CTIA
The Wireless Association™

Expanding the Wireless Frontier

July 24, 2007

Electronic Filing

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, D.C. 20554

Re: ***Written Ex Parte Communication***
RM-11361; WC Docket No. 07-52
PS Docket No. 06-229; WT Docket Nos. 96-86, 06-150, 06-169

Dear Ms. Dortch:

Several parties in the Skype and 700 MHz auction rules proceedings have compared the United States wireless market to those of European Union member states, with less than favorable things to say about the market conditions in the United States. Proponents of restrictions on 700 MHz licenses – *e.g.*, open access, wholesaling, and net neutrality requirements – cite the European marketplace as a consumer's utopia, brimming with choices and value. An analysis of independently developed data shows that the truth is quite the opposite. Based on the information contained in this *ex parte*, consumers would be harmed considerably if the United States wireless market moved in any way toward the European wireless market model. CTIA takes this opportunity to dispel the myth that European consumers are better off than Americans.

This *ex parte* details the following points:

- The price per minute of service in the **United States is lower than every European country**, without exception – it is one-half of the price in Finland and one-third (or less) of every other European country.
- Consumers in the **United States have the highest minutes of use per month in the world**, more than 500 minutes per month more than the next closest European country.
- According to Ofcom, the **United States has the lowest Herfindahl-Hirschman Index ("HHI")** of the nine European countries they recently measured, and when measuring the market share of 53 countries' top two providers, the United States has the third lowest concentration.
- Contrary to recent reports that the United States is lagging behind in the deployment of Wi-Fi-capable devices, the United States has a thriving, and growing Wi-Fi offering, including ten handsets in the market now and many more on the way.
- American consumers have access to over 700 different devices – according to our research, more than any other country on the planet. By contrast, the U.K. has approximately 180 different handsets.

Americans derive far more benefit for far fewer of their telecommunications dollars.

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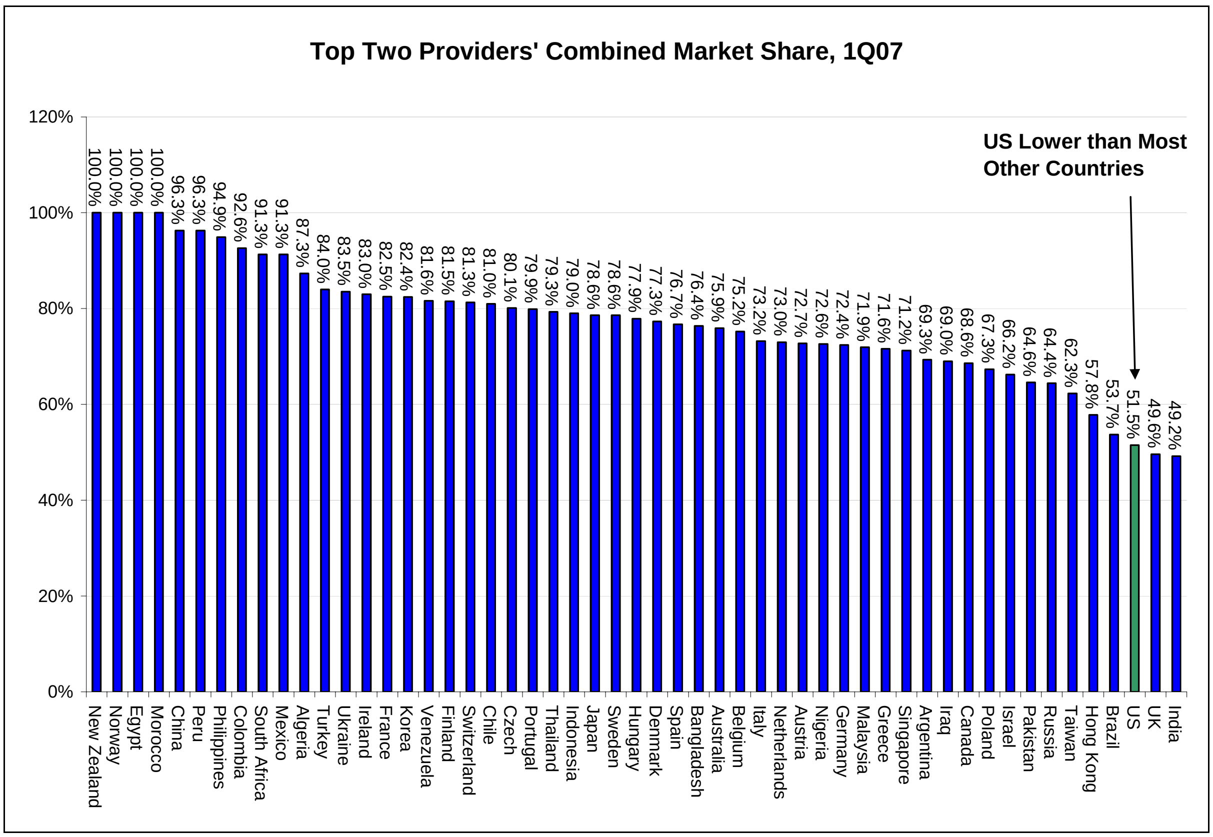
Market Concentration and Consumer Options: Columbia University Law Professor Timothy Wu has denounced the U.S. wireless marketplace as an oligopoly, in which there are two dominant firms and a total of four in the marketplace, at the same time he praises the competitiveness of the European market.[1] As shown in this filing, this flimsy claim falls apart upon an examination of the facts. Moreover, Professor Wu's "analysis" of the American market ignores the reality that American consumer have more choices than consumers in nearly every developed country in the world. A review of Merrill Lynch's *Global Wireless Matrix 1Q07* reveals the truth – American consumers have the kind of choices and value that consumers around the world strive for.

- The combined market share of the top two U.S. carriers is **less** than that of the top two providers in almost every other developed country in Europe and Asia.
  - In most of those countries, the top two players' combined share is between 71 and 100 percent.
  - The United States' top two providers' market share is 33% lower than the European average.
- Including developed and emerging countries, the *US is one of the three least concentrated markets* out of the 53 countries tracked by Merrill Lynch, with only two countries having a lower concentration – the UK and India both having just over 49 percent, compared to just over 51 percent in the U.S.[2]



Source: Merrill Lynch

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[1] Statement of Tim Wu, Professor, Columbia Law School, Before the U.S. House of Representatives Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, at 3.

[2] Glen Campbell, et al., "Global Wireless Matrix 1Q07, Latin Fever," Merrill Lynch, June 15, 2007, at Table 1 ("Merrill Lynch").

- The British regulator, Ofcom, also issued a report in November 2006 observing that the U.S. has the least concentrated wireless market.[3] The following chart is excerpted from that report.

Figure 2.28: Herfindahl-Herschman Index - mobile subscribers

Source: IDATE / National regulators/OECD/Ofcom research
Note: Estimate for Germany includes resellers

Source: Ofcom

- According to the Organisation for Economic Co-operation and Development ("OECD"), among member countries, only Denmark comes close to the competition in the American wireless market.

Table 1. Mobile Operator Market Share According to Number of Operators, Percentage (2003)

Number of operators	1	2	3	4	5	Others
Australia	46.6	30.6	19.7	3.1		
Austria	43.9	28.7	19.4	7.8	0.2	
Belgium	49.9	35.8	14.3			
Canada	36.9	28.3	25.5	9.3		
Czech Republic	43.4	40.7	15.9			
Denmark	35.1	23.8	12.9	11.1	10.2	6.9
Finland	51.4	28.7	16.4	3.5		
France	48.8	35.3	15.9			
Germany	40.6	38.1	12.7	8.6		
Greece	37.8	35.5	23.2	3.5		
Hungary	47.4	35.8	16.8			
Iceland	66.8	32.9	0.3			
Ireland	55	40	5			
Italy	46.1	36.4	16.9	0.6		
Japan	53.9	19.6	17.3	4.2	3.3	2.5
Korea	54.4	31.1	14.4			
Luxembourg	62.7	37.3				
Mexico	77.8	11.5	6.6	4.1		
Netherlands	39.1	25	15.6	10.9	9.4	
New Zealand	52.3	47.7				
Norway	58.3	29.9	6.2	3.6	2	
Poland	35.7	32.8	31.5			
Portugal	52.3	30.2	17.5			
Slovakia	56.2	43.8				
Spain	52.4	25.8	21.8			
Sweden	43.6	38	15.1	3.3		
Switzerland	61.4	20.4	17.6	0.6		
Turkey	68.1	18.3	7.2	6.4		
United Kingdom	24.5	23.9	25.6	25.6	0.4	2
United States (2003)	23.6	13.9	13.8	10.0	8.1	30.6
United States (2006)*	26.6	25.2	22.0	10.7	5.2	10.3

1. Three operators in Norway are resellers.
2. There are 150 cellular mobile operators in the United States.

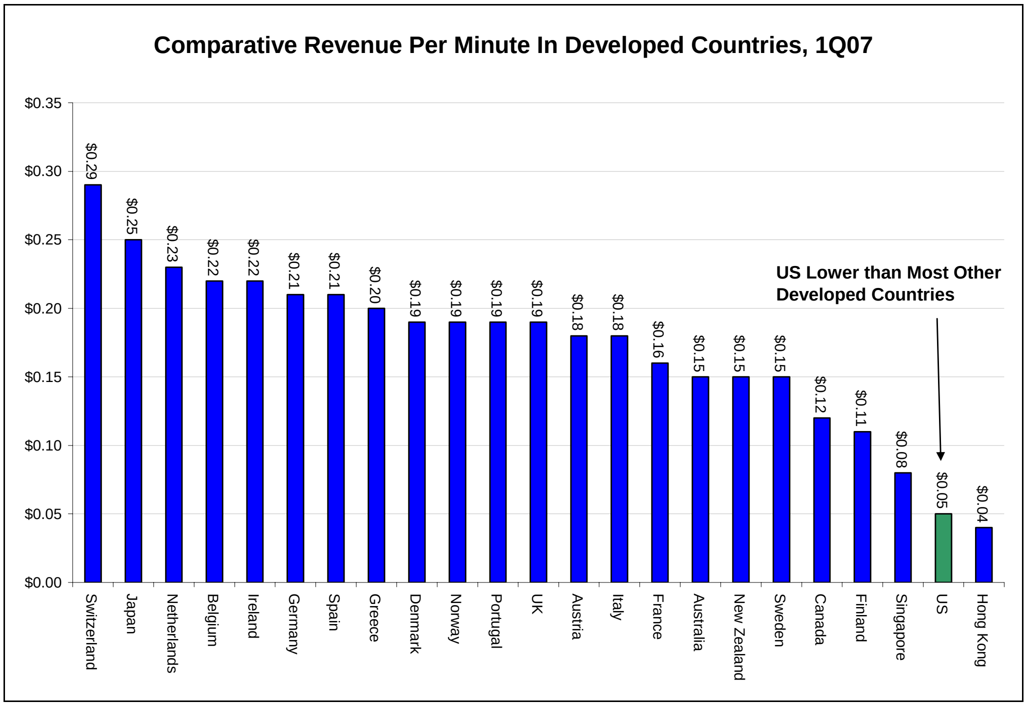
Sources: OECD, OECD COMMUNICATIONS OUTLOOK, Table 2.6 (2005); (*) *11th CMRS Competition Report*, App. A., Tables 2, 4 (for United States)

Source: Phoenix Center for Advanced Legal & Economic Public Policy Studies

[3] Ofcom, "The International Communications Market, 2006," November 2006, available online at http://www.ofcom.org.uk/research/cm/icmr06/icmr.pdf, at p.68.

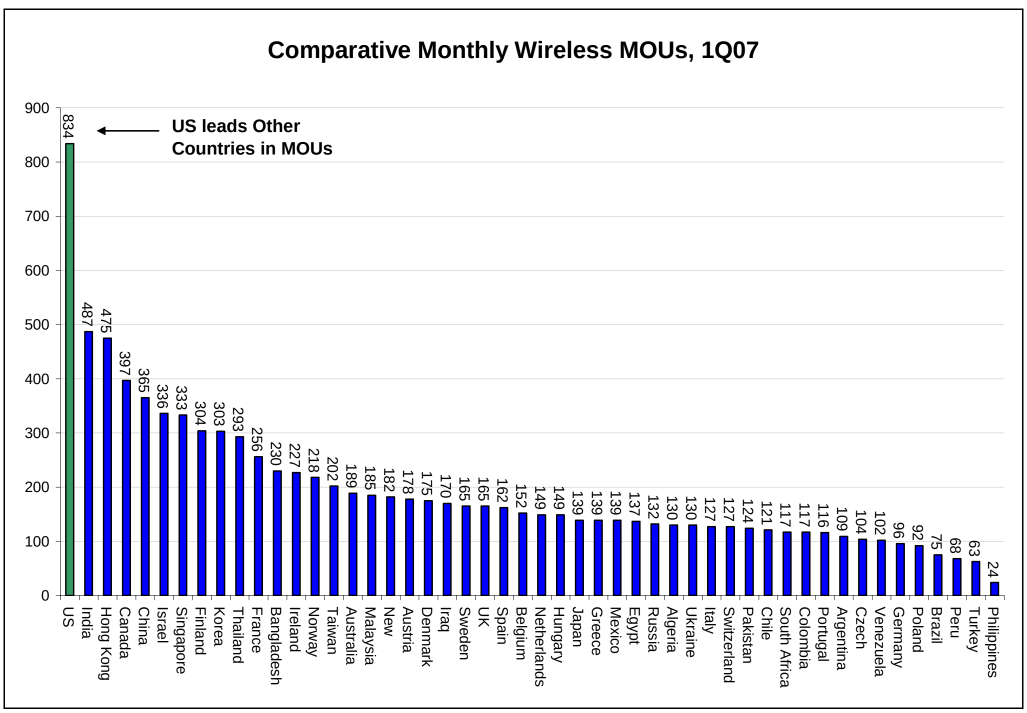
Price and Value of Wireless Service: American consumers also enjoy lower prices and a better wireless value than their foreign counterparts.

- Among developed nations, only Hong Kong can claim to have lower revenue per minute for wireless service.



Source: Merrill Lynch

- Because American consumers recognize value and desire the convenience of mobility, Americans use far and away the most minutes of use ("MOUs") of any country. Americans average 834 minutes per month while European wireless consumers average 153.



Source: Merrill Lynch

Wi-Fi Enabled Devices and Unlicensed Mobile Access: Contrary to recent reports, the U.S. is not dramatically lagging in the roll-out of Wi-Fi-capable devices compared to other countries. These devices can access any Wi-Fi hotspot, not just those branded by the carriers.

- All of the national carriers offer handsets with integrated Wi-Fi.[4]
- Nationwide, there are at least 10 handsets featuring Wi-Fi on the market, with many more on the way.[5]
- According to the Wall Street Journal, carriers are increasingly embracing Wi-Fi and providing consumers with Wi-Fi enabled handsets.[6]

Unlicensed Mobile Access – the seamless switching of voice and data sessions from the commercial wireless network – is another area of Wi-Fi access in which American wireless companies are leading the world. The initial Unlicensed Mobile Access ("UMA," dual-mode Wi-Fi / cellular access) specifications were published in September 2004, with development and testing following.

On July 21, 2006, ArcChart noted that there were then 20 trials underway around the world for UMA but there was only *one* commercial offering.[7] ArcChart also noted that there were only four commercially-available UMA handsets at that time, although it was predicted that 20 to 30 handset models might be available in 2007.[8]

This area of commercial wireless is extremely nascent, but the United States is leading the way in commercial roll-out of competitive services:

- There are only ten dual-mode Wi-Fi / cellular handsets available worldwide.[9]
- Of all wireless providers worldwide, only seven offer UMA service, and two of them are in the United States.[10]

Device Offerings: Consumers Union has asserted that the "decoupling" of handsets and networks has created a vibrant European handset market, arguing that by contrast the U.S. "handset market lags European and Asian markets, precisely because wireless operators have the power to dictate which phones will interoperate with their networks, keeping out the

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[4] *See* Opposition of CTIA – The Wireless Association®, RM-11361, at Attachment A (filed Apr. 30, 2007).
[5] *See e.g.* Verizon Wireless, http://www.verizonwireless.com; AT&T Mobility, http://www.wireless.att.com; Sprint Nextel Corp., http://www.sprint.com; T-Mobile USA, http://www.t-mobile.com; Alltel Wireless, http://www.alltel.com.
[6] Jessica E. Vascellaro and Amol Sharma, *Cellphones Get Wi-Fi, Adding Network Options*, WALL ST. J., June 27, 2007, at B1.
[7] "There's Still Life in UMA," July 21, 2006, *available at* http://www.arcchart.com/blueprint/show.asp?id=396 (last accessed July 18, 2007). Companies participating in the trials included T-Mobile in the U.S., TeliaSonera in Denmark, Telecom Italia in Italy, and SaunaLahti in Finland. BT's Fusion was described as the only commercial deployment.
[8] *Id.*
[9] *See* "Dual Mode Handsets" UMA Today, *available at* http://www.umatoday.com/mobileHandsets.php (last accessed July 19, 2007) (Details are not available for all of these handsets).
[10] *See* "UMA Operators" UMA Today, *available at* http://www.umatoday.com/operators.php (last accessed July 19, 2007); *see also*, "T-Mobile HotSpot@Home," *available at* http://www.theonlyphoneyouneed.com (last accessed July 19, 2007); "Home Run" Cincinnati Bell Wireless, *available at* http://www.cincinnatibell.com/consumer/wireless/home_run/ (last accessed July 19, 2007).

competition."[11] Information on the availability of handset choices in both the Unites States and Europe, however, seems to indicate otherwise.

- CTIA research shows that there are more handsets available in the United States than in any other country in the world, and likely more than are available in any other *region* in the world.
- There are more than 700 different wireless handsets and devices available in the United States.
- By contrast, in the U.K., there are only 180 different handsets available to consumers.[12]

The Federal Communications Commission should be proud of the environment it has created for wireless consumers in the United States. In sum, claims that European consumers live in a wireless nirvana is simply untrue. American consumers have more choices, lower costs, and better value in wireless than nearly every other country in the world. Thanks to the robustly competitive wireless marketplace in the United States, American consumers will continue to lead the world in the value and extent of mobile wireless services. The Commission's light regulatory touch has resulted in a market that consumers throughout the world envy. Any regulatory efforts to move the United States closer to the European consumer experience is something we should seek to avoid, rather than pursue.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being filed via ECFS with your office. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Christopher Guttman-McCabe

Christopher Guttman-McCabe

cc: Chairman Kevin Martin
Commissioner Michael Copps
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell
Erika Olsen
Bruce Gottlieb
Barry Ohlson
Renée Crittendon
Aaron Goldberger
Chris Moore
Angela Giancarlo

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[11] Testimony of Chris Murray, Senior Counsel, Consumers Union, July 11, 2007, Before the U.S. House of Representatives Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, at 4.
[12] *See* BT, http://www.bt.co.uk; O2, http://www.o2.co.uk; 3, http://www.3.co.uk; Virgin Mobile, http://www.virginmobile.com; Carphone Warehouse, http://www.carphonewarehouse.co.uk; Vodafone, http://www.vodafone.co.uk; Tesco Mobile, http://www.tesco.com/mobilenetwork. Handsets of the same model with differing color schemes were not counted as unique handsets.