

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Reexamination of Roaming Obligations of	)	WT Docket No. 05-265
Commercial Mobile Radio Service Providers	)	
	)	

**REPLY COMMENTS  
OF THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA) hereby submits these reply comments in response to the Federal Communications Commission’s (FCC or Commission) Further Notice of Proposed Rulemaking (FNPRM) in the above –captioned proceeding on the roaming obligations of providers of commercial mobile radio services (CMRS). Specifically, NTCA supports those commenters who recommend that the Commission amend its rules to apply the automatic roaming requirement to non-interconnected and non-CMRS wireless data services.<sup>1</sup>

NTCA is a national association representing the interests of its 575 members. All of NTCA’s members are full service local exchange carriers, and more than half provide wireless service to their communities. NTCA’s members provide service in the most rural areas of the country.

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<sup>1</sup> See e.g., Comments of Rural Cellular Association, Southernline Wireless, United States Cellular Corporation, Corr Wireless Communications, LLC, Leap Wireless International, Inc., MetroPCS Communications, Inc., MTA Wireless, Inc., Rural Telecommunications Group, Inc. and the Organization for the Promotion and Advancement of Small Telecommunications Companies.

NTCA's members who provide mobile wireless service rely on roaming to compete with large, nationwide providers. Absent roaming, small wireless providers cannot offer a comparable product that enables them to attract and retain customers. Customers expect their mobile wireless devices to work no matter where they work or travel. Absent an expanded roaming requirement, the Commission will virtually guarantee the eventual extinction of the small, independent CMRS provider and sentence rural consumers to sub-standard service. NTCA respectfully requests that the Commission act quickly to expand the scope of services to which automatic roaming obligations apply.

Regulations requiring data roaming with reasonable technical limitations promote the public interest by ensuring that consumers in rural areas will have access to wireless broadband services similar to what is, or will be, available in urban areas. There is no merit to the argument that requiring data roaming access would undermine carriers' incentives to innovate or invest in mobile wireless network facilities. To the contrary, the absence of roaming agreements hinders the ability of small carriers to invest in their mobile wireless facilities. Roaming provides additional opportunities to add valued services for which the customer willingly pays, which in turn increases revenues which are then used to improve the wireless system. Roaming agreements also allow small carriers to compliment large carriers who often lack adequate coverage in very remote areas, providing a seamless mobile experience for the customer. At a time when the large wireless carriers are getting ever larger, expanded roaming requirements will promote additional competition in the wireless sector by providing the opportunity for new entrants and small carriers to flourish and provide service to communities historically unserved or underserved by the nationwide providers.

The Commission has ample legal authority to compel carriers to enter into automatic roaming agreements for non-interconnected services and features. Automatic roaming is a contractual relationship between two carriers and must be analyzed as a wholesale service, subject to the Commission's Title II authority.<sup>2</sup> Carriers entering into a roaming agreement purchase service from each other. The carrier is the user in that relationship, not the retail subscriber. As the Rural Cellular Association points out in its comments, the expectation is that the service provided will be transported by the host carrier of communications over its system to and from the requesting carrier/user's roaming subscriber.<sup>3</sup>

To be regulated under Title II, automatic roaming must meet the definitions of "telecommunications" and "telecommunications service." Telecommunications is defined as, "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received."<sup>4</sup> In automatic roaming, the host carrier does not change the form or content of the information sent to or received by the customer and is therefore "telecommunications." Automatic roaming also meets the definition of "telecommunications service" as it is "offered for a fee directly to the public, or to such classes of users as to be effectively available immediately to the public, regardless of the facilities used."<sup>5</sup> As stated in the *Time Warner Order*, "[i]t is clear under the Commission's precedent that the definition of 'telecommunications services' is not limited to

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<sup>2</sup> See, *National Cable Telecommunications Association v. Brand X Internet Services*, 545 U.S. 967 (2005).

<sup>3</sup> See, Comments of Rural Cellular Association, p. 7. Citing, *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless networks*, WT Docket No. 07-53 Declaratory ruling, FCC 07-30 (rel. March 23, 2007) at ¶ 30.

<sup>4</sup> 47 U.S.C. § 153(43).

<sup>5</sup> 47 U.S.C. § 153(20).

retail services, but also includes wholesale services when offered on a common carrier basis.”<sup>6</sup>

In the case of automatic roaming, the “user” is the carrier who is purchasing wholesale automatic roaming service.

Because it is properly classified as a telecommunications service, the provision of wholesale automatic roaming is subject to the provisions of Title II of the Communications Act.

The rural consumers served by NTCA’s CMRS providers depend on roaming. Nationwide carriers do not offer quality service in the areas where rural consumers live and work. Rural providers fill the gap, providing reliable, innovative service in remote areas. But rural consumers often travel outside of their small carriers’ limited coverage area. The only way for rural consumers to have access to wireless service similar to what is available to their urban counterparts is to have automatic roaming. NTCA urges the Commission to extend the automatic roaming obligation to non-interconnected services or features.

Respectfully submitted,

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<sup>6</sup> See, *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, WC Docket No. 06-55, Memorandum Opinion and Order, 22 FCC Rcd 3513, 3518 (2007).

## CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association, WT Docket No. 05-265, FCC -07-143, was served on this 28<sup>th</sup> day of November 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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