

Senator José Peralta

&

Independent Democratic Conference



Calling Home?

Senator Peralta Takes a Hard Look at Prepaid Calling Cards



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Introduction

Senator Peralta and the Independent Democratic Conference (IDC) recently completed an investigation into some of the most popular prepaid calling card companies and the effectiveness of their product. Prepaid calling cards allow consumers to pay in advance for telephone calling time without committing to a monthly phone plan. They are convenient and relatively affordable alternatives to international calling plans. However, several prepaid calling card plans are riddled with call-quality issues and scams. According to the Federal Trade Commission (FTC), “some calling cards come with fees that can take a big bite out of the calling time you’ve bought. As a result, the cards [do not] deliver the call time they advertise. And because you’ve paid in advance, you may be out of pocket- and out of luck- if you discover a problem.”¹ Senator José Peralta, as Vice Chair of the New York State Senate’s Energy and Telecommunications Committee, is dedicated to protecting consumers using prepaid calling cards, especially our immigrant constituents.

Senator Peralta hears about how these scams affect his constituents on a daily basis. Our investigation showed that the most popular cards used by our neighbors have some of the worst bad practices. With Senator Peralta’s new position on the Energy and Telecommunications committee, he is doing all he can to look deeper into this issue and find legislative solutions to protect New Yorkers. First, Senator Peralta proposed an omnibus bill, S.6142 that will require calling card companies to guarantee quality service, expand disclosure requirements to enhance transparency, and to provide customers greater recourse if they experience any of these scams. The first part of the bill requires prepaid calling cards to ensure high quality calls.

Next, the bill addresses a transparency issue we found during the investigation. Essentially, there are hundreds of prepaid calling card companies. However, only a relatively small number of parent corporations run many of the brand names. Therefore, there are actually far fewer prepaid calling options because the parent corporations run the same bad practices over many different brand names.

For example, two brands we tested were Red Cherry and Banana prepaid calling cards. The same parent corporation owns these two different brand names. We noticed this because the call-in number, customer service number, and the terms and conditions were the same. This means that a consumer could have a bad experience with one calling card, choose a different brand the next time and experience the same issues because the cards are actually one-in-the-same. To rectify this issue, Senator Peralta proposed an amendment to the Public Service Law that would require prepaid calling cards to list the parent corporation on the card in addition to the other disclosure requirements. Senator Peralta hopes that this new requirement will allow consumers to choose the best brand of card and make the most informed choice.

Finally, the bill requires prepaid calling card companies to disclose the Federal Communications Commission, Federal Trade Commission, and the New York State Attorney General’s phone number where a customer can report a complaint about the prepaid card. This final aspect of the bill intends to give consumers greater recourse against the bad actors in industry while

¹ Federal Trade Commission, Consumer Information <https://www.consumer.ftc.gov/articles/0132-prepaid-phone-cards>.

simultaneously assisting the government agencies in enforcing current regulations. If consumers do not know how to report their issues, the agencies cannot respond. Senator Peralta considers these pieces of legislation to be a first step in addressing some of the issues we found during our investigation. By ensuring higher call quality, greater recourse, and providing more transparency about the parent corporations, we can protect consumers from these bad practices.

Key Findings

- Almost 80 percent of those surveyed paid a hidden fee
- More than 87 percent that were overcharged did not receive a refund from the company
- 72 percent used a card that had fewer minutes than advertised
- More than 61 percent of those surveyed experienced bad reception while using a calling card
- Almost 80 percent of people surveyed had a call drop while using a calling card
- More than 61 percent surveyed were charged longer than the call lasted when the call dropped
- More than 61 percent bought cards that did not provide instructions listed if they experienced an issue with the card
- 100 percent of those surveyed did not report issues to any government agency
- Over 66 percent of those surveyed learned about the card brands to buy from family and friends

Prepaid Calling Cards and the Disparate Impacts on Immigrant Communities

Prepaid calling cards raise serious consumer protection issues for our immigrant families. According to a 2010 press release by the Federal Trade Commission (FTC), forced the prepaid calling card industry to pay \$4 million in settlements to customers. Former FTC Chairman, Jon Leibowitz said, “If you deceive consumers about the prepaid calling cards you’re selling, we will take you to court and force you to give up the money you made through deceptive sales tactics.”² These bad practices affect all consumers and have a disparate impact on immigrants. Immigrant families are particularly vulnerable to these practices because they use prepaid calling cards more regularly than most.³ The FTC recognizes the severity of the issues, nevertheless, little change in the regulations has occurred on the federal level.

² Federal Trade Commission, Press Releases <https://www.ftc.gov/news-events/press-releases/2010/05/ftc-settlement-reins-new-york-based-prepaid-calling-card>.

³ Federal Communications Commission, Public Notice 2012-08 https://apps.fcc.gov/edocs_public/attachmatch/DA-12-1572A1_Rcd.pdf.

Moreover, the current national political climate is not concerned with protecting the consumer rights of our immigrants. Immigrant families are particularly susceptible to these scams because the cards are perceived as affordable alternatives to costly landline or cell phone plans to make long-distance calls to their families and friends in other countries. According to Consumer Warning Network, about three-quarters of phone cards do not disclose calling rates.⁴ In addition, the cards impose hidden fees for connection, obscure taxes, maintenance fees, and rounding up calls to the next minute. Other issues include hang-up fees, poor connections, busy-lines, and payphone surcharges.⁵ See the following diagram depicting call quality issues and the following chart for examples of hidden fees.



Information Provided to Customer

There is no standardization of fees and terms, and limited disclosure on some cards. Below, the absence of disclosed information does not necessarily mean there is no fee.

Company	Connection fees	Completion fees	Maintenance fees	Other	Expire	Rounding
Dollar Phone Enterprise Inc.		\$1.49/call	\$0.99/week	Service fee \$0.25/min	3 mos	1 min
IDT			\$0.69 bi-weekly		6 mos	1 min
IDT Boss Revolutions					1 year	1 min
PT1 Communications			\$0.69 bi-weekly			1 min
STI	Up to \$1.99/call		\$0.69 week up to \$1.99/day	Disconnection fee: \$0.90/call less than 5 min	6 mos	1 – 3 min
SMT		\$0.39/call	\$0.69/week		60 days	1 min
Dynasky Sino					1 year	1 min
Dezco Communication		\$0.99/call	\$0.89/week		60 days	3 min
Noblecom.com				Order processing fee \$2.00	1 year	1 min
AmanTel				Order processing fee \$0.50	N/A	N/A
CallingCard Plus			\$0.59/week		6 mos	2 min

⁴ The Consumer Warning Network, *The Prepaid Calling Card Scam*
<http://www.consumerwarningnetwork.com/2008/11/18/the-prepaid-calling-card-scam/>

⁵ *Id.*

⁶ Quick Call, International Calling Card Rip-Off <https://www.quickcall.com/articles/calling-cards-review-riporff>

⁷ *Id.*

Current Federal Regulations

Under the Communications Act of 1934, “all charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge... that is unjust or unreasonable is hereby declared to be unlawful.”⁸ The Federal Communications Commission (FCC) is the agency that regulates prepaid calling cards.⁹ The Federal Trade Commission (FTC), the nation’s consumer protection agency, works with the FCC to protect consumers from the notorious practices by some of the bad actors of the prepaid calling card industry.¹⁰ In addition, the FCC established the FCC Enforcement Advisory that warns consumers to be wary of calling card schemes.¹¹ However, the FCC and the FTC have done little else to inform consumers about how to avoid frauds by the prepaid calling card industry.

It is apparent to both agencies that some prepaid calling card companies overcharge their customers and/or provide poor quality calls. The FTC and the FCC aim to protect consumers by providing information and guidelines regarding these bad practices. Yet, the agencies have not updated the guidelines in years and have done no other ostensible education programs to protect consumers. For example, the last published public notice from the Enforcement Advisory is from October 2012.¹² In addition, the last declaratory ruling the FCC published was in June 2006. Notably, the agencies recognize that the deceptive practices target immigrant communities. According to a 2012 press release by the FTC, charges against a prepaid card company— DR Phone— included charges that the scheme targeted immigrant communities.¹³

Current New York State Regulations

New York State Public Service Law sets forth various disclosure and consumer protection requirements regarding prepaid calling cards. In New York, prepaid calling card companies are required to print legibly on each card the:

- a. name of the company;
- b. toll-free customer service number;
- c. toll-free network access number, if such number is required to access service;
- d. authorization code, if such code is required to access service;
- e. any expiration date or expiration policy; and
- f. instructions for use of the card.¹⁴

⁸ 47 U.S.C. §201(b).

⁹ Federal Communications Commission, <https://www.fcc.gov/document/fcc-enforcement-advisory-prepaid-calling-cards>.

¹⁰ Federal Trade Commission, Consumer Information <https://www.consumer.ftc.gov/articles/0132-prepaid-phone-cards>.

¹¹ Federal Communications Commission <https://www.fcc.gov/document/fcc-enforcement-advisory-prepaid-calling-cards>.

¹² Federal Communications Commission, Enforcement Advisory Public Notice https://apps.fcc.gov/edocs_public/attachmatch/DA-12-1572A1_Rcd.pdf.

¹³ Federal Trade Commission, Press Release <https://www.ftc.gov/news-events/press-releases/2012/07/ftc-halts-deceptive-prepaid-calling-card-scheme-targeting>.

¹⁴ Public Service Law § 92-F Prepaid telephone calling card consumer protections.

The law also lists out required disclosures for surcharges and fees.¹⁵ However, the law does not require which language the company must use to print disclosures. For example, a card offering affordable call minutes to a Spanish-speaking country can list all of the required disclosures in English.

Notably, the law specifically lines out to be disclosed, “any charge for calls that do not connect.”¹⁶ Therefore, bad practices are clearly recognized, but regulations are not regularly enforced. Simply, the law requires the company to print the fees. In addition, because the law requires the companies to disclose virtually everything on the card itself, the “legible print” turns into hundreds of words printed on one small card. The small type, in a language some consumers might not read, does not educate or protect them.

Senator Peralta and the Independent Democratic Conference’s Survey

The Independent Democratic Conference, under the purview of Senator Peralta, the Vice Chair of the Energy and Telecommunications committee, are committed to remedying the various issues with prepaid calling card services. First, we created and distributed a 20-question survey to constituents, in English and Spanish, in order to determine the magnitude of the issue. The questions asked about brand names purchased, call quality, overage charges, service fees, and recourse available to the consumer. Ultimately, constituents reported overcharges, dropped calls, and little recourse from the companies.

Second, staff bought the most popular prepaid calling cards used within certain neighborhoods and immigrant communities, as determined by surveying businesses and information from other IDC members’ offices, and tested each card on landlines and cellphones to monitor whether the type of phone used impacted call quality. The cards tested were Boss Revolution, Orbitel, Red Cherry, Banana, and New York City brands.

Finally, staff used separate timers to calculate whether the cards overcharged by rounding up to the next minute. Importantly, after testing, staff noticed that Red Cherry brand and Banana brand derived from the same corporation because they listed the same customer service number. Therefore, although constituents believed they were buying a different card brand, it was actually the same.

The photos in the following page shows the two clearly different prepaid calling card brands that we tested. Yet, if you look at the back of the cards side-by-side, albeit difficult to read, they are the same.

¹⁵ *Id.*

¹⁶ *Id.*

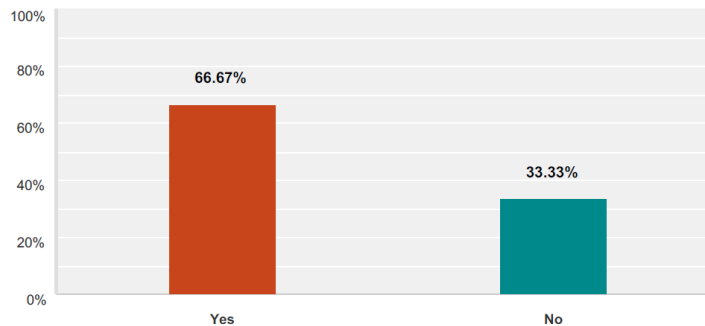


Results from Prepaid Card Testing and Constituent Surveys

To collect responses, we posted the survey online and staff garnered responses through direct outreach. We received about 50 responses. The survey found that 40% of respondents purchased calling cards on a weekly basis and 24% purchased them monthly. Fifty percent reported that they spend \$5-\$10 at a time when buying cards, and a third said they spend under \$5 on cards a time. Less than a fifth spent more than \$10 at a time. Two-thirds of respondents report using the same calling card company.

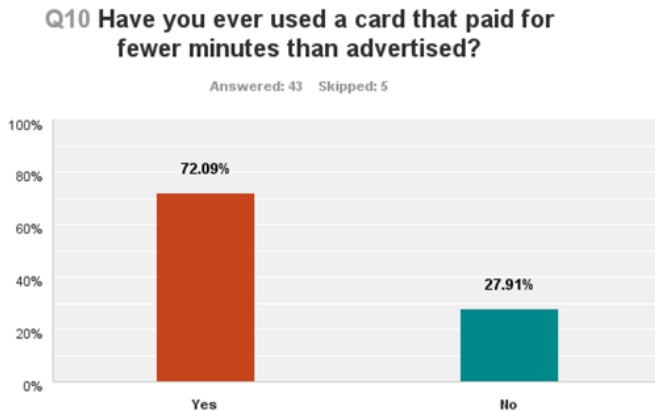
Q2 Do you always purchase from the same calling card company?

Answered: 45 Skipped: 3



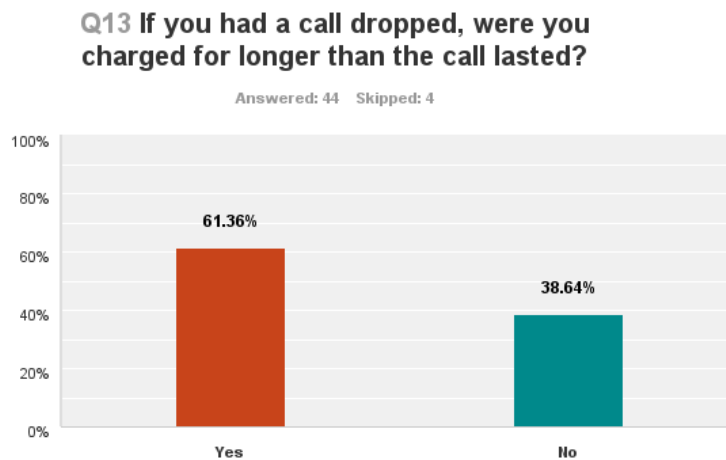
Two-thirds of respondents said that they learned about card brands by word of mouth from friends and family, showing that prepaid calling cards are popular in their cultures. Seeing the physical cards on location was the second most likely way consumers find out about cards, with 42% listing this as a way they choose cards. Over 80 percent of those surveyed noted that there was a toll free customer service number listed on the card. However, staff noted that when they called into customer service they were on hold for a long time and the information given was not helpful.

The staff test results showed that most cards did not list how much the calls cost per minute. Meaning, you would have to call customer service to see how much money remained on your card before and after the call to determine how much the call cost. Because the cards do not specify on the card what country has the best rates, you must learn by word of mouth or you would have to try various cards until you found the best rates for you.



In addition, you have to call then allow you to connect to the destination number. We found that calling through the pin was tedious and the calls would frequently drop. The survey found that 72 percent of those surveyed received less minutes for a card than advertised, as shown to the left.

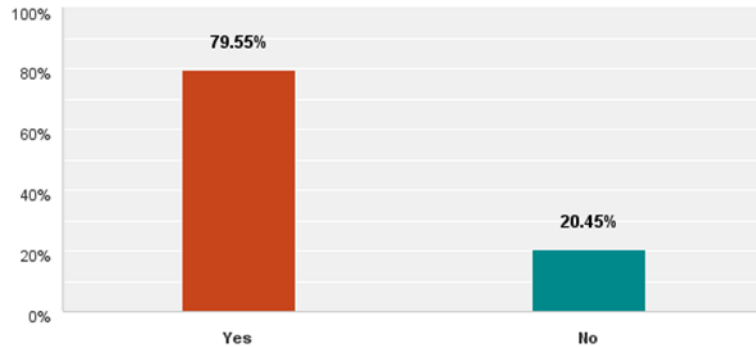
In addition, over 61 percent of respondents reported being charged for dropped calls.



Call quality varied by card brand and by where staffers were calling. According to the constituent survey, almost 80 percent of those surveyed experienced a dropped call. In addition, over 61 percent of respondents reported experiencing bad reception when using calling cards.

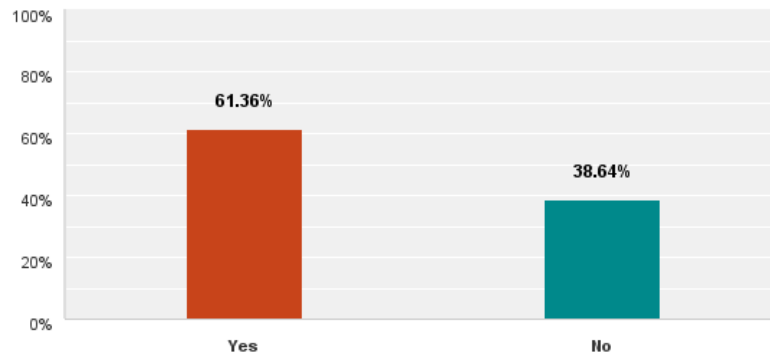
Q12 Have you ever had a call drop while using a calling card?

Answered: 44 Skipped: 4



Q11 Have you ever had bad reception while using a calling card?

Answered: 44 Skipped: 4



Staff tests found that a Red Cherry brand call to Jamaica had much poorer quality than a call to Haiti on the same card. Notably, the Boss Revolution brand typically had very good call quality. However, the Boss brand, which was by far the most popular card, overcharged for unused minutes. For example, one staffer noted that the phone call lasted for three minutes, however, the card charged her for 13 minutes.

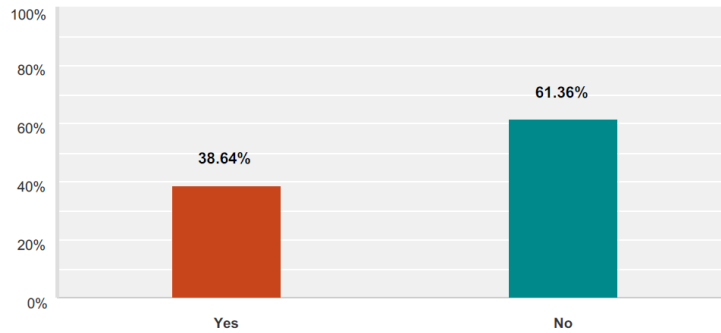
Staffers found with the Red Cherry and Banana brand cards carried exorbitant fees. Both brands disclosed in the terms and conditions: “A fee of seventy five cents every four days will apply starting at midnight after first complete call in addition a weekly fee of 13 cents could be applied on cards with larger balances.”¹⁷ Meaning, if you made one phone call on Friday and did not use the card again until the following week, all of your minutes would expire. The constituent survey found that most cards did not list any information regarding charges and fees. In addition, the

¹⁷ Red Cherry Phone Card Terms and Conditions.

survey found that most cards did not provide instructions on how to deal with the problems that undoubtedly will arise.

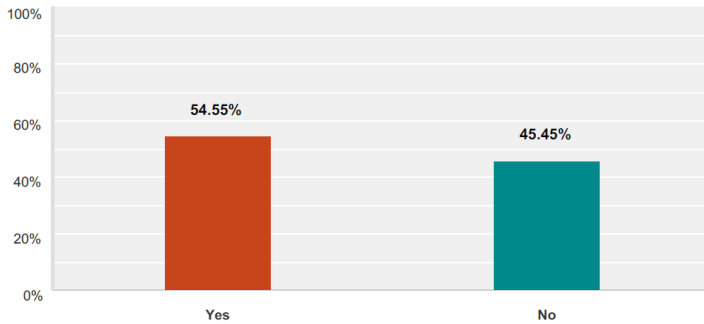
Q14 Did the card provide instructions if you have a problem?

Answered: 44 Skipped: 4



Q15 If you had a problem with a card, were you able to contact customer service for help?

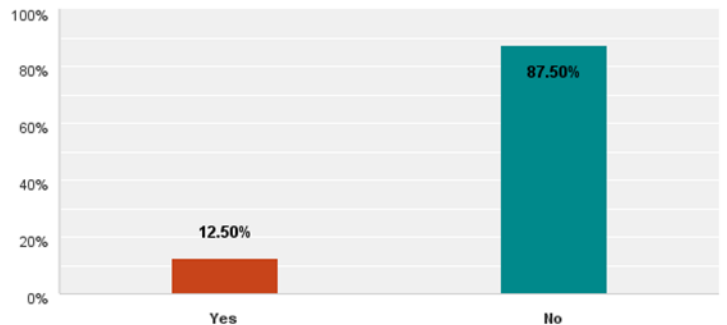
Answered: 44 Skipped: 4



As the graph above shows, a majority of respondents (61%) said that the cards themselves did not provide instructions for what to do if you encountered problems. At the same time, a slight majority of respondents (55%) reported being able to contact customer service, as the chart to the left shows.

Q16 If you have been overcharged, did the company return the money you paid extra?

Answered: 40 Skipped: 8



Unfortunately, being able to contact customer service did not appear to be particularly useful. Over 87 percent of respondents reported not receiving refunds for the overages charges they experienced.

The surveys found that none of the individuals surveyed had ever reported their issues with prepaid calling card services to any governmental agency, even after a clear majority of them noted that they had not been refunded for overcharges. Senator Peralta hopes that by requiring the companies to publish FCC, FTC, and NYS Attorney General's consumer inquiries and complaints division information rectifies the lack of recourse consumers have. Senator Peralta hopes customers will use this information to report complaints so that others are aware of the bad actors in the industry.

Legislative Solutions: Amendments the Public Service Law

The current public service law regarding prepaid calling cards does not address the various issues consumers face with call quality and hidden fees. The current regulations do not go far enough to ensure quality service, provide recourse for consumers, and ensure transparent advertising. S.6142 aims to address the biggest issues our investigation found. First, the proposed bill will require calling card companies to guarantee quality service, requiring disclosure the parent corporation will increase transparency, and publishing the government agencies contact information so consumers can file complaints. The bill passed out of the Energy and Telecommunications committee on Wednesday, May 24, 2017.

Particularly, the bill will require the calls to maintain a steady connection to avoid calls cutting out. In addition, the connection must not excessively echo or have too much static. Finally, the amendment will require the public service commission to review the quality of the phone cards and monitor call quality. Senator Peralta recognizes the importance of consumers maintaining clear connections with their friends and families abroad. Affordable long distance calling is important to our constituents and we are committed to ensuring prepaid calling companies provide quality service for a reasonable price. By requiring quality calls, S.6142 guarantees that customers are receiving the best quality for their money.

Second, S.6142 amends the public service law regarding disclosure requirements. During our research and depicted by the survey, staff found that different prepaid calling card brands are owned by the same parent corporation. For example, the Cherry and Banana brands share the same terms and conditions and share the same customer service line. Though owned by the same parent company, a consumer cannot tell when buying the cards because nothing indicates that the cards are one-in-the-same. Peralta's bill would require prepaid cards to disclose the parent corporation's name on the card. This is important for consumers so they can make the most informed decisions without having to waste time and money trying several brands that ultimately have the same issues.

Finally, S.6142 aims to expand recourse for customers that experience scams. The bill requires the cards to post the governing entities consumer protection information and is the best way to provide customers with the recourse they deserve. Senator Peralta hopes this increased access to government agencies will encourage consumers to file complaints to help prevent future issues with the same prepaid card companies. If people are not reporting the issue, the enforcement

agencies cannot address it. By providing the information on the card, consumers will have direct access to the tools they need to remove the bad actors from the prepaid calling card industry.

Conclusion

In conclusion, Senator Peralta recognizes that prepaid calling card scams negatively impact our communities. The federal government is not taking strong enough action against these companies and the senator has vowed to take the matter into his own hands. Senator Peralta and the IDC will implement stricter legislation to protect New Yorkers from the bad actors in the prepaid calling card industry.