

September 20, 2006

VIA ELECTRONIC SUBMISSION

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Reexamination of Roaming Obligations of Commercial Mobile Radio Service
Providers; WT Docket No. 05-265

Dear Chairman Martin:

In August 2005, amidst a wave of industry consolidation, the Commission initiated the above-captioned proceeding in order to reexamine the roaming obligations of commercial mobile radio service (CMRS) providers. As the record of this proceeding demonstrates, virtually every CMRS provider, regardless of size, agrees that roaming is an integral and important component of the CMRS marketplace, and that the availability of automatic roaming services is vital for US consumers and a competitive CMRS market.

However, the record of this proceeding also clearly demonstrates that many carriers, particularly regional and rural carriers, are concerned that competitive market forces alone are no longer sufficient to ensure that they will be able to provide their customers with reasonable, affordable access to automatic roaming services. These carriers collectively serve millions of US consumers, many of whom, for geographic or economic reasons, have few available alternatives for wireless service.

The undersigned carriers, representing a broad variety of regional and rural CMRS carriers of all sizes from around the United States, hereby urge the Commission to take immediate action based on the attached CMRS Roaming Principles. Specifically, the Commission should adopt automatic roaming rules that will ensure access to roaming services for consumers no matter where they may travel. This fair, rational, and economically sound approach to CMRS roaming will:

- Promote and ensure access to mobile wireless services for all US consumers;
- Promote the ongoing development and deployment of new and innovative wireless services throughout the country;
- Foster increased competition; and

- Require only minimal Commission involvement by providing the market with the necessary signals and guidance to encourage and promote commercially-negotiated agreements.

As this proceeding enters its second year, the trend towards concentration of market share in the hands of the largest nationwide carriers is becoming increasingly pronounced. Therefore, it is urgent that the Commission act to ensure that all US consumers will have equal access to mobile wireless services, thus enabling the realization of the “seamless, nationwide ‘network of networks’” envisioned by the Commission.

Sincerely,

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CMRS Roaming Principles

Roaming services are an essential component of mobile telecommunications services and fulfill an important public safety role. Ensuring that consumers have near ubiquitous access to roaming services, no matter where they travel, is in the public interest. Access to roaming services is particularly critical for consumers who are underserved or who live in rural and remote areas with fewer competitive options. Access to roaming services fosters competition in the wireless market and encourages new entrants. Given the importance of roaming services, the FCC should adopt rules to facilitate automatic roaming for all wireless customers based upon the following principles:

- Carriers must provide in-bound automatic roaming (i.e., permitting another carrier's customers to roam onto its network) to any requesting carrier with a technologically compatible air interface. All services that a carrier is currently offering (e.g., voice, data, dispatch) must be offered to a requesting carrier with a technologically compatible air interface.
- Carriers must provide in-bound automatic roaming services under rates, terms and conditions that are just, reasonable and non-discriminatory. In this respect, the FCC clarifies that Sections 201 and 202 do apply to roaming services.
- Carriers must negotiate in good faith.
 - FCC involvement is required only if a complaint is filed.
- The §208 complaint process should be strengthened to ensure it is an effective avenue for redress. To do so the FCC should incorporate the following presumptions:
 - A reasonable rate presumption. FCC should adopt the presumption that a just and reasonable wholesale rate for roaming cannot be higher than the carrier's best retail rate or average retail rate per minute.
 - A technical feasibility presumption. If a carrier is already providing roaming service (data, voice, dispatch) to other carriers using the same air interface then the roaming service will be presumed to be technically feasible (shifting the burden of proving it is not technically feasible)
 - A rapid response mechanism. Because of the competitive nature of the wireless industry, complaints cannot be allowed to languish indefinitely. Therefore, roaming complaints will be placed on the Enforcement Bureau's Accelerated Docket under Section 1.730 of the Commission's Rules.