-covered service to the cable operator's customer service telephone number is answered within 30 seconds after the call is placed, and that callers are able, during regular business hours, to connect to a live customer service representative within 30 seconds after selecting the option provided for connecting to a live customer service representative.

c. Credits.

(1) Outages. A cable operator shall issue a credit to a subscriber for any outage in any non-covered service. The credit shall be the greater of (i) one thirtieth of the monthly charge for the service subject to the outage, multiplied by the number of days in a monthly billing cycle during which the outage occurred; or (ii) provided the outage is not the result of a weather event, failure in the public electrical grid, or other force majeure, \$10.00. Where the outage is known to the cable operator prior to or without any contact from a subscriber, the cable operator must automatically provide the credit, without the need for contact from, or a credit request, from a subscriber, within 45 days after the outage. Where the outage only becomes known to the cable operator as the result of information received from a subscriber, the cable operator must provide the credit, without the need for a credit request from a subscriber, within 45 days after the outage becomes known to the cable operator.

For the purposes of this provision, an outage is defined as a failure, lasting one hour or more, in the provision of a non-covered service to a subscriber of such non-covered service. Such failure may include the complete unavailability of the service to the subscriber or the provision of the service in a manner or at a level that does not meet the standards described in the cable operator's terms of service or promotional materials, or in the cable operator's confirmation documents described in section 23-1304. For purposes of

determining the duration of such failure, the failure shall commence when the cable operator first becomes aware of the service problem that would constitute an outage if not resolved within one hour.

(2) Missed service or installation appointments. A cable operator shall credit \$25.00 to a subscriber's bill in the next available billing period for each missed service or installation appointment related to any non-covered service. For the purposes of this provision, a missed service or installation appointment means a failure by a cable operator's installer or repairperson to arrive for a scheduled service or installation appointment within the scheduled window of time for such appointment.

§ 23-1304 Accuracy of information.

a. Confirmation documents. A cable operator shall provide a confirmation document within five business days to a subscriber or potential subscriber, as applicable, after the potential subscriber agrees to subscribe to one or more cable operator services, or the subscriber agrees to add, reduce, or otherwise change an existing subscription to a cable operator service. The confirmation document shall be provided in written or electronic form at the subscriber's or potential subscriber's option. Such confirmation document shall include at a minimum all of the following:

(1) a statement accurately describing the cable operator services, including any tiers of cable service in the subscription and channels of programming included in such tiers; any additional channels of programming in the subscription; the download and upload speeds and capacity of any internet access or data services; and any terms and conditions associated therewith;

(2) a statement accurately describing all rates, fees, and charges, including all taxes and any other miscellaneous charges, that the subscriber or potential subscriber will be required to pay for the cable operator services, including a statement of the sum total of all such rates, fees, and charges;

(3) to the extent that the rates, fees, and charges described above reflect a discount related to the agreement, where the discount expires after a certain period, a statement accurately describing the length of the discount period and describing all rates, fees, and charges that will apply after the expiration of the discount

period (such statement may refer to the possibility that the post-discount rates, fees, and charges may be subject to change to the extent that the cable operator's applicable non-discounted rates, fees, and charges change before the non-discounted rate takes effect);

(4) a statement accurately describing any commitments to subscribe to one or more cable operator service for more than one month or to pay a cancellation fee or other charge for cancelling a cable operator service at any time; and

(5) a statement granting the subscriber or potential subscriber the right to cancel the agreement within 72 hours of receiving the confirmation document, at no charge to the subscriber or potential subscriber and with no charges being incurred by the subscriber or potential subscriber for services rendered to the subscriber or potential subscriber or for reimbursement of expenses incurred by the cable operator, prior to such cancellation.

b. Knowledgeable customer service representatives. A cable operator shall have knowledgeable customer service representatives available by telephone to provide accurate information to any subscriber of one or more cable operator services. A cable operator will be determined to be in violation of this subdivision if, over any series of ten consecutive test questions to the cable operator's customer service representatives, the answering customer service representative responds inaccurately to more than one such test question.

For the purposes of this subdivision, a test question shall be defined as a question asked by a representative of the city of New York, through the cable operator's local customer service telephone number, for purposes of assessing whether the cable operator has customer service representatives knowledgeable about the cable operator's provision of cable operator services. The test questions need not be asked on the same call, but may be asked over a series of calls over any period of time. The test questions need not be asked by the same representative of the city of New York, and the representative shall not be required to announce herself or himself as a representative of the city or to announce to a customer service representative that the question is a test question or to announce to a customer service representative that the call is being recorded. If a customer

service representative responds to any test question with a statement that the customer service representative does not know the answer to the question or with a response of similar effect, neither the question nor the answer will be counted as part of the series of ten consecutive test questions. The department shall maintain a publicly available record of all test questions and, with respect to each cable operator, the rate at which the cable operator's customer service representatives responded accurately, inaccurately, or with a statement that the customer service representative does not know the answer to the question or with a response of similar effect.

c. Overbilling. If a cable operator submits a bill to a subscriber of any cable operator service which indicates a charge greater than the amount actually due, the subscriber shall be entitled to a credit in the amount of the greater of (1) \$15.00, or (2) two times the amount of the overcharge.

§ 23-1305 Violations. The department shall have the power to enforce the provisions of this chapter. The department may promulgate rules providing for enforcement of the provisions of this chapter by issuing notices of violation, and providing for additional consumer protections for consumers of cable operator services and for enforcement thereof. Such rules shall prescribe the fines to be imposed for such violations following adjudication before the office of administrative trials and hearings pursuant to section 1049-a of the charter, such fines not to exceed \$1,000 per violation.

§ 2. This local law shall take effect 90 days after it becomes law, except that the commissioner of the department and the office of administrative trials and hearings shall take all actions necessary, including the promulgation of rules, if necessary, to implement this local law on or before the date upon which it takes effect.