

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
Skype Communications S.A.R.L. )  
 ) RM – 11361  
Petition to Confirm A Consumer’s Right to )  
Use Internet Communications Software and )  
Attach Devices to Wireless Networks )

**REPLY COMMENTS OF  
THE TELECOMMUNICATIONS RESEARCH & ACTION CENTER**

The Telecommunications Research & Action Center (TRAC) welcomes the opportunity to provide reply comments on the significant consumer telecommunications issues raised in the Skype petition on wireless services. TRAC is a non-profit, membership organization based in Washington, D.C. that promotes the interests of residential telecommunications consumers. For more than 20 years, TRAC has been conducting studies and publishing charts to aid consumers in choosing the correct and most efficient service for their calling needs.

In this important proceeding, TRAC offers comments on the following topics:

- 1.) Competition in the wireless telecommunications market is robust.
- 2.) Security, privacy and other public interest issues must be primary considerations for wireless networks and users.

TRAC believes it is critical for the Federal Communications Commission (the “Commission”) to promote innovation in the wireless market and maintain the effective market for wireless services. Consumers have derived great benefits from the many wireless services and choices available today and TRAC does not believe the additional regulation sought by Skype is necessary.

**1.) Competition in the wireless telecommunications market is robust.**

TRAC believes consumers are enjoying the vibrant competition in the wireless market and there is strong evidence demonstrating the diversity of choices available today. In the 2006 report on the state of the market for commercial mobile radio service (CMRS), the Commission found, “that there is effective competition in the CMRS marketplace. Among the indicators of

market structure that support this conclusion, 98 percent of the total U.S. population lives in counties with access to three or more different operators offering mobile telephone service, slightly higher than in the previous year, and up from 88 percent in 2000.”<sup>1</sup> Skype’s petition recognized this fact, calling wireless telecommunications “an unquestioned success.”<sup>2</sup>

A wide variety of wireless providers, devices, and service plans are available to consumers across the country. According to a recent report from Georgetown University professor Marius Schwartz, there is great differentiation among wireless options. For example, AT&T allows customers to roll over unused wireless minutes from month to month. Sprint Nextel, Alltel, and U.S. Cellular allow free incoming calls, and several operators now allow users to choose “favorite” telephone numbers where all calls to and from these numbers are unlimited.<sup>3</sup> This is exactly the type of competition that TRAC believes is optimal for consumers.

This competition is made possible by efficient use of scarce spectrum resources by wireless telecommunications service providers. Skype’s petition to allow unfettered access to commercial wireless networks could disrupt these operations that currently work well for millions of American wireless customers. Network operators organize and operate their systems based on customer demands, but the addition of Skype and other users connecting to the network with any device could cause service disruptions such as dropped calls for paying customers. TRAC notes that an example of such service problems is provided in the comments of Verizon Wireless. A customer installed a repeater certified for wireless network use, but it caused service degradation on nearly 200 cellular sites.<sup>4</sup> While this example was limited to network interference for voice and data transmissions, such disruptions could be life-threatening for first responders and other network users who depend on wireless networks for emergency communications.

Ultimately, Skype can already access wireless networks and does not require additional regulation from the Commission to provide service. Numerous existing entities obtain access to wireless networks through commercial

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<sup>1</sup> Eleventh Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, September 26, 2006.

[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-06-142A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-06-142A1.pdf)

<sup>2</sup> Petition to Confirm a Consumer’s Right to Use Internet Communications Software and Attach Devices to Wireless Networks, RM-11361, Skype Communications, February 20, 2007.

<sup>3</sup> “Hanging Up on Carterphone: The Economic Case Against Regulation in Mobile Wireless,” Marius Schwartz and Federico Mini, May 2, 2007.

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=984240](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=984240)

<sup>4</sup> See comments of Verizon Wireless, ROM-11361, April 30, 2007.

[http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6519408104](http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519408104)

arrangements and offer services to end users. Mobile virtual network operators (MVNO) are highly successful businesses offering voice and data services across the country. TracFone is a pre-paid wireless carrier that purchases access to over 30 existing wireless networks and then sells metered service to the consumer. Virgin Mobile entered into a partnership with Sprint to use that company's cellular network to provide service to over 4 million customers.<sup>5</sup> Skype users can access the VoIP services via WiFi connections, wireless broadband cards in laptop computers, personal digital assistants (PDA) and like handheld devices, and other wireless Internet functions.

TRAC believes the wireless telecommunications market is providing consumers with the choices and prices they seek. Imposing new regulations that consumers do not require would only stifle the competition and innovation in wireless services that consumers are enjoying today.

## **2.) Security, privacy and other public interest issues must be primary considerations for wireless networks and users.**

TRAC believes that Skype's petition does not take into account the important consumer issues of security, privacy, E911, and access for people with disabilities. Allowing unfettered access for any and all devices would prevent network operators and service providers from complying with important mandates and achieving public interest goals. TRAC urges the Commission to make these critical issues priorities in any decision regarding the future of wireless networks.

TRAC agrees with the comments of T-Mobile and other service providers regarding the need for strong network management to protect service quality and customer information.<sup>6</sup> For example, viruses, spyware, and malware are growing problems in the wireless arena and require vigilant oversight from network operators to prevent their proliferation.<sup>7</sup> With today's wireless network management, operators can prevent unwanted spam and allow customers to opt-out of telemarketing calls. These consumer benefits are the result of network operators configuring devices and networks in ways that would be prevented under Skype's petition.

Providing reliable E911 service for wireless customers has long been an imperative for the Commission. Wireless networks are now capable of

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<sup>5</sup> "Wireless Carterphone: An Economic Analysis," Thomas W. Hazlett, April 25, 2007

<sup>6</sup> See comments of T-Mobile, Inc., RM-11361 April 30, 2007.

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<sup>7</sup> See Comments of Qualcomm, RM-11361, April 30, 2007.

[http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6519408102](http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519408102)

connecting users to local emergency personnel. Many of the solutions for providing E911 service were built into the handsets used by millions of wireless customers. Under Skype's plan, new devices that may not have E911 capabilities could connect to the network. This creates a dangerous situation where the user could encounter an emergency situation and be unable to call for help.<sup>8</sup> Network operators have committed to provide E911, and it would be unwise to institute regulations that compromise this effort.

Under Section 255 of the Telecommunications Act, communications devices must be made accessible for people with disabilities. Allowing any device to connect to wireless networks, as Skype's petition seeks, could eviscerate this provision that millions of disabled Americans rely upon to communicate. Compliance requires network operators to test devices and networks; under Skype's plan, operators would be unable to guarantee that all devices operating on the network were accessible.

Currently, every new wireless phone is subjected to rigorous testing over a 3-4 month period to ensure compliance with accessibility, E911, and other service quality mandates. Such comprehensive testing is not guaranteed for all devices that could connect to a network under Skype's petition. TRAC believes consumers would be harmed if the network providers and device manufacturers could not guarantee that all devices met their current standards. It is important for the Commission to consider how Skype's petition could present unintended consequences for consumers and cause numerous problems that are currently preempted by the procedures and protections put in place by network operators.

## CONCLUSION

TRAC believes that consumers benefited from strong competition in the wireless telecommunications market and urges the Commission to allow this situation to continue without new regulations. Where and when appropriate, the Commission has the authority under its existing mandate to ensure that network operators are protecting consumers from service interruptions, providing access to emergency communications services, and making certain that people with disabilities are able to utilize today's advanced services. It is premature to disrupt this success with new regulations that would create unintended consequences for consumers and providers.

Respectfully submitted,

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<sup>8</sup> See comments of Verizon Wireless, ROM-11361, April 30, 2007.  
[http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6519408104](http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519408104)

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May 15, 2007