



CTIA

Building The Wireless Future™

Cellular Telecommunications Industry Association

January 16, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, DC 20554

Re: *Written Ex Parte Presentation*
CC Docket Nos. 95-116 and 99-200; WT Docket No. 01-184

Dear Ms. Dortch:

On January 16, 2003, the attached letter was forwarded to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau. Copies of the letter were also forwarded to Chairman Michael K. Powell, Commissioner Kathleen Q. Abernathy, Commissioner Jonathan S. Adelstein, Commissioner Michael J. Copps and Commissioner Kevin J. Martin.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed with your office. Should you have any questions regarding this submission, please do not hesitate to contact the undersigned.

Respectfully submitted,

Christopher R. Day

Attachment





January 16, 2003

Mr. Thomas J. Sugrue
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
445 - 12th Street, S.W.
Washington, D.C. 20554

Dear Tom:

Because press accounts sometimes fail to capture the entirety of someone's position, I am writing to make clear for you and the record what appear to be misconceptions attributed to you in *Wireless Week's Daily* regarding local number portability.

First, let's be honest and admit that LNP has been a failure in the wireline environment. Wireline competition has not developed as policymakers hoped. As a result, wireline LNP has cost consumers hundreds of millions of dollars in fixed and recurring costs, but delivered very little benefit. As consumer groups repeatedly have noted, wireline customers, especially residential wireline customers, have been forced to pay for number portability but have no competitive carrier they can port their number to. I am not saying that wireline competition has failed because of LNP, but simply that LNP, as a pro-competition tool, has not delivered on the promise of enhanced wireline-to-wireline competition.

Now let's turn to wireless. LNP in a wireless environment is a regulatory shell game. The competitive failure LNP was supposed to fix in the wireline world doesn't exist in wireless where the FCC, after thorough review, repeatedly has found CMRS competition to be flourishing, and where upwards of a third of subscribers change their service provider annually.

Nevertheless, the Commission continues to promote wireless LNP as a way of increasing competition. However, perhaps because it realizes that LNP is no more likely to change the level of competition in the wireless industry than it has in the wireline industry, the Commission now includes wireless-to-wireline competition in its competitive cost/benefit analysis.

Yes, CTIA opposes wireless LNP. We believe LNP needlessly burdens wireless carriers and their customers, and that LNP will result in new procedures and policies that wireless customers will find abusive. We further believe that Congress did not extend the LNP mandate to wireless carriers, and that absent such Congressional authority, the FCC lacks the statutory basis to impose LNP on wireless carriers. This argument has been presented to the Court of Appeals in our pending challenge to the FCC's wireless LNP rules, and I am looking forward to the Court's decision. However, until the Court rules in our favor, wireless carriers remain bound by the FCC's mandate to support LNP no later than November 24 of this year.



Mr. Sugrue
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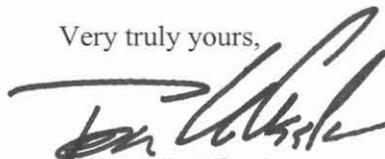
There is no dispute that wireline carriers must support LNP, including inter-modal porting to wireless carriers. If the wireless industry also must support LNP, wireless carriers believe the Commission has an obligation to insure that wireline customers have not just an inchoate right, but the actual ability to port their number to a wireless carrier. Unfortunately, as wireless carriers begin to work towards LNP implementation, they have detected resistance to this notion as the LECs remain bound to rate center boundaries and have asserted the need to negotiate new interconnection agreements as a condition precedent to inter-modal porting.

This "wireline-wireless integration" issue has been stalemated at the Commission for years, and inter-modal porting is likely to remain deadlocked unless the Commission clearly asserts that LECs must port numbers to wireless carriers without regard to rate center or interconnection issues. If the Commission allows the deadlock over inter-modal porting to extend beyond November 24th, the reality of wireless to wireline porting will be at risk, and thus the Commission itself is at risk of having misled the public into believing they can port their wireline number to a wireless carrier. And absent a resolution that assures inter-modal competition, the Commission once again will have imposed significant costs on consumers with little or no corresponding benefit.

At this week's Senate Commerce Committee hearing, the Commission heralded wireless-to-wireline competition. Our filing will make clear that the Commission has not completed the work needed to fully open the telecom sector that needs competition, but its wireless LNP Order has imposed a costly unfunded mandate on the most competitive sector of the telecom industry. Absent immediate Commission action, the end result will be unnecessary customer abuse and confusion when it comes to promoting wireless-wireline competition.

No, we aren't changing our position that LNP is wrong. We simply are pointing out how the Commission has failed, at least to date, to establish policies that will fulfill its own description as to why it is imposing this mandate on the wireless industry. We want the Commission to confront the record that it has not delivered on its claims to encourage wireless-wireline competition. Unless and until the Commission removes all unnecessary obstacles to inter-modal porting, the wireless LNP mandate will succeed only in raising carriers' costs and siphoning hundreds of millions of dollars out of wireless carriers' finite capital resources, taking away funding for building out networks and deploying advanced wireless services. Wireless LNP is wrong because it hits consumers with a Double Whammy: less money for quality upgrades, and less competition to the wireline monopoly.

Very truly yours,



Thomas E. Wheeler

cc: Honorable Michael Powell
Honorable Kathleen Q. Abernathy
Honorable Jonathan S. Adelstein
Honorable Michael J. Copps
Honorable Kevin J. Martin