

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
CMRS Market Competition) WT Docket No. 06-17
)

To: The Commission

REPLY COMMENTS

Cingular Wireless LLC (“Cingular”), in response to the Wireless Telecommunications Bureau’s (“WTB”) *Public Notice*, hereby replies to comments submitted in the above referenced proceeding.¹ The record contains ample data and information demonstrating the highly competitive nature of the wireless industry. Given this information, the Commission should conclude that there is effective competition within the CMRS market. Finally, the Commission should disregard comments filed by parties seeking to address matters pending in other dockets.

I. THE WIRELESS INDUSTRY REMAINS HIGHLY COMPETITIVE

The marketplace itself demonstrates the highly competitive nature of the wireless industry. As CTIA noted, the performance of the CMRS marketplace “in carrier and customer behaviors, and in the consumer benefits provided” are the “best indicia of competition.”² Public data aptly demonstrates that carriers are behaving in a competitive manner, while customers have

¹ *WTB Seeks Comment on CMRS Market Competition*, WT Docket No. 06-17, *Public Notice*, DA 06-62 (rel. Jan. 18, 2006) (“*Public Notice*”).

² Comments of CTIA – The Wireless Association® (“CTIA”) at 6.

a multitude of competitive choices and are exercising those choices based on extensive competition.

From the consumer perspective, the competitive nature of the wireless industry is amply demonstrated by increases in subscribership, as well as growing voice and data usage. As CTIA reported, from June 2004 to June 2005, wireless companies added 25 million customers, bringing the total number of wireless consumers to 200 million.³ CTIA's semi-annual survey demonstrated that billable minutes increased from 516 billion in the first six months of 2004 to 675 billion in the first six months of 2005 – more than 30% growth in one year.⁴ In the first six months of 2004, subscribers averaged 559 minutes of use (“MOUs”) a month, as compared to the first six months of 2005, when subscribers averaged 689 MOUs a month.⁵ Data usage increased similarly. In June 2004, 2.86 billion text messages were sent. The following year, 7.25 billion were sent during the same month.⁶

From the carrier perspective, CMRS competition is driving carriers to offer innovative wireless broadband services and pricing plans in order to capture new customers and to retain existing subscribers. Cingular and many other carriers – both large and small – have deployed wireless broadband services.⁷ These CMRS providers are offering a multitude of data-based

³ *Id.* at ii, 13. In 1995, there were only 34 million wireless customers, meaning, wireless companies have added nearly 170 million customers in just ten years.

⁴ *Id.* at 13 (citing *CTIA's Wireless Industry Indices, op cit.*, at 230, Table 118 (Reported Industry MOU Results – Six-Month Intervals)).

⁵ *Id.* at 14 (citing *CTIA's Wireless Industry Indices, op cit.*, at 234, Table 120).

⁶ *Id.* at 13 (citing *CTIA's Wireless Industry Indices, op cit.*, at 239, Chart 64 (Monthly SMS Traffic Volume: June 2000 – June 2005)).

⁷ *Id.* at 15-16 (noting Cingular's launch of BroadbandConnect service through Cingular's new 3G network; Verizon Wireless's launch of the evolution data only (“EV-DO”) technology, available in 171 metropolitan markets; Sprint Nextel's roll out of EV-DO technology in 208 markets; T-Mobile's mobile Internet access through its GPRS service; and (continued on next page)

wireless services to customers, including: wireless Internet; mobile television; music applications; multimedia messaging; text messaging; and wireless e-mail. Competition to obtain new customers and retain existing customers is also driving CMRS carriers to focus significant attention and resources on developing effective methods to ensure a positive customer experience and to inform customers about the services it provides. For an example, Cingular provides customers with the Cingular Service Summary (“CSS”), which summarizes for each customer important elements of his or her service and of Cingular’s policies. Customers that purchase service at a Cingular store receive a customized CSS, which differentiates Cingular from its competitors.

Customers have discovered the advantages of digital service over analog and, as a result, now demand digital services. These demands have forced carriers to deploy state-of-the-art technologies as they aggressively seek to differentiate their product offerings from their competitors. This, in turn, inevitably leads to greater competition, since carriers constantly feel the pressure to “one-up” their competition on being the first to deliver new innovative products and services and/or provide a better quality service than their competitors.

Competition is widespread and is not limited to any particular geographic area. Just five months ago, the Commission found that “CMRS providers are competing effectively in rural areas.”⁸ Providers are not only offering voice service in many rural and sparsely populated

Alltel’s Axxcess Broadband service in nine metropolitan areas). *See also id.* at 17. From public sources, CTIA found that the following services have been rolled out: (1) U.S. Cellular’s easyedgeSM; (2) Alaska Communications Systems’ ACS Mobile Broadband. Also, the following companies have begun providing some form of broadband mobile Internet service: (1) Cellular South; (2) Cellular One of Amarillo; (3) Dobson Cellular; (4) First Cellular of Southern Illinois; and (5) Midwest Wireless.

⁸ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to* (continued on next page)

areas, but also are providing advanced data services in these areas.⁹ Cellular South, Inc., which serves rural and sparsely populated areas, stated in its comments that “[c]ompetition in our rural areas is strong. In much of our service area we compete with ten or more competitors.”¹⁰ Moreover, the National Telecommunications Cooperative Association’s *NTCA 2005 Wireless Survey* “noted that among its members providing wireless services [often located in rural areas], ‘survey respondents are facing considerable competition from other carriers – the average respondent indicated that their company competes with between two and five other carriers.’”¹¹

II. ROAMING ISSUES MUST BE ADDRESSED IN THE APPROPRIATE DOCKET

The Commission should reject attempts to interject roaming issues into this proceeding. The *Public Notice* announcing this proceeding specifically noted that there would be no discussion of roaming due to the “separate ongoing proceeding on roaming obligations of CMRS providers.”¹² Despite this express statement, a few parties could not resist raising roaming

Commercial Mobile Services, WT Docket No. 05-71, *Tenth Report*, 20 F.C.C.R. 15908, 15945 (2005).

⁹ See CTIA Comments at 22-25. CTIA highlighted the new technologies being deployed by carriers that serve predominantly rural or sparsely populated areas. The list of carriers providing such advanced services is significant: Alaska Communications Systems; Cellular One of Amarillo; Cellular South; U.S. Cellular; Bluegrass Cellular; Cellcom; Edge Wireless; First Cellular of Southern Illinois; Highland Cellular; Midwest Wireless; NTELOS; and Rural Cellular Corporation (Unicel). *Id.* at n.55.

¹⁰ Comments of Cellular South, Inc. at 1, 3.

¹¹ CTIA Comments at 22-23 (citing *NTCA 2005 Wireless Survey Report*, Jan. 2006, at http://www.ntca.org/ka/ka-3.cfm?content_item_id=3980&folder_id=644).

¹² *Public Notice* at n.6; see *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, WT Docket No. 05-265, *Memorandum Opinion & Order and Notice of Proposed Rulemaking*, 20 F.C.C.R. 15047 (2005).

issues.¹³ The Commission should disregard these comments. Parties wishing to address roaming issues had the opportunity to do so in a separate roaming docket.

Moreover, as properly demonstrated in the record in the roaming docket, there is no evidence of any anti-competitive behavior in the roaming market. Large carriers, such as Cingular and Verizon Wireless, noted in the roaming proceeding that they are net payors to their roaming partners.¹⁴ The record in that docket also demonstrates that the average roaming rates for consumers have fallen dramatically as a result of competition.¹⁵

The claims raised by a few carriers of inequitable roaming prices stem not from abusive conduct by prospective roaming partners, but instead from the vibrant and competitive CMRS marketplace, which has eliminated the ability to insist upon artificial roaming rates. For example, competition has forced carriers to expand coverage and has eliminated the market power of many smaller carriers in rural areas. To the extent these carriers were able to charge high roaming rates years ago, competition has eliminated their continued ability to do so. As Cingular noted in its reply comments in the roaming docket, larger carriers generally enter into reciprocal roaming agreements with rural carriers whereby both carriers pay each other the same

¹³ Comments of Leap Wireless International, Inc. at 1 (“Leap recognizes that the Commission has omitted from its request for comments any questions about roaming.”); *see also* Letter from Christine M. Gill, McDermott Will & Emery, Counsel for Southern Communications Services, Inc. d/b/a/ SouthernLINC Wireless (“SouthernLINC”), to Marlene H. Dortch, Secretary, Federal Communications Commission (Feb. 17, 2006). In its letter, SouthernLINC also attempts to interject roaming issues into this proceeding, but recognizes the Commission’s ongoing roaming proceeding.

¹⁴ Reply Comments of Cingular Wireless LLC, WC Docket No. 05-265, at 8 (filed Jan. 26, 2006) (“Cingular Roaming Reply Comments”); Comments of Verizon Wireless, WC Docket No. 05-265, at 11 (filed Nov. 28, 2005) (“VZW Roaming Comments”).

¹⁵ Comments of Cingular Wireless LLC, WC Docket No. 05-265, at 11 (filed Nov. 28, 2005).

roaming rate.¹⁶ When the rates are not symmetrical, it is generally *the smaller carriers that are charging the higher rates.*¹⁷ Nevertheless, these issues were fully addressed in the roaming docket. Accordingly, the WTB correctly excluded roaming issues from consideration here.

¹⁶ Cingular Roaming Reply Comments at 7; *see also* VZW Roaming Comments at 6.

¹⁷ *Id.*

CONCLUSION

For the foregoing reasons, the Commission should find effective competition in the wireless industry and dismiss any attempts to inject roaming issues into this proceeding.

Respectfully submitted,

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