

February 7, 2007

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Notice of Ex Parte Presentation:*
WT Docket Nos. 05-193, 05-194

Dear Ms. Dortch:

On February 6, 2007, the undersigned counsel to T-Mobile USA, Inc., together with Thomas J. Sugrue, Kathleen O'Brien Ham, and Sara F. Leibman of T-Mobile USA, Inc., met with Cathy Seidel, Jay Keithley, Erica McMahon, and Pam Slipakoff of the Commission's Consumer and Governmental Affairs Bureau. Richard Smith, also of the Consumer and Governmental Affairs Bureau, participated in the meeting by telephone.

The parties discussed issues related to the above-referenced Petitions for Declaratory Ruling regarding Early Termination Fees. The parties discussed the state of competition in the wireless telecommunications industry, the marketplace options regarding wireless rate plans, and the status of various state court proceedings. The presentations made to Commission staff were consistent with T-Mobile's comments previously filed in the referenced dockets. The slide presentation distributed during the meeting is enclosed.

This Notice of *Ex Parte* Presentation is being filed electronically via the Commission's Electronic Comment Filing System for inclusion in the public record of the referenced

WILKINSON) BARKER) KNAUER) LLP

Marlene H. Dortch, Secretary

February 7, 2007

Page 2

proceedings pursuant to Commission Rule 1.49(f), 47 C.F.R. § 1.49(f). Please contact the undersigned if you have any questions.

Sincerely yours,

/s/ Bryan N. Tramont

Bryan N. Tramont

Enclosure

cc (via electronic mail):

Cathy Seidel (w/enc.)

Jay Keithley (w/enc.)

Pam Slipakoff (w/enc.)

Erica McMahon (w/enc.)

Richard Smith (w/enc.)



Early Termination Fees

***Ex Parte* Presentation of
T-Mobile USA, Inc.**

WT Docket No. 05-194

February 6, 2007

T-Mobile



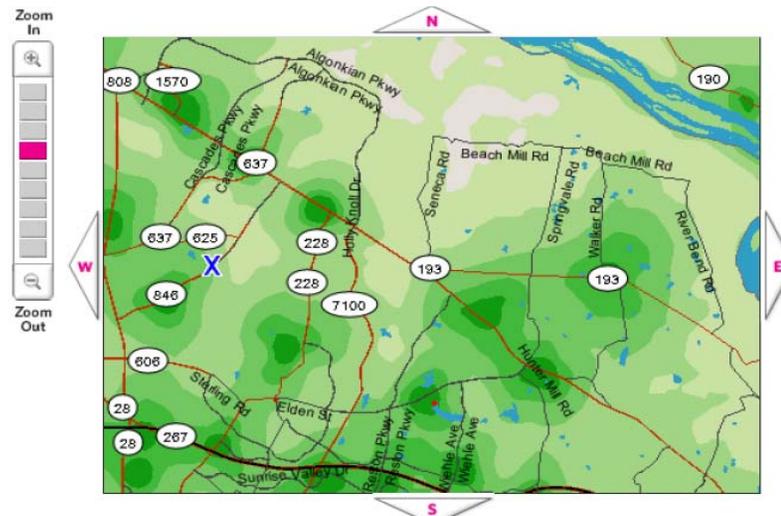
T-Mobile Is A Distinguished Leader In Customer Service

- **Repeatedly earn highest wireless customer satisfaction rankings by J.D. Power and Associates**
 - For the fifth consecutive time, T-Mobile achieved the highest ranking from the J.D. Power and Associates' 2007 Wireless Customer Care Performance Study across all six regions of the country.
 - Four consecutive wins in wireless retail sales satisfaction.
 - 2006 – Highest ranked or tied for best call quality in West (outright); Southwest (outright); Northeast (tied); Southeast (tied).



T-Mobile Customer Choice – Personal Coverage Check

- Customers can determine whether coverage is adequate *before they buy*.
- T-Mobile takes disclosure seriously, offering potential customers their own Personal Coverage Check.



Mobile-to-mobile minutes and data services are not available in certain roaming areas included on T-Mobile's coverage maps.



- X Address Location
- 850 MHz Roaming Coverage
- T-Mobile USA Roaming Coverage
- T-Mobile Canada Roaming Coverage
- T-Mobile Mexico Roaming Coverage





State Regulation Is Unnecessary

- **FCC Wireless complaints do not support increased regulation.**
 - **Complaints trending downward.**
 - Out of 204 million wireless subscribers in 2005, only 17,000 billing/contract complaints were lodged with the FCC – compared to 18,000 complaints and 182 million subscribers the year before.
 - **Number of complaints vs. subscribers miniscule.**
 - 2005 total complaint rate was 0.01%.
 - In third quarter 2006, only 440 contract/ETF complaints lodged – that means only 2 contract/ETF complaints per million subscribers in the quarter.



Flexible Federal Regulation of ETFs Is Needed

- **A Federal model works best, rather than state-by-state regulation.**
- **Carriers compete on ETF policy (e.g., recent Verizon proposal to prorate ETFs).**
- **Section 332(c)(3) bars state regulation of wireless rates.**
- **Regulation of ETFs – including the amount charged and the conditions under which they may be imposed – is rate regulation, not regulation of “other terms and conditions” of wireless service.**
- **State-by-state rate regulation will have a chilling effect on network deployment, raise the cost of services, and divert funds that could be used to create additional products and services.**



Early Termination Fees Are Rates

- **The wireless rate charged consists of numerous elements – activation fees, special features, local and long distance airtime, roaming charges, and early termination.**
- **Together these fees constitute the “price” charged for, and recover the costs of, providing wireless service.**
- **All carrier rates and rate structures are designed to reduce “churn” as well as recover costs.**
- **Economist Harold Furchgott-Roth White Paper**
(June 6, 2006, WT Docket No. 05-194)
 - **ETFs are part of the rate structure of wireless service.**
 - **Limitations on the rate structure of wireless services harm consumers.**



ETFs Enhance Consumer Choice

- **Wireless carriers offer pricing choices: term plans with discounted or free handsets, buckets of minutes, post-paid plans, and prepaid plans.**
- **Consumers have choice of multiple carriers, multiple technologies, and multiple ways to pay for wireless service.**
- **T-Mobile's prepaid plans, with reasonable rates and latest equipment, are widely available.**
- **ETFs allow consumers to spread cost of service across many months instead of full payment up front.**
- **Vast majority of consumers opt for term plans with ETFs.**



The FCC Can Grant Declaratory Relief

- **Grant of CTIA Petition does not require FCC to develop record on specific costs each carrier recovers through ETFs.**
- **FCC need only look to previous decisions construing ETFs as rates and previous rulings regarding scope of section 332(c)(3)(A).**
- **FCC's task is to interpret the statute, not become enmeshed in an elaborate ratemaking case.**
- **The 11th Circuit Court ruling on TIB does not limit FCC's authority to define ETFs as rates.**



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