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Overview of Telecom Related Frauds

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Scheme of Presentation

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Definition of Fraud

The Association of Certified Fraud Examiners (ACFE) defined corporate fraud as:
“the use of one’s occupation for personal enrichment through the deliberate misuse or application of the employing organization’s resources or assets”.

Companies Act, 1956 ('Act'):

- The Act does not contain any definition of the term 'fraud'.
- Definition was planned to be introduced into the Act vide the Companies Bill of 2009.
- Definition proposed to be drawn from the definition of 'fraud' as provided under the UK Fraud Act, 2006 so as to provide a comprehensive, inclusive definition, defining the offence of fraud with regard to affairs of the company.

Indian Penal Code ('IPC'):

- The IPC does not specifically define the term 'fraud'.
- Section 420 of the IPC defines the offence of cheating and dishonestly inducing delivery of property and provides that whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be liable to be punished.

Definition of Fraud.....continued

Indian Contract Act, 1872 ('ICA'):

- As per the provisions of Section 17 of the ICA, the term "Fraud" means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:-
 - the suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
 - the active concealment of a fact by one having knowledge or belief of the fact;
 - a promise made without any intention of performing it;
 - any other act fitted to deceive;
 - any such act or omission as the law specially declares to be fraudulent.

Observation:

- A reading of the above stated definitions suggests that there exists no specific definition for the term 'telecom Frauds' under the present day Indian legal system.

Types of Fraud

Telecom Sector Frauds

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graph TD; A[Telecom Sector Frauds] --> B[Technical Frauds]; A --> C[Non-Technical Frauds]; B --> D[Technical (External) Frauds]; B --> E[Technical (Internal) Frauds];
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Technical Frauds

Non-Technical Frauds

Technical (External) Frauds

Technical (Internal) Frauds



Types of Frauds Plaguing the Telecom Sectorcontinued

Technical (External) Frauds:

- Technical external frauds are committed externally, i.e. from outside the network, and are executed by gaining access into the network system using tools such as hacking .
- External frauds are usually impersonal, opportunistic and driven by pure greed.

Examples:

- Use of automatic telephone line isolators to penetrate into the secret code/password for dynamic STD lock/Personal Identification code (PIN).
- Accessing the O&M port of the switch from remote and perform opening & closing of telephones or other services.



Types of Frauds Plaguing the Telecom Sectorcontinued

Technical (Internal) Frauds:

- Technical Internal Frauds are committed by gaining internal access to the network system.
- Internal frauds can be very different from external frauds and are more often than not be driven by personal grudges or revenge.
- Internal fraud reveals the breakdown of internal structures, the relationship between employer and employee, and the lack of internal controls to provide safety nets, checks and balances.
- Examples:
 - Manipulation of databases of billing, charging, routing, subscribers, etc.
 - Changing the equipment number during preparation of bulk billing tape so that the metering information is transferred to the spare equipment number resulting in non billing.



Types of Frauds Plaguing the Telecom Sectorcontinued

Non-Technical Frauds:

- Non-technical frauds are committed without accessing or interfering with the network system.

Examples:

- Subscription Fraud:

Subscriber registers for phone service, makes up a large phone bill mostly through call selling and absconds before disconnection.

- Clip on fraud:

The fraudster accesses the telecom infrastructure and diverts the line and makes calls or sells services to others.

- Call Forwarding:

The incoming calls coming to line are forwarded to a destination such that the calls are charged at much lesser rate which otherwise would have been charged as per the distance.



Impact of Frauds on the Telecom Sector

The Growth Story:

- The Indian telecom sector has been one of the fastest growing in the world.
- Total telephone subscriber base reaching 601 million at the end of February 2010 from 582 million in January 2010, i.e. growth rate of 3.22%

How the Growth Story is hindered:

- Globally, fraud accounted for US \$150 billion in lost revenue for telecom operators in 2009
- As per CFCA Fraud survey, 2009, India is emerging as one of the top 5 hot spots for telecom fraud
- Fraud in telecom is second only to fraud in banking. It is growing exponentially and is expected to go up to 200 percent.
- The immediate concern and issues that telecom operators foresee due to fraudulent activity is loss of revenue, estimation of the loss of revenue is in the range of 1-5 % of total revenue
- Developing markets face higher revenue leakage than developed markets due to rapid growth and the fast pace of technological changes.



Impact of Frauds on the Telecom Sectorcontinued

- Telecom Frauds have a multifarious impact on telecom companies, effecting operations as well as the revenue streams.
- Some of the impacts of fraud for a telecom company are:
 - Direct financial loss through fraudulent call misuse (internal or external)
 - Missed cost savings opportunities through identification on un-needed circuits
 - Adverse publicity, damage to reputation and loss of customer confidence
 - Litigation and consequential financial loss
 - Loss of service and inability to dispense contractual obligations
 - Regulatory fines or increased regulatory supervision

Preventive Measures

Fraudulent Subscriptions:

- One of largest reason for revenue loss of telecom companies is fraudulent subscriptions.
- The Department of Telecommunications has issued proper subscriber verification guidelines to the telecom companies.
- Revenue loss by reason of fraudulent subscription may be checked by following the governmental guidelines and implementing certain basic precautionary measures such as:
 - Better screening and proper authentication of customers and ensuring procedural integrity of dealership network
 - Telecom Enforcement, Resource and Monitoring Cells should be informed about the date of verification and uploading in relation to new connections.
 - Documents submitted by the subscriber to the customer care executive should be verified with reference to the originals.
 - Restrictions on roaming and international calls, placing limits on outstanding invoices.

Preventive Measures

Internal Frauds:

- Internal fraud is a major threat and telecom companies need to take all essential steps to prevent and deter it.
- There are various ways of mitigating internal fraud, such as:
 - Educate employees about policies and procedures, such as strict monitoring, penalization, whistle blower hotlines, etc
 - Senior management should own the company's internal controls and keep a tight rein. Senior management's attitude is crucial for setting the tone from the top down
 - Using automated systems to check misuse of critical functions
 - Enabling deterrents by publicizing high profile fraud cases to deter would-be fraudsters from committing fraud in future

Legal Position in India

- In India, telecommunication services are primarily regulated by the provisions of the Indian Telegraph Act, 1885 , the TRAI Act, 1997 and regulations issued by the Department of telecommunications.
- Section 25 of the Telegraph Act, 1885 deals with intentionally damaging or tampering with telegraphs and provides that if any person, intending –
 - a) to prevent or obstruct the transmission or delivery of any message, or
 - b) to intercept or to acquaint himself with the contents of any message, or
 - c) to commit mischief, damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof, he shall be punished with imprisonment for a term which may extend to three years, or with fine or with both.
- Section 378 of IPC defines theft . However, section 378 of IPC defines theft as being of theft of moveable property. Therefore, definition of theft inadequate to cover majority of telecom frauds.
- Fraudulent subscription cases may be tackled under Section 419 of the IPC which deals with cheating by impersonation.

Conclusion

Points to remember:

- Due to increase in process-oriented frauds and malicious frauds, it is important to implement an effective fraud management system
- People who commit frauds are more creative and innovative than the operator in terms of figuring out how to use these new services, so innovative measures need to be taken on a regular basis
- Experienced, well-trained staff, access to current fraud data, in addition to a powerful fraud management system are important tools in the fraud prevention arsenal
- By establishing a strong connection between marketing and fraud control, it is possible for carriers to offer new products and improve margins
- Telecom and other industry associations must lobby for a more stringent legal regime to be implemented with specific focus on telecom fraud
- Laws must permit companies to permanently blacklist employees found guilty of committing fraud as the same shall act as an important deterrent

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