

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis

Rule Subject: **Electronic Communication Service**
Adm. Code Reference: **ATCP 123**
Rules Clearinghouse #: **Not yet assigned**
DATCP Docket #: **08-R-04**

Background

The Department of Agriculture, Trade and Consumer Protection (DATCP) currently regulates sales and billing practices related to telecommunications, cable television and satellite television provided to consumers on a subscription basis. Current rules are contained in ch. ATCP 123, Wis. Adm. Code. The current rules do all of the following:

- Require providers to disclose subscription terms and conditions.
- Prohibit billing for unordered services.
- Prohibit the imposition of price increases without prior notice and opportunity to cancel.
- Prohibit unfair “negative option” billing practices.

Since DATCP adopted the current rules, business practices and technology have changed. For example, video services can now be delivered over telephone lines. Providers now offer “bundled” service packages that may include local telephone, long-distance telephone, wireless telephone, video, internet and other services. Consumers may receive a number of these services on one electronic device, and may receive one bill for all of the “bundled” services.

This rule updates current rule coverage to ensure that protection is afforded to video service consumers on an equal basis, regardless of the technology or method used to deliver the service. This rule does not make major changes in rule content, but does make minor content adjustments to address new service delivery methods and “bundling” practices. This rule also incorporates new statutory definitions created by 2007 Wis. Act 42.

Rule Content

This rule does all of the following:

- Retitles ch. ATCP 123 from “Telecommunications and Cable Television Services” to “Electronic Communication Services.”

- Defines “electronic communication service” to include telecommunications service, video service, broadband internet service and satellite television service provided to consumers on a subscription basis. “Electronic communication service” also includes any good or service that a subscriber is required to purchase from the service provider in order to obtain the electronic communication service.
- Defines “video programming” and “video service,” consistent with current statutes.
- Changes “telecommunications service or cable television service” where it appears in the main body of the rule to “electronic communication service.”
- Changes other words in the rule text to reflect recent statutory definition changes (2007 Wisconsin Act 42).

Business Impact

This rule will have few, if any, negative impacts on business. This rule simply updates the definitions and coverage of current rules to prevent the erosion of current consumer protection regulations. Some video service providers now use new electronic delivery methods that are not covered by current rules. This rule applies existing consumer protection standards to those new delivery methods, so that consumers will continue to enjoy protection. This rule will help maintain fair competition between video service providers, regardless of the delivery method used. None of the video service providers using the new electronic delivery methods are small businesses.

Steps to Assist Small Business

None of the businesses affected by this rule are “small businesses.” This rule does not make special exceptions for “small businesses.”

Conclusion

This rule will help maintain fair competition between competing businesses and will have few, if any, negative effects on business. This rule will have no effect on “small business,” and is not subject to the delayed “small business” effective date provided in s. 227.22(2)(e), Stats.

Dated this _____ day of _____, 2008

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Janet Jenkins, Administrator,
Division of Trade & Consumer Protection