

Customer Service Enforcement After AB 2987



John Risk

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Consumer Protection and Service Standards

**Legislative Analysis by Edward Randolph Utilities
& Commerce Committee 9/6/006**

Consumer Protection:

State law currently contains a thorough set of consumer service and performance standards. The local franchising authority enforces the standards. Some Franchise agreements also adopt additional or more stringent standards.



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Consumer Protection and Service Standards

**Legislative Analysis by Edward Randolph Utilities
& Commerce Committee 9/6/006**

Consumer Protection (Cont:)

This bill leaves the authority to enforce consumer protection rules with the local governments but creates a uniform set of state rules based on the existing state and federal consumer protection rules. The bill also increases the amount of penalties that the local governments can issue by 250% over existing law.



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Consumer Protection and Service Standards

§ 5900 (a)

The holder of a state franchise shall comply with the provisions of Sections 53055, 53055.1, 53055.2, and 53088.2 of the Government Code, and any other customer service standards pertaining to the provision of video service established by federal law or regulation or adopted by subsequent enactment of the Legislature. All customer service and consumer protection standards under this section shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.



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Consumer Protection and Service Standards

§ 5900 (b)

The holder of a state franchise shall comply with provisions of Section 637.5 of the Penal Code and the privacy standards contained in Section 631 of the federal Cable Act (47 U.S.C. Sec. 551 et. seq.).



Consumer Protection and Service Standards

§ 5900 (c)

The local entity shall enforce all of the customer service and protection standards of this section with respect to complaints received from residents within the local entity's jurisdiction, but it may not adopt or seek to enforce any additional or different customer service or other performance standards under Section 53055.3 or subdivision (q), (r), or (s) of Section 53088.2 of the Government Code, or any other authority or provision of law.



Consumer Protection and Service Standards

§ 5900 (d)

The local entity shall, by ordinance or resolution, provide a schedule of penalties for any material breach by a holder of a state franchise of this section. No monetary penalties shall be assessed or a material breach if it is out of the reasonable control of the holder. Further, no monetary penalties may be imposed prior to January 1, 2007.



Consumer Protection and Service Standards

§5900(d) (continued)

Any schedule of monetary penalties adopted pursuant to this section shall in no event exceed five hundred dollars (\$500) for each day of each violation, not to exceed one thousand five hundred dollars (\$1,500) for each occurrence of material breach.



Consumer Protection and Service Standards

§5900 (d) (continued)

However, if a material breach of this section has occurred, and the local entity has provided notice and a fine or penalty has been assessed, and if a subsequent material breach of the same nature occurs within 12 months, the penalties may be increased by the local entity to a maximum of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach.



Consumer Protection and Service Standards

§5900 (d) (continued)

If a third or further material breach of the same nature occurs within those same 12 months, and the local entity has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of two thousand five hundred dollars (\$2,500) for each day of each material breach, not to exceed seven thousand five hundred dollars (\$7,500) for each occurrence of the material breach.



Consumer Protection and Service Standards

§5900 (d) (continued)

With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar-for-dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed.



Consumer Protection and Service Standards

§5900 (g)

Any penalty shall be provided to the local entity who shall submit one-half of the penalty to the Digital Divide Account established in Section 280.5.

§5900 (j)

For purposes of this section, "material breach" means any substantial and repeated failure of a video service provider to comply with service quality and other standards specified in subdivision (a).



Current Penalties Govt. Code 53088.2

First violation: two hundred dollars (\$200) for each day of each material breach, not to exceed six hundred dollars (\$600) for each occurrence of material breach.

Second breach of the same nature occurring within 12 months, a maximum of four hundred dollars (\$400) for each day of each material breach, not to exceed one thousand two hundred dollars (\$1,200) for each occurrence of the material breach.

If a third or further material breach of the same nature occurs within those same 12 months, a maximum of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach.



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Current Enforcement Govt. Code 53088.2

(r) (1) The city, county, or city and county shall give the video provider written notice of any alleged material breaches of the consumer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified breach.

(essentially the same as AB2987 5900 (e) with use of phrases “local entity” and “material” vs. “specified”)



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Current Govt. Code 53088 Enforcement with modifications by AB2987

(2) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day **within the jurisdiction**, following the expiration of the period specified in paragraph (1) **(subdivision e)**, that any material breach has not been remedied by the video provider, irrespective of the number of customers affected.



Consumer Protection and Service Standards

Not specifically addressed in AB2987

- Requirement for Local Office
- Local Toll-Free Telephone Number
- Telephone Answer Time (other than FCC)
- Specific Standards for Service Calls
- Specific reporting standards
- Cable Service Complaint Log
- Subscriber Surveys
- Specific Complaint Handling Procedures



Consumer Protection and Service Standards

Suggested Links:

- GOVERNMENT CODE SECTION 53054-53056
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=53001-54000&file=53054-53056>
- GOVERNMENT CODE SECTION 53088-53088.2
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=53001-54000&file=53088-53088.2>

