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May 11, 2006

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Cellular early termination fees, WT Dockets 05-193, 05-194  
*Ex parte communication pursuant to Section 1.1206 of the Rules.*

Dear Ms. Dortch:

Pursuant to Section 12d of the Protective Order in the captioned proceedings, Wireless Consumers Alliance, et al. (“WCA”) today are separately serving under seal Confidential Information consisting of the Declaration of Lee L. Selwyn.<sup>1</sup> You also will be served separately with that Confidential Information.

In reply to papers submitted earlier by Verizon Wireless and one of its consultants, Jerry Hausman, Dr. Selwyn concludes, among other points, that: (1) Nothing in the Hausman declaration demonstrates, as an economic matter, that Early Termination Fees (“ETFs”) charged by wireless carriers are “rates”; (2) consumer purchase of wireless service under term contracts does not constitute a “revealed preference” for ETFs; (3) Hausman’s assumption is unfounded that if consumers challenging ETFs were to prevail, every ETF of every wireless carrier would be eliminated; and (4) even if every ETF of every wireless carrier were to be eliminated, the effect upon handset subsidies and service prices, if any, would be immeasurably small.

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<sup>1</sup> The Declaration was anticipated at page 3, note 4, of the WCA Reply of April 18, 2006, to a “White Paper” submitted by Verizon Wireless.

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This non-confidential letter attaches only the non-confidential cover page of the submission referenced above,<sup>2</sup> and is filed for the public record of the captioned proceedings.

Please direct any questions to the undersigned.

Sincerely,

James R. Hobson  
One of the counsel for WCA, et al.

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<sup>2</sup> While the cover page is inscribed as confidential, it obviously contains no protected information. The inscription was applied to the cover page as a matter of prudence, since each of the pages following contains Confidential Information.

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of  
CTIA Petition for Expedited Declaratory  
Ruling on Early Termination Fees

**WT Docket No. 05-194**

Declaration

of

**LEE L. SELWYN**

on behalf of

Wireless Consumers Alliance *et al*

May 11, 2006