



## EXECUTIVE SUMMARY

The comments filed in this proceeding demonstrate that there is both overwhelming support and a compelling public interest need for the extension of automatic roaming obligations to all non-interconnected mobile wireless services – a need that is opposed only by the nation’s largest wireless carriers, who frame their concerns for the “public interest” in terms of unfounded assertions regarding the potential effect that fair roaming access could have on their investment incentives and market dominance.

The nationwide carriers once again argue, without any support or evidence, that the adoption of automatic roaming obligations for data services will “distort the market,” chill innovation, and discourage the build-out of advanced services. However, as numerous comments filed in this proceeding make clear, these purely speculative arguments lack any support in – and are contradicted by – the business and operational realities of the wireless market. Each company – no matter how large or small – has too much to lose with regard to its competitive position to forego investment simply out of fear of roamers.

Capacity concerns also should not stand as a barrier to data roaming. First, such concerns are purely speculative, as there has been no evidence presented of capacity issues caused by roamers on a network. In addition, the nationwide carriers state in their comments that they are already providing data roaming, thus demonstrating that roamers do not place a significant burden on the host network and/or that any capacity problems have been satisfactorily resolved. Moreover, every carrier presumably has methods in place for managing the amounts of bandwidth used by its subscribers, and there is no reason that a host carrier could not simply apply the same management methods on a non-discriminatory basis to roamers. Likewise, there is no reason why technical issues, such as authentication or addressing methods, should be a barrier to data roaming, since they are solvable and can always be worked out through good faith

negotiations. Verizon's recent announcement that it intends to open up its network to allow its customers to use non-Verizon wireless devices and applications further demonstrates that technical issues should not serve as a barrier to data roaming.

As SouthernLINC Wireless has demonstrated in previous filings, the Commission has substantial statutory authority to take action with respect to roaming for all wireless services, including its Title II authority over telecommunications services such as wholesale automatic roaming, its plenary Title III authority over radio communication in general, and its Title I ancillary jurisdiction. SouthernLINC Wireless' analysis has received strong support from and been endorsed by multiple commenters in this proceeding, and has not been seriously challenged or refuted by opponents of extending automatic roaming obligations to mobile data services.

For example, the nationwide carriers argue that, because wireless broadband Internet access service is an information service and is not CMRS, the Commission is precluded from imposing automatic roaming obligations on data services. The fundamental flaw in this argument is that it focuses on a specific retail service that is entirely separate and distinct from wholesale carrier-to-carrier automatic roaming. As the Supreme Court made clear in its *Brand X* decision, the definition of a service or product offered by a company is determined by "what the *consumer* perceives to be the integrated finished product" that is being provided. With wholesale automatic roaming, the "integrated finished product" being provided to and received and paid for by the consumer – *i.e.*, the carrier customer – is transmission and nothing more.

From both an operational perspective and the perspective of the roaming end user, any retail service or application that the roaming end user receives and pays for is provided by or through the roamer's home carrier, not by the host carrier. The end user subscriber expects to receive (and pay for) this finished, functionally integrated service from his or her home carrier.

In addition, retail subscribers of mobile wireless services understand and expect that, when they are roaming, they will generally pay a separate roaming charge to their home carrier in addition to the fee they pay for Internet access service. In other words, when using a service while roaming, the end user subscriber expects to receive and pay for two distinct services – Internet access service (through the home carrier) and a distinct transmission service (*i.e.*, roaming).

The nationwide carriers also argue that the adoption of automatic roaming obligations for data services would threaten the “regulatory parity” that the Commission sought to achieve between wireless broadband Internet access services and broadband services provided over different platforms, including wireline, cable modem, and BPL. This argument overlooks the simple fact that automatic roaming would, by definition, apply only to services that are *mobile*. The mobility of these services is an essential distinction that affects everything from consumer perception and expectations to the public interest goals that are implicated.

Finally, the nationwide carriers assert that extending automatic roaming obligations to all non-interconnected mobile data services would contradict various statutory provisions and policies intended to promote the deployment of advanced technologies and infrastructure. However, as demonstrated by numerous commenters in this proceeding, the extension of automatic roaming obligations to these services would in fact advance the policy goals and objectives of the very provisions cited to by the nationwide carriers, such as those set forth in Sections 309(j)(3)(A) and (D) of the Communications Act and Section 706 of the Telecommunications Act.

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‘network of networks’,” fulfill its statutory charge of “promoting safety of life and property through the use of wire and radio communication,” and ensure that changing technologies and industry consolidation do not result in a “wireless divide” in the United States.

**I. THERE IS BROAD SUPPORT FOR AUTOMATIC ROAMING FOR ALL “NON-INTERCONNECTED” SERVICES**

The initial comments filed in response to the Commission’s *FNPRM* show that there is overwhelming support for extending automatic roaming obligations to non-interconnected mobile wireless services.<sup>2</sup> In fact, among all of the mobile wireless carriers and carrier organizations submitting comments, the only ones opposed to automatic roaming obligations for non-interconnected services are the nation’s three largest carriers.<sup>3</sup> Through their opposition, these nationwide carriers seek to maintain a status quo that will allow them to continue to exploit their substantial size and market power to restrict competition and new market entry to the detriment of US consumers, with the effects of their actions striking particularly hard against the rural and underserved communities and consumers in our country.

Perhaps the starkest contrast can be seen in the views taken by regional and rural carriers on the one hand and the nation’s largest carriers on the other as to what the “public interest” means. As US Cellular pointed out, many of the objections to automatic roaming obligations for data services that the Commission cited to in the *FNPRM* “refer to the convenience of host

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<sup>2</sup> / Historically, both the industry and the Commission have used the term “data services” for those services described in the *Roaming Order* and *FNPRM* as “non-interconnected services.” SouthernLINC Wireless uses the terms “data services” and “non-interconnected services” interchangeably in its Comments and Reply Comments in this proceeding.

<sup>3</sup> / The Wireless Communications Association (WCA), a group representing primarily fixed broadband providers, also weighed in against data roaming. Their interest in this issue is surprising, given that roaming policy by definition relates to mobile services, and also given WCA’s explicit declaration that its members “do not provide CMRS (and thus are not subject to any sort of roaming obligation).” Comments of WCA at 2.

carriers, rather than the broader public interest.”<sup>4</sup> In addition, in their initial comments on the *FNPRM*, the only “public interest” concerns addressed by AT&T and Verizon are the speculative effects that extending the Commission’s automatic roaming obligations could have on their investment incentives, competitive positions, and network operations.<sup>5</sup> They do not address, nor do they seem concerned with, any other interests, such as the availability of and access to mobile data services for consumers who live and work in rural and underserved areas, the deployment of broadband services to rural and underserved areas, the ability of data roaming to facilitate communications for the disabled and the deaf and hard of hearing, or the benefits these services bring to public and personal safety of consumers. All of these have been identified by regional and rural carriers in this proceeding as important public interest benefits that would be served by the adoption of automatic roaming obligations for all non-interconnected mobile data services.<sup>6</sup>

## **II. AUTOMATIC ROAMING WILL ENSURE ONGOING INNOVATION AND COMPETITION AND IS IN THE PUBLIC INTEREST**

### **A. Automatic Roaming Will Promote Innovation and Competition**

In their opposition to any extension of the Commission’s automatic roaming requirements, the nationwide carriers once again argue, without any support or evidence, that the adoption of automatic roaming obligations for data services will “distort the market,” chill innovation, and discourage the build-out of advanced services. However, as the comments filed by SpectrumCo, Leap Wireless, US Cellular, and others make clear, these purely speculative

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<sup>4</sup> / Comments of US Cellular at 10.

<sup>5</sup> / See Comments of AT&T at 4 – 11; Comments of Verizon Wireless at 8 – 12.

<sup>6</sup> / See, e.g., Comments of SouthernLINC Wireless at 4 – 12; Comments of Leap Wireless at 5 – 6; Comments of RCA at 1 – 4; Comments of MetroPCS at 7 – 11; Comments of RTG/OPASTCO at 3 – 7.

arguments lack any support in – and are contradicted by – the business and operational realities of the wireless market.<sup>7</sup>

For example, SpectrumCo provides a detailed discussion demonstrating why the nationwide carriers' assertions that automatic roaming will encourage carriers to “piggyback” on other carriers' networks are unfounded. In summary, SpectrumCo points out that (1) carriers are permitted to charge appropriate prices for providing automatic roaming services (as long as they are just and reasonable) that allow for a profit; (2) roaming prices will impel carriers to build out their own networks and facilities in order to better control their costs; (3) carriers will continue investing in their own facilities in order to control and manage service quality and provide customers with a consistent experience, which is essential to a carrier's ability to compete; and (4) carriers are still compelled to comply with the build-out requirements of their wireless licenses.<sup>8</sup> As SpectrumCo stated, “To put it bluntly, in workably competitive markets, firms invest because they must.”<sup>9</sup>

Moreover, as Leap and others have pointed out, an automatic roaming obligation would only require a host carrier to provide roaming access. It would not require the host carrier to provide roamers with access to the proprietary information services that it has developed for its own subscribers, such as music download services, video services, or other innovative

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<sup>7</sup> / See, e.g., Comments of SpectrumCo at 20 – 26; Comments of Leap Wireless at 8 – 9 (citing to its Petition for Reconsideration filed Sept. 28, 2007, at 8 – 11); Comments of US Cellular at 5 – 7, 10; See also Comments of SouthernLINC Wireless at 14 – 18.

<sup>8</sup> / Comments of SpectrumCo at 20 – 26. SpectrumCo's arguments echo many of the same points SouthernLINC Wireless made in its initial comments. Comments of SouthernLINC Wireless at 14 – 17.

<sup>9</sup> / Comments of SpectrumCo at 25.

applications.<sup>10</sup> As MTA Wireless stated, the host carrier “would retain the prerogative to choose, as a business decision, whether to permit roaming customers to access such unique features” and “would in no manner lose the ability to promote [its] own proprietary multimedia service offerings.”<sup>11</sup> Thus, carriers would still have substantial incentives to develop and deploy innovative wireless offerings and applications that would continue to differentiate them from their competitors.

**B. The Lack of Automatic Roaming Discourages Investment by Regional and Rural Carriers**

In its comments, AT&T claims that “the carriers that have built out 3G networks to support [mobile broadband] services may well not have done so had an automatic roaming rule been in place.”<sup>12</sup> This assertion makes absolutely no sense. As SouthernLINC Wireless stated in its initial comments, there is no rational business or economic basis to believe that AT&T or Verizon Wireless – with well over 60 million customers each and in stiff retail competition with each other – would forego investment in broadband networks and services for fear that a small number of roaming customers might travel onto their systems on any given day.<sup>13</sup> Each company – no matter how large or small – has too much to lose with regard to its competitive position to forego investment simply out of fear of roamers.<sup>14</sup>

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<sup>10</sup> / See, e.g., Comments of Leap at 7 – 8; Comments of MTA Wireless at 6 – 7; Comments of RTG/OPASTCO at 7. For example, an automatic roaming obligation would not require Verizon to provide roamers with access to its proprietary “V-CAST” music and video services.

<sup>11</sup> / Comments of MTA Wireless at 7.

<sup>12</sup> / Comments of AT&T at 9.

<sup>13</sup> / Comments of SouthernLINC Wireless at 15 – 16.

<sup>14</sup> / For example, the existence of an open proceeding on automatic roaming certainly did not deter AT&T from officially launching 3G service in Hawaii earlier this month – a move that follows the launch of 3G services in Hawaii earlier this year by AT&T’s two largest retail competitors, Verizon Wireless and Sprint Nextel. See Jennifer Sudick, “AT&T Debuts 3G

Contrary to AT&T's assertion, the record instead indicates that the *lack* of an automatic roaming rules has in fact *inhibited* the build out of 3G networks and facilities and will continue to do so – unless and until the Commission takes action. For example, according to the Rural Cellular Association, several of its rural carrier members have been unable to obtain data roaming agreements with the large CDMA carriers, and the unavailability of data roaming has in fact discouraged investment by small and rural carriers in advances technologies and services.<sup>15</sup>

The fears expressed by AT&T and Verizon are especially peculiar in light of their sheer size and power in the market, which give them enormous competitive advantages over regional and rural wireless carriers. When AT&T applied for authorization to acquire Dobson Communications – an acquisition recently approved by the Commission<sup>16</sup> – it emphasized the advantages it could bring to Dobson's customers as a result of the merger. As AT&T stated to the Commission:

As a regional carrier, Dobson does not have the direct relationships with handset manufacturers, the economies of scale arising from a significantly larger subscriber base, the same access to capital, the technological and software capabilities, or other advantages that AT&T and other large carriers enjoy. As a result, Dobson does not have the ability to offer the same variety of handsets and features as offered by such carriers. For example, AT&T and other national carriers are able to take advantage of their scale and greater technological and software capabilities to negotiate with equipment manufacturers for customized or exclusive handsets. AT&T and other national carriers also have much larger technical staffs, thereby permitting them to roll out new handsets and features faster than Dobson. As a result of this transaction, however, Dobson customers

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Network,” Honolulu Star-Bulletin, Nov. 12, 2007, <http://starbulletin.com/2007/11/12/business/story02.html> (last viewed Nov. 27, 2007).

<sup>15</sup> / Comments of RCA at 4 and note 4.

<sup>16</sup> / *Applications of AT&T, Inc. and Dobson Communications Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 07-153, Memorandum Opinion and Order, FCC 07-196 (rel. Nov. 19, 2007).

will benefit from these large carrier advantages through access to a wider variety of handsets with new, innovative features.<sup>17</sup>

AT&T also described how it would provide Dobson's customers with a wider variety of rate plans than Dobson could offer on its own,<sup>18</sup> provide mobile and multimedia services not provided by Dobson,<sup>19</sup> provide service packages and discounts for combining wireless service with wireline service through AT&T's incumbent wireline network,<sup>20</sup> and provide services for business customers "which Dobson cannot match in terms of variety or features."<sup>21</sup> Similarly, Verizon has stated that its size will bring many of the same advantages to customers of Rural Cellular Corporation once its pending acquisition of that regional carrier is completed.<sup>22</sup>

In this light, it makes no sense that these two carriers, with all of their self-proclaimed competitive advantages over regional and rural carriers, would find their willingness to invest in new technologies and services "chilled" or "deterred" by any obligation to provide automatic roaming to such carriers at reasonable rates. Rather, it is apparent that the nationwide carriers believe that the appropriate way for consumers in rural and underserved areas to receive access to advanced wireless services is to compel them to become their customers through corporate acquisitions.

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<sup>17</sup> / *Applications of AT&T, Inc. and Dobson Communications Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 07-153, Description of Transaction, Public Interest Showing and Related Demonstrations (filed July 13, 2007) at 6.

<sup>18</sup> / *Id.* at 4 – 5.

<sup>19</sup> / *Id.* at 6.

<sup>20</sup> / *Id.* at 5 and 7.

<sup>21</sup> / *Id.* at 8 – 9.

<sup>22</sup> / *See Applications of Rural Cellular Corp., Transferor, and Cellco Partnership d/b/a Verizon Wireless, Transferee, for Consent to the Transfer of Control of Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act*, WT Docket No. 07-208, Description of Transaction, Public Interest Showing and Related Requests and Demonstrations (filed Sept. 4, 2007).

### C. Market Failure is Already Occurring for Data Roaming

AT&T asserts that there is no “actual evidence of market failure” for data roaming and that, consequently, automatic roaming obligations are unnecessary. Verizon similarly asserts that the competitive marketplace “can and will” ensure that roaming agreements for data services will be negotiated. However, the nationwide carriers’ assertions are flatly contradicted by the record of this proceeding.

As it noted in its initial comments, SouthernLINC Wireless has previously described to the Commission – both in this and other dockets – the ongoing refusal by Sprint Nextel and its predecessor companies (Nextel and Nextel Partners) to provide any data roaming services to SouthernLINC Wireless, despite SouthernLINC Wireless’ repeated requests.<sup>23</sup> The record shows that SouthernLINC Wireless’ experience is hardly unique. For example, the Rural Cellular Association stated that several of its members have been unable to obtain data roaming with the large CDMA-based carriers.<sup>24</sup>

MTA Wireless, a rural cooperative based in Alaska, described how ACS Wireless – its long-standing partner for voice roaming – “bluntly informed” MTA Wireless that it does not consider extending data roaming services to MTA Wireless “to be in its competitive interest.”<sup>25</sup>

According to MTA Wireless:

Given ACS Wireless’ refusal to deal with it for such services, MTA Wireless was forced to find another roaming partner capable of and willing to provide roaming access to broadband data services pending MTA Wireless’ ability to deploy its own facilities-based system utilizing its newly acquired AWS spectrum. The cost to MTA Wireless for reaching terms with its only other CDMA-based competitor was high. Digital required MTA Wireless, in consideration for providing non-

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<sup>23</sup> / See, e.g., Comments and Reply Comments of SouthernLINC Wireless, WT Docket No. 05-265 (filed Nov. 28, 2005, and Jan. 26, 2006, respectively).

<sup>24</sup> / See Comments of RCA at note 4.

<sup>25</sup> / Comments of MTA Wireless at 3.

switched data roaming privileges, to move all of its voice roaming traffic from ACS Wireless to Digitel. The best rate that Digitel would agree to was double the voice rate currently charged by ACS Wireless for this service. Moreover, the Digitel network is not as robust as that of ACS Wireless in the Eagle River-Anchorage market. As MTA Wireless had no leverage to bring ACS Wireless to the table to negotiate, it was forced to accept Digitel's terms, and was grateful they were even made available.<sup>26</sup>

MTA Wireless' comments thus provide clear evidence of market failure. Moreover, MTA Wireless' experience provides a graphic example of how failure in the market for data roaming services can spill over to undermine a carrier's ability to obtain just and reasonable roaming for mobile voice services as well, effectively nullifying the very regulatory and statutory rights under Sections 201 and 202 of the Communications Act that the Commission sought to clarify and reinforce through its *Roaming Order*.

#### **D. Capacity and Technical Issues Are Not a Barrier to Data Roaming**

AT&T asserts that a mandatory roaming obligation for data services would require wireless carriers "to reserve spectrum capacity for roaming users that are utilizing high-bandwidth applications such as video and sophisticated data applications," which could in turn limit the amount of spectrum available for the host carrier's own subscribers.<sup>27</sup> First, AT&T's concerns are purely speculative, as there has been no evidence presented of capacity issues caused by roamers on a network. In addition, both AT&T and Verizon state in their comments that they are already providing data roaming,<sup>28</sup> thus demonstrating that roamers do not place a significant burden on the host network and/or that any capacity problems have been satisfactorily resolved. Accordingly, they cannot now use capacity concerns as justification to arbitrarily shut the door on other potential roamers.

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<sup>26</sup> / *Id.* at 8.

<sup>27</sup> / Comments of AT&T at 7.

<sup>28</sup> / *See, e.g.,* Comments of AT&T at 8; Comments of Verizon Wireless at 10.

Moreover, AT&T's argument fails to acknowledge that its own subscribers are just as likely to be utilizing high-bandwidth applications, and their cumulative level of bandwidth usage will far exceed that of roamers. Presumably, AT&T – like any other carrier – has methods in place for managing the amounts of bandwidth used by its subscribers, such as regulations or restrictions on usage. As Corr Wireless pointed out, there is no reason that AT&T or any other host carrier could not simply apply the same management methods on a non-discriminatory basis to roamers as it does to its own subscribers.<sup>29</sup> Such an approach would ensure that the host carrier will be able to manage and balance network capacity and service quality to its own customers while appropriately accommodating roamers.

AT&T and Verizon also assert that there are a number of “difficult technical issues” involved in data roaming, such as the need to ensure that the authentication practices of both carriers are mutually supported, as well as interoperability issues regarding the methods for assigning IP addresses.<sup>30</sup> As SouthernLINC Wireless and others have pointed out, there is no reason why these issues should be a barrier to automatic roaming, since they are solvable and can always be worked out through good faith negotiations.<sup>31</sup> Even Verizon concedes that, while implementation of data roaming may be more difficult than roaming for other services, “these technical issues do not prevent carriers from entering into EvDO roaming agreements.”<sup>32</sup>

Finally, Verizon's recent announcement that it intends to open up its network to allow its customers to use non-Verizon wireless devices and applications clearly demonstrates that technical issues should not serve as a barrier to data roaming. According to Verizon:

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<sup>29</sup> / Comments of Corr Wireless at 4.

<sup>30</sup> / See Comments of AT&T at 9 – 10; Comments of Verizon Wireless at 12 – 14.

<sup>31</sup> / See, e.g., Comments of SouthernLINC Wireless at 20 – 21; Comments of US Cellular at 9; Comments of RCA at 6; Comments of MetroPCS at 15.

<sup>32</sup> / Comments of Verizon Wireless at 13 – 14.

In early 2008, the company will publish the technical standards the development community will need to design products to interface with the Verizon Wireless network. Any device that meets the minimum technical standard will be activated on the network ... Any application the customer chooses will be allowed on these devices.<sup>33</sup>

Based on this announcement, there is no reason to believe that Verizon could not likewise address any technical issues with potential data roaming partners.

#### **E. The Elimination of Artificial Regulatory Distinctions**

As SouthernLINC Wireless and other commenters have argued, the current distinctions between “interconnected” and “non-interconnected” services are vanishing in the real world, and the continuing use of the public switched network as the basis for drawing regulatory lines will only result in the adoption of policies and regulations that will be rendered obsolete within the next decade, if not sooner.<sup>34</sup>

Moreover, SouthernLINC Wireless agrees with RCA and others that consumers are either unaware or do not care whether their service is provided over the PSTN or via a “non-interconnected” platform, and thus any regulatory distinctions based on whether a service is “interconnected” or “non-interconnected” will serve only to create customer confusion, especially where both types of services are being provided on a single device.<sup>35</sup> For the same reason, SouthernLINC Wireless sees no reason to distinguish between narrowband and

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<sup>33</sup> / Verizon Wireless News Release, “Verizon Wireless to Introduce ‘Any Apps, Any Device’ Option for Customers in 2008,” November 27, 2007, <http://news.vzw.com/news/2007/11/pr2007-11-27.html> (last viewed Nov. 27, 2007).

<sup>34</sup> / See Comments of SouthernLINC Wireless at 12 – 14; Comments of Corr Wireless at 2; Comments of MetroPCS at 4.

<sup>35</sup> / See, e.g., Comments of RCA at 3.

broadband services and agrees with MetroPCS that such a distinction would likely create substantial confusion not only for carriers, but, more importantly, for consumers.<sup>36</sup>

As Commissioner Copps observed:

Consumers rely upon their mobile handsets these days for a dizzying array of data services ... Consumers should not have to be amateur engineers or telecom lawyers to figure out which mobile services they can expect to work when they travel. They should be able to assume that their phones will work to the fullest extent that technology permits, wherever they happen to be.<sup>37</sup>

### **III. THE COMMISSION HAS AMPLE AUTHORITY TO ADOPT AUTOMATIC ROAMING OBLIGATIONS**

In its initial comments, as well as in its correspondence to the Commission in July 2007, SouthernLINC Wireless established that the Communications Act provides the Commission with substantial statutory authority to take action with respect to roaming for all wireless services, regardless of the regulatory classification of the service provided to the retail end user.<sup>38</sup> This basis includes the Commission's Title II authority over telecommunications services such as wholesale automatic roaming, the Commission's plenary Title III authority over radio communication in general, and the Commission's ancillary jurisdiction under Title I of the Act. Moreover, as SouthernLINC Wireless demonstrated, each of these titles serves as a separate and independent basis for Commission action on roaming that is entirely consistent with case law and Commission precedent.

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<sup>36</sup> / See Comments of MetroPCS at 12.

<sup>37</sup> / *Roaming Order*, Separate Statement of Michael J. Copps (Approving in Part and Concurring in Part).

<sup>38</sup> / See Comments of SouthernLINC Wireless at 22 – 47; Letters from Christine M. Gill, Counsel for SouthernLINC Wireless, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 05-265 (filed July 2, 2007, and July 24, 2007) (respectively, “SouthernLINC Wireless July 2, 2007 *Ex Parte* Letter” and “SouthernLINC Wireless July 24, 2007, *Ex Parte* Letter”). SouthernLINC Wireless hereby incorporates its Comments and these letters by reference into its Reply Comments.

In summary, SouthernLINC Wireless demonstrated that:

- Automatic roaming is a wholesale carrier-to-carrier transmission service that is a telecommunications service subject to the provisions of Title II of the Communications Act, regardless of the nature of the retail service that is being provided to the end user;<sup>39</sup>
- Automatic roaming for all wireless services is subject to regulation pursuant to Title III of the Communications Act, which grants the Commission plenary authority over all radio transmission, regardless of whether it is a “telecommunications” or “information” service, whether it is being provided on a common carrier or private carrier basis, or even whether it is interconnected with or otherwise “touches” the public switched network;<sup>40</sup> and
- Automatic roaming for all wireless services can be regulated pursuant to the Commission’s authority under Title I of the Communications Act, regardless of how that service may otherwise be classified.<sup>41</sup>

As part of its analysis, SouthernLINC Wireless further demonstrated how the Commission not only has substantial statutory authority over automatic roaming, as described above, but also how the exercise of this authority is fully consistent with federal court and Commission precedent. This consistency includes the US Supreme Court’s decision in the *Brand X* case,<sup>42</sup> as well as the Commission’s own *Wireless Broadband Internet Access Order*,<sup>43</sup> in which the Commission held that wireless broadband Internet access is an information service and is not CMRS.<sup>44</sup>

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<sup>39</sup> / See Comments of SouthernLINC Wireless at 32 – 43.

<sup>40</sup> / *Id.* at 23 – 31.

<sup>41</sup> / *Id.* at 43 – 47.

<sup>42</sup> / *Nat’l Cable Telecomms. Ass’n v. Brand X Internet Services*, 545 U.S. 967 (2005) (“*Brand X*”).

<sup>43</sup> / *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, WT Docket No. 07-53, Declaratory Ruling, 22 FCC Rcd 5901 (2007) (“*Wireless Broadband Internet Access Order*”).

<sup>44</sup> / See Comments of SouthernLINC Wireless at 29 – 31, 39 – 43.

SouthernLINC Wireless' analysis of the Commission's authority has received strong support from and been endorsed by multiple commenters in this proceeding, including the Rural Cellular Association, Leap Wireless, and SpectrumCo.<sup>45</sup> Significantly, SouthernLINC Wireless' analysis has not been seriously challenged or refuted by AT&T, Sprint Nextel, or Verizon, all of whom erroneously assert that the Commission lacks the requisite authority to extend automatic roaming obligations to all non-interconnected mobile wireless services.

**A. The Nationwide Carriers Improperly Focus on Wireless Broadband Internet Access Service Rather Than on Wholesale Automatic Roaming Services**

AT&T, Sprint Nextel, and Verizon all argue that, because the Commission concluded in its *Wireless Broadband Internet Access Order* (or *WBIA Order*) that wireless broadband Internet access service is an information service and is not CMRS, the Commission is precluded from imposing automatic roaming obligations on data services.<sup>46</sup> The fundamental flaw in this argument is that it focuses on a specific retail service that is entirely separate and distinct from wholesale carrier-to-carrier automatic roaming, and it is therefore both overbroad and irrelevant.

As the Supreme Court made clear in its *Brand X* decision, the definition of a service or product offered by a company is determined by "what the consumer perceives to be the integrated finished product" that is being provided.<sup>47</sup> In the *WBIA Order* – as well as in the various court and Commission decisions on broadband Internet access services provided over cable modem, wireline, and Broadband over Power Line (BPL) platforms – the service in

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<sup>45</sup> / See Comments of RCA at 6 – 8; Comments of Leap Wireless at 2 – 4; Comments of SpectrumCo at 11 – 20; See also Comments of US Cellular at 9 – 10 (describing the Commission's authority under Titles I and III of the Act); Comments of Corr Wireless at 6 – 7 (same); Comments of MetroPCS at 13 – 14 (describing the Commission's authority under Title I of the Act).

<sup>46</sup> / See Comments of AT&T at 11 – 13; Comments of Sprint Nextel at 1 – 3; Comments of Verizon Wireless at 2 – 7.

<sup>47</sup> / *Brand X*, 545 U.S. at 990.

question was a retail service being provided to and received and paid for by retail end users.<sup>48</sup>

From the perspective of the retail consumer, the service in question in these cases is a fully integrated, finished Internet access offering.

With wholesale automatic roaming, on the other hand, the “integrated finished product” being provided to and received and paid for by the consumer – *i.e.*, the carrier customer – is transmission and nothing more.<sup>49</sup> Any functionality beyond transmission is supplied not by the host carrier, but by the roamer’s home carrier, either directly or through a third party service provider. Using BlackBerry service as an example, the host carrier provides a roaming BlackBerry user with transmission of his or her signals. The host carrier does not provide the roamer with the actual BlackBerry e-mail service, nor with any other functionality that generates, processes, or stores information.

In other words, contrary to the view expressed by Sprint Nextel, the service being provided to the roamer by the host carrier is not an information service. Rather, from both an operational perspective and (more importantly, under the *Brand X* analysis) the perspective of the roaming end user, any retail service or application that the roaming end user receives and pays for is provided by or through the roamer’s home carrier, not by the host carrier.<sup>50</sup> The

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<sup>48</sup> / See *WBIA Order*, 22 FCC Rcd at 5909 ¶¶ 19 – 21; See also *Brand X*, 545 U.S. 967; *Time Warner Telecom, Inc. v. FCC*, No. 05-4769 (3d Cir. Oct. 16, 2007); *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798 (2002); *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005) (“*Wireline Broadband Internet Access Services Order*”) (full caption omitted); *In the Matter of United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband Over Power Line Internet Access Service as an Information Service*, WC Docket No. 06-10, Memorandum Opinion and Order, 21 FCC Rcd 13281 (2006).

<sup>49</sup> / See, e.g., Comments of Leap Wireless at 2; Comments of SpectrumCo at 12.

<sup>50</sup> / See, e.g., Comments of RCA at 7; Comments of SpectrumCo at 13 – 14.

roaming retail end user in fact does not have any relationship with the host carrier – there is no contract between them, no billing relationship, no marketing relationship, and no customer care or service. All of these relationships exist exclusively between the roamer and his or her home carrier or, at the underlying wholesale level, between the home carrier and the host carrier.<sup>51</sup>

The distinction between retail wireless broadband Internet access service and wholesale automatic roaming service is also evident in the manner in which roaming access is ultimately provided to the retail end user. As AT&T noted in its comments, the Commission observed in the *WBIA Order* “that ‘an end user subscribing to wireless broadband Internet access service expects to receive (and pay for) a finished, functionally integrated service that provides access to the Internet, rather than receive (and pay for) two distinct services – Internet access service and a distinct transmission service.’”<sup>52</sup> First, as discussed above, the end user subscriber expects to receive (and pay for) this finished, functionally integrated service from his or her home carrier. Second, retail subscribers of mobile wireless services understand and expect that, when they are roaming, they will generally pay a separate roaming charge to their home carrier in addition to the fee they pay for Internet access service.<sup>53</sup> In other words, when using a service while roaming, the end user subscriber expects to receive and pay for two distinct services – Internet access service (through the home carrier) and a distinct transmission service (*i.e.*, roaming).<sup>54</sup>

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<sup>51</sup> / See, e.g., Comments of RCA at 7.

<sup>52</sup> / Comments of AT&T at 12 (quoting the *WBIA Order*, 22 FCC Rcd at 5913 ¶ 31).

<sup>53</sup> / Alternatively, retail subscribers who are not charged for roaming are generally subscribed to higher-priced service packages that include “no roaming charges” as one of their features. Because consumers understand that roaming incurs extra charges in general, they are willing to pay the higher prices for such service packages as a trade-off.

<sup>54</sup> / It is also worth noting that the long-standing practice of passing roaming costs along to subscribers as a separate retail roaming charge was established as a business practice by the industry itself, not as a result of any regulatory or other action by the Commission.

Moreover, it is irrelevant that a carrier customer which purchases wholesale automatic roaming service from another carrier may utilize this wholesale transmission service as a component of a functionally integrated, finished information service that it provides to its own retail customers. As the Commission explicitly held in its recent *Time Warner Order*, the classification of any retail service being provided via wholesale automatic roaming has no bearing on the classification of the underlying wholesale automatic roaming service.<sup>55</sup>

**B. The Nationwide Carriers' Arguments Regarding "Regulatory Parity" Are Misplaced**

AT&T, Sprint Nextel, and Verizon also argue that the adoption of automatic roaming obligations for data services would violate the "regulatory parity" that the Commission sought to achieve between wireless broadband Internet access services and broadband services provided over different platforms, including wireline, cable modem, and BPL. This argument overlooks the simple fact that automatic roaming would, by definition, apply only to services that are *mobile*. The mobility of these services is an essential distinction that affects everything from consumer perception and expectations to the public interest goals that are implicated.

In the *Roaming Order*, the Commission found that "most wireless subscribers expect to roam automatically on other carriers' networks when they are out of their home service area." This expectation extends to mobile data services as well, particularly when data and voice services are provided together over a single handset. Mobility also means that these services can

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<sup>55</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, 3520-21 ¶ 15 (2007) ("*Time Warner Order*"). By the same token, the classification of the underlying wholesale automatic roaming service as a Title II transmission service would have no bearing on the regulatory classification of any wireless broadband Internet access services provided at the retail level – *i.e.*, the retail service would still be classified as an information service pursuant to the *WBIA Order*.

satisfy important public interest needs, such as providing emergency communications during public or personal emergencies. Contrary to AT&T's contention, an automatic roaming obligation would not cause investment to migrate away from mobile broadband to other services, because it is the unique quality of mobility – and the specific consumer needs and wants that mobility fulfills – that has drawn billions of dollars of investment (as well as millions of consumers) to these services in the first place. The mobile nature of these services ensures that they will continue to attract as much, if not more, investment and consumer interest as other broadband technologies or platforms.

If it should decline to extend its automatic roaming obligations to include non-interconnected data services, the Commission will achieve regulatory parity for mobile wireless services by stripping away the very characteristic that sets them apart, thus denying millions of consumers – particularly those in rural and underserved areas and in underserved market segments – the very benefits that these services are expected to bring.

**C. Adoption of an Automatic Roaming Obligation is Consistent With Statutory Policies and Objectives**

The nationwide carriers assert that extending automatic roaming obligations to all non-interconnected mobile data services would contradict various statutory provisions and policies intended to promote the deployment of advanced technologies and infrastructure. However, as demonstrated by numerous commenters in this proceeding, the extension of automatic roaming obligations to these services would in fact advance the policy goals and objectives of the very provisions cited to by the nationwide carriers.<sup>56</sup>

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<sup>56</sup> / See, e.g., Comments of SouthernLINC Wireless at 5 – 20; Comments of Leap Wireless at 5 – 9; Comments of SpectrumCo at 3 – 10, 21 – 26; Comments of RCA at 3 – 4; Comments of US Cellular at 10; Comments of MetroPCS at 7 – 11; Comments of RTG/OPASTCO at 3 – 7.

For example, AT&T asserts that automatic roaming for data services would contradict the “deregulatory tenor” of Section 706 of the Telecommunications Act of 1996,<sup>57</sup> which AT&T contends directs the Commission to forbear from regulation in order to remove barriers to infrastructure investment.<sup>58</sup> While Section 706(a) does indeed direct the Commission to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans,”<sup>59</sup> regulatory forbearance is not the only tool placed at the Commission’s disposal. Rather, in order to encourage the deployment of such services to all Americans, Section 706(a) directs the Commission to do so “by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, *or other regulating methods* that remove barriers to infrastructure investment.”<sup>60</sup>

As discussed above, several commenters have demonstrated how an automatic roaming obligation for non-interconnected mobile data services will remove significant barriers to and create strong incentives for investment in advanced services and infrastructure, not only by new entrants and regional and rural carriers, but also by the large incumbents as well.<sup>61</sup> These incentives will serve to encourage the timely deployment of advanced services, including broadband services, to all Americans, as envisioned in Section 706(a).<sup>62</sup>

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<sup>57</sup> / Codified as 47 U.S.C. § 157 nt.

<sup>58</sup> / See Comments of AT&T at 4 and 6; Comments of Sprint Nextel at 4 – 5.

<sup>59</sup> / 47 U.S.C. § 157 nt.

<sup>60</sup> / *Id.* (emphasis added)

<sup>61</sup> / See note 56 *supra*.

<sup>62</sup> / *Id.* In its Comments, AT&T also cites to the language of Section 230(b)(2) of the Communications Act, which states that it is the policy of the United States to preserve “the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” Comments of AT&T at 3 – 4

In addition, as demonstrated above and by several commenters in this proceeding, automatic roaming obligations would advance the objectives set forth in Sections 309(j)(3)(A) and (D) of the Communications Act, which require the Commission to “protect the public interest in the use of the spectrum,” to promote “the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays,” and to promote “efficient and intensive use of the electromagnetic spectrum.”<sup>63</sup>

The Commission has often stated that “[r]apid deployment and ubiquitous availability of broadband services across the country are among the Commission’s most critical policy objectives.”<sup>64</sup> The Commission has also recognized the essential role of wireless services in the deployment of broadband to rural and underserved areas, and Chairman Martin has advised Congress that the Commission “has tried to ensure these areas have the same access to broadband enjoyed elsewhere in the country.”<sup>65</sup> However, without access to automatic roaming for all mobile wireless services, consumers in rural and underserved areas will be effectively isolated and cut off from the social and economic benefits these services are bringing elsewhere in the nation. As a result, these consumers will suffer from a “wireless divide” similar to (and even compounding) the “digital divide” in the broadband services that the government is seeking

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(quoting 47 U.S.C. § 230(b)(2)). This language appears in the limited context of specific provisions adopted by Congress to allow service providers to engage in the private blocking and screening of offensive material without fear of penalty or civil liability. Accordingly, this provision is irrelevant to the question of automatic roaming.

<sup>63</sup> / 47 U.S.C. § 309(j)(3)(A), (D).

<sup>64</sup> / *See, e.g., Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, et al.*, WT Docket No. 06-150, CC Docket No. 94-102, WT Docket Nos. 01-309; 03-264; 06-169, PS Docket No. 06-229, WT Docket Nos. 96-86; 07-166, Second Report and Order, FCC 07-132 (rel. Aug. 10, 2007) (“700 MHz Order”) at ¶ 196 (full caption omitted).

<sup>65</sup> / Written Statement of Chairman Kevin J. Martin Before the Committee on Small Business, U.S. House of Representatives, Oct. 10, 2007 at 3.

to eliminate.<sup>66</sup> Accordingly, the extension of automatic roaming obligations to all mobile wireless services is both appropriate and necessary to achieving the objectives set forth in Section 706(a) of the Telecommunications Act, Sections 309(j)(3)(A) and (D) of the Communications Act, and the Commission's own critical policy goals.

**D. The Commission Has Ample Authority Under Title II, Title III and Title I of the Act**

The nationwide carriers argue that, because wireless broadband Internet access has been classified as an information service, the Commission lacks the authority to adopt automatic roaming obligations under Title II of the Communications Act. Verizon and Sprint Nextel further argue that, under Section 153(44) of the Communications Act, a telecommunications carrier "shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services."<sup>67</sup> SouthernLINC Wireless has already demonstrated above that automatic roaming is not an information service but is, in fact, a separate transmission service that fully meets the definition of a telecommunications service. Accordingly, carriers that provide automatic roaming are subject to common carrier regulation for the provision of that service and are thus subject to the provisions of Title II.

Sprint Nextel further argues that, under Title II, only large incumbent local exchange carriers have an obligation to unbundle their services and networks, and hence wireless carriers cannot be forced to unbundle their own services to provide automatic roaming as a stand-alone transmission service.<sup>68</sup> SouthernLINC Wireless has never argued that a carrier that does not

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<sup>66</sup> / See, e.g., Comments of Leap Wireless at 6 – 7; Comments of RCA at 4; Comments of RTG/OPASTCO at 4.

<sup>67</sup> / 47 U.S.C. § 153(44); Comments of Verizon Wireless at 5; Comments of Sprint Nextel at 7 – 8.

<sup>68</sup> / Comments of Sprint Nextel at 8.

offer automatic roaming to anyone should be compelled to provide this service. However, once a carrier makes the decision to provide automatic roaming service to another carrier, it must make this service available to all technically compatible carriers upon request on a just, reasonable, and nondiscriminatory basis. This result is also entirely consistent with the Commission's *WBIA Order*, which states that "if a wireless broadband Internet access provider chooses to offer the telecommunications transmission component as a telecommunications service, then it is a common carrier subject to Title II."<sup>69</sup>

Verizon argues that the Commission also lacks the authority to adopt the proposed automatic roaming obligations under Title III, asserting that when the Commission relied in part on its Title III jurisdiction in imposing roaming obligations on CMRS carriers in 1996, it was not addressing carriers' provision of information services, and that decision thus "does not bear on the issue now raised in the *FNPRM*."<sup>70</sup> Verizon also argues that the Commission's 1996 decision preceded the findings of the *WBIA Order*, and thus "the statutory requirements set forth in Section 153(44) must govern."<sup>71</sup> These arguments not only lack any support but are, in fact, undercut by the very sources that Verizon relies on.

Nowhere in the Act or in Commission precedent is it stated that the Commission's plenary Title III authority is circumscribed in any way by the regulatory classification of a particular service. The *WBIA Order* itself, on which Verizon now relies, explicitly held that the "[a]pplication of provisions governing access to and use of spectrum (and their corresponding Commission rules) is not affected by whether the service using the spectrum is classified as a telecommunications or information service under the Act. Accordingly, our decision today to

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<sup>69</sup> / *WBIA Order*, 22 FCC Rcd at 5913-5914 ¶ 33.

<sup>70</sup> / Comments of Verizon at 7.

<sup>71</sup> / *Id.*

classify wireless broadband Internet access services as information services does not affect the applicability of Title III provisions and corresponding Commission rules to these services.”<sup>72</sup> As this language makes abundantly clear, the Commission has ample authority under Title III to adopt automatic roaming obligations for all mobile wireless services, regardless of their regulatory classification.<sup>73</sup>

Finally, the nationwide carriers assert that the Commission cannot utilize its ancillary authority under Title I to adopt automatic roaming obligations for non-interconnected mobile data services. First, Verizon and Sprint Nextel argue that, in order to invoke its Title I authority, the Commission must reference specific statutory authority for its stated goals and demonstrate how its action will promote those policies.<sup>74</sup> This formulation is similar to the one used by the Commission, which states that it may use its Title I ancillary jurisdiction when (1) Title I gives the Commission subject matter jurisdiction over the service in question, and (2) the assertion of jurisdiction is reasonably ancillary to the effective performance of [its] various responsibilities.<sup>75</sup>

The Commission’s subject matter jurisdiction over automatic roaming for mobile wireless services is clearly established in Section 2 of the Communications Act, which states that “[t]he provisions of this act shall apply to all interstate and foreign communications by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States, and to all persons engaged within the United States in such

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<sup>72</sup> / *WBIA Order*, 22 FCC Rcd at 5914-5915 ¶ 36.

<sup>73</sup> / In a footnote to its comments, Sprint Nextel concedes that “Section 303(r) certainly permits the FCC to adopt rules implementing Title III provisions,” but, in a statement that defies all logic, asserts that “a data roaming mandate has nothing to do with the radio provisions contained in Title III.” Comments of Sprint Nextel at note 8.

<sup>74</sup> / See Comments of Verizon Wireless at 5 – 6; Comments of Sprint Nextel at 5 – 6.

<sup>75</sup> / See *United States v. Southwestern Cable Co.*, 392 U.S. 157, 177-178 (1968).

communication or such transmission of energy by radio, and to the licensing and regulating of all radio stations as hereinafter provided.”<sup>76</sup>

Other statutory provisions addressing the Commission’s relevant responsibilities include Section 1 of the Act, which establishes the Commission’s authority and responsibility to make available “to all the people of the United States ... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges ... for the purpose of promoting safety of life and property through the use of wire and radio communication.”<sup>77</sup> Further relevant provisions are contained throughout Title III, including, but not limited to, Section 301, Section 303(b), Section 303(g), Section 303(r), and Section 309(j)(3).<sup>78</sup>

SouthernLINC Wireless and others have provided numerous examples of the ways in which the adoption of automatic roaming obligations for all mobile wireless services will enable the Commission to effectively meet the statutory objectives and responsibilities set forth in these and other provisions of the Act.<sup>79</sup> Because the adoption of automatic roaming obligations for all mobile wireless services is thus “reasonably ancillary” to the Commission’s effective performance of these clearly-delineated statutory responsibilities, the Commission is well within the scope of its Title I authority as delineated by the Supreme Court.<sup>80</sup>

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<sup>76</sup> / 47 U.S.C. § 152(a).

<sup>77</sup> / 47 U.S.C. § 151.

<sup>78</sup> / 47 U.S.C. §§ 301, 303(b), 303(g), 303(r), and 309(j)(3).

<sup>79</sup> / See, e.g., Comments of SouthernLINC Wireless at 4 – 20, 43 – 47; Comments of Leap Wireless at 3 – 4, 5 – 9; Comments of SpectrumCo at 4 – 11, 16; Comments of MetroPCS at 7 – 11; Comments of RCA at 1 – 4; Comments of RTG/OPASTCO at 3 – 7; See also Carrier Group Joint *Ex Parte* Letter, WT Docket No. 05-265 (filed July 18, 2007); SouthernLINC Wireless July 2, 2007 *Ex Parte* Letter at 1 – 4.

<sup>80</sup> / *FCC v. Midwest Video*, 440 U.S. 689 (1979) (“*Midwest Video IP*”). The court held in *Midwest Video II* that, because Congress had strongly disapproved of the type of regulations the

Finally, AT&T and Sprint Nextel argue that it is inappropriate for the Commission to exercise its Title I authority when “particular provisions in the Act make clear that the kind of regulation at issue is disfavored.”<sup>81</sup> AT&T points to several provisions that it asserts indicate a policy against regulation, such as Section 706 of the Telecommunications Act, Sections 309(j)(3)(A) and (D) of the Communications Act, and Section 230(b)(2) of the Communications Act.<sup>82</sup> However, as demonstrated above and in Section III.C. of these reply comments, the adoption of automatic roaming obligations for all non-interconnected mobile data services is not only consistent with but would also advance the very policy goals and objectives set forth in these and other statutory provisions. Sprint Nextel argues that the Commission’s exercise of its Title I authority would be “antithetical” to Congress’ intent that ISPs not be subject to common carrier regulation.<sup>83</sup> This argument is irrelevant, because any carrier that is providing automatic roaming is providing a telecommunications service, not an information service, and therefore cannot be considered an ISP.

#### **IV. CONCLUSION**

The comments filed in this proceeding demonstrate that there is both overwhelming support and a compelling public interest need for the extension of automatic roaming obligations to all non-interconnected mobile wireless services – a need that is opposed only by the nation’s largest wireless carriers, who frame their concerns for the “public interest” in terms of

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Commission had imposed on cable TV operators (as evidenced by the statutory language of Section 3(h) of the Communications Act), the Commission had exceeded its Title I authority. In this case, by contrast, the adoption of automatic roaming obligations for all non-interconnected mobile data services is not only consistent with, but would advance the very policy goals and objectives set forth in several provisions of the Act, as well as enable the Commission to satisfy its explicit statutory responsibilities under the Act.

<sup>81</sup> / Comments of AT&T at 13; *See also* Comments of Sprint Nextel at 6.

<sup>82</sup> / *See* Comments of AT&T at 15 – 16.

<sup>83</sup> / Comments of Sprint Nextel at 6 – 7.

speculative and unfounded assertions regarding the potential effect that fair roaming access could have on their investment incentives and market dominance.

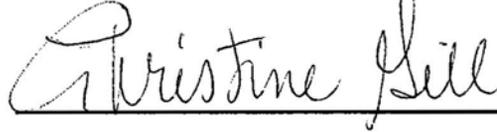
Contrary to the assertions of AT&T and Verizon, extending automatic roaming obligations to all non-interconnected mobile wireless services will in fact encourage investment in, and the deployment of, competitive and innovative advanced wireless services. Moreover, the adoption of automatic roaming obligations will address compelling public interest needs such as the availability of and access to mobile data services for consumers who live and work in rural and underserved areas, the deployment of broadband services to rural and underserved areas, the ability of data roaming to facilitate communications for the disabled and the deaf and hard of hearing, and the benefits these services bring to the public and personal safety of consumers.

As demonstrated herein, the Commission thus not only has ample statutory authority to extend its automatic roaming rules to all mobile wireless services, but it also has an affirmative statutory duty to do so in order to make available “to all the people of the United States ... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges ... for the purpose of promoting safety of life and property through the use of wire and radio communication.”

**WHEREFORE, THE PREMISES CONSIDERED**, SouthernLINC Wireless respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

**SOUTHERNLINC WIRELESS**

A handwritten signature in black ink that reads "Christine Gill". The signature is written in a cursive style and is positioned above a solid horizontal line.

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