

Before the
Federal Communications Commission
Washington, D.C 20554

In the Matter of)
)
Implementation of Section 6002(b) of the) WT Docket No. 04-111
Omnibus Budget Reconciliation Act of 1993)
)
Annual Report and Analysis of Competitive)
Market Conditions With Respect to Commercial)
Mobile Services)

**COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ submits these comments in response to the FCC’s (Commission’s) March 24 Notice of Inquiry (NOI or Notice)² seeking information on the Commercial Mobile Radio Services (CMRS) market in order to “update the indicators of competition for its next report to Congress and to assist in determining if there is still effective competition in the CMRS market.”³

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 04-111, FCC 04-38, March 24, 2004.

³ *Id* at 3.

I. METRICS RELATED TO CMRS SERVICES AVAILABLE FROM SMALL CARRIERS IN RURAL AREAS--NTCA MEMBER COMPANY WIRELESS DATA

In the NOI, the Commission solicits input on metrics related to various segments of the commercial mobile services market.⁴ NTCA is uniquely positioned to comment on metrics that relate to the existence of commercial mobile radio services in rural areas. Each year, NTCA conducts a survey of its member companies' wireless telecommunications activities. The survey results are then compiled into a report that is publicly available from the NTCA Web site at www.ntca.org.

The most recent NTCA Wireless Survey was conducted in the fall of 2003.⁵ The survey was sent to each of the companies in NTCA's membership database; 135 members (28%) responded. The survey results present an interesting snapshot into the wireless activities of NTCA member companies.

Fifty-nine percent of survey respondents indicated that they hold at least one wireless license; 56% are providing wireless service to their customers. Forty-six percent of those providing wireless service offer mobile voice, 32% broadband, 31% data, and 29% paging. Fifty-two percent of those respondents not currently offering wireless service are considering doing so.

The average total (cumulative) investment in wireless facilities, excluding spectrum, is \$4.1 million; average total (cumulative) investment in spectrum totaled \$1.6 million.

Three-quarters of survey respondents characterized the process of obtaining financing for wireless projects as ranging between "somewhat difficult" and "virtually

⁴ *Order*, p. 3.

⁵ *NTCA 2003 Wireless Survey Report*, December 2003. Available online at www.ntca.org.

impossible.” Nineteen percent have sought a Rural Utilities Service (RUS) loan for the deployment of wireless or broadband services.

Thirty-eight percent of respondents are utilizing unlicensed spectrum to provide wireless services to their customers. Given the choice, however, 71% would prefer access to additional licensed spectrum over additional unlicensed spectrum.

Nearly half of all respondents indicated that the ability to make investments necessary to continue to provide the latest services was their greatest concern, 44% selected competition from nationwide carriers, and 23% their ability to obtain spectrum at auction. Fourteen percent noted other concerns, such as the cost of changing technology and maintaining a sufficient level of technical expertise, equipment availability, and the costs of complying with wireless local number portability and E911 regulations.

Of those subscribers providing CMRS services, 38% utilize TDMA, 31% CDMA, 24% GSM, and 7% AMPS. The average subscriber’s monthly minutes of use are 378, and the average monthly bill is just over \$43. Respondents’ average total wireless revenues are \$7.8 million annually.

Twenty-eight percent of respondents serve as a local presence for a national carrier, or market a national brand; 76% have a partnership agreement with a national wireless carrier to handle their roaming traffic at a contracted fee. Nearly 80% find it difficult to compete with promotions offered by the national carriers.

Twenty-one percent of respondents offer their wireless customers caller ID and voice mail, 18% buckets of long distance minutes, and 16% three-way calling and text messaging.

Forty-eight percent of survey respondents experience annual customer churn of less than 10%, while 33% reported annual churn of between 10% and 25%. A copy of the survey report is included with these comments.

II. BARRIERS TO ENTRY IN RURAL AREAS--SPECTRUM AVAILABILITY

The Commission seeks comment on how barriers to entry impact the industry.⁶ In the NTCA 2003 Wireless Survey, 23% of respondents indicated that gaining access to spectrum was a concern for them for the future. The Commission has taken important steps toward assuaging this concern, most notably through its Secondary Markets Order.⁷ NTCA applauds the Commission's efforts to get spectrum into the hands of rural providers who are committed to serving consumers in rural America.

NTCA has concerns regarding the creation of secondary spectrum markets, however. These concerns were spelled out in NTCA's December 2003 Petition for Partial Reconsideration (Petition).⁸ In the Petition, NTCA expressed concern that the Commission's policy requiring licensees to retain secondary responsibility for operations serves as a disincentive for carriers to part with spectrum, as the risk of liability may be too great. In addition, NTCA believes that a long-term lessee should retain some rights if the licensee goes bankrupt. Finally, NTCA requests that the FCC take an active role in enforcing rules against spectrum lessees and be flexible in its dealings with licensees.

NTCA sees secondary spectrum markets not as a "cure" for spectrum shortages in rural America, but as an important tool to be used in conjunction with primary spectrum opportunities. By addressing the concerns detailed in NTCA's petition, the Association

⁶ Notice, p. 4.

⁷ *In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, Report and Order*, WT Docket No. 00-230 (rel. October 6, 2003).

⁸ *Petition for Partial Reconsideration of the National Telecommunications Cooperative Association*, WT Docket 00-230, December 29, 2003.

believes that the Commission may maximize the potential benefits to be derived from secondary spectrum markets.

III. CARRIER CONDUCT--HANDSET LOCKS

In the Notice, the Commission asks for input about carrier conduct.⁹ Wireless customers now have the ability to take their telephone number with them when they switch providers, however, many are not free to take their handset.¹⁰ While the technology currently exists to allow customers to utilize their handset with multiple service providers, a number of providers are locking their handsets.

Customers who wish to use their current handset with their new provider would simply need to enter a code to do so. By locking the handset, however, wireless providers require those customers who wish to take service with a different provider to invest in a brand new handset, and to absorb that cost. Thus the practice of locking handsets constitutes a barrier to entry for competitors, and should be prohibited.

IV. CONCLUSION

NTCA member companies are helping to bring competitive wireless services to rural America, as evidenced by the latest NTCA Wireless Survey results. The Commission can promote the introduction of even more services for consumers in rural areas by continuing to reform its spectrum policy as NTCA suggests here and by

⁹ Notice, p. 4.

¹⁰ See, for example, "Phones Under Lock and Code," *The Washington Post*, February 29, 2004.

prohibiting the practice which allows wireless carriers to lock handsets when customers change to a new service provider.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WT Docket No. 04-111, FCC 04-38 was served on this 26th day of April 2004 by first-class, U.S. Mail, postage prepaid, to the following persons.

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