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Ms. Marlene Dortch

REQUEST

Secretary

Federal Communications Commission

445 12th Street, SW

Washington, DC 20554

CONFIDENTIALITY

Re: Cellular early termination fees, WT Dockets 05-193, 05-194

Dear Ms. Dortch:

This is a request under Section 0.459 of the Rules for confidential treatment of the entirety of the attached document ("Confidential Document"), which is submitted in support of the public Comments and Reply Comments of Wireless Consumer Alliance, *et al.*, ("WCA"), filed earlier in the referenced proceedings. An original and four copies – each so marked – are tendered pursuant to Section 1.51(c) of the Rules.

Each page of each copy of the Confidential Document has been marked "Confidential" and bears the following legend:

Contains confidential information produced in J.C.C.P. 4332 – In re
Cellphone
Early Termination Fee Litigation, Superior Court of Alameda County,
California. Disclosure to unauthorized parties prohibited by Court order.

The above safeguards are required by the appended Alameda County Superior Court's "Order Granting Partial Relief from Protective Order," issued at the request

of plaintiffs in the state litigation and over the joint opposition of the defendants.¹ Independently of the Court's order that the materials and discussion in the Confidential Document be protected, the information is believed to qualify for this treatment under Section 0.457(d)(2), founded upon 5 U.S.C. §552(b)(4), as "commercial, financial or technical data which would customarily be safeguarded from competitors."² The Superior Court recognized (Order, 2) that the state case defendants might be better positioned to provide – if necessary -- the "factual showing that any given document is truly confidential."

Pursuant to Section 0.459(e) of the Rules, we ask that the original and all copies of the Confidential Document be returned in the event the request for confidentiality is denied. If anyone requests disclosure of the whole or any part of the Confidential Document, WCA asks to be notified so that the Superior Court may protect its own order. Please direct any questions to the undersigned.

This letter and its appended court order, as distinct from the attached Confidential Document, also have been filed electronically as public information. The court order forbids the electronic filing of any portion of the Confidential Document.

Sincerely,

James R. Hobson
One of the counsel for
Wireless Consumer Alliance, *et al.*

¹ Case No. C-835687, August 2, 2005. This letter and the appended court order are the only parts of this submission to which the confidentiality request does not apply.

² We say "is believed to qualify" because we cannot so state of our own knowledge. Should confidentiality be challenged, defendants in the state litigation will have the opportunity to speak more directly to the reasons for protecting the information, pursuant to Section 0.459(i) of the Rules.