

T-Mobile USA, Inc.

**The Roaming Home
Market Exclusion Should
Be Reconsidered**

WT Docket No. 05-265

March 6, 2008

Roaming Is Essential to T-Mobile's Business Strategy

- As the fourth largest “national” U.S. carrier, T-Mobile relies on extensive roaming agreements with other GSM/GPRS carriers to provide its customers with seamless coverage, especially in rural areas.
- T-Mobile takes advantage of opportunities to expand its facilities-based network when it is economically rational and feasible to do so, such as through:
 - Acquisitions (e.g., SunCom Wireless) and
 - Building new facilities (e.g., construction in eastern Tennessee).

Position Overview

- The home market exclusion has unintended negative consequences:
 - Hampers the continued development of the wireless marketplace to the detriment of consumers;
 - Eliminates regulatory parity among wireless carriers;
 - Encourages discriminatory behavior;
 - Upsets providers' reasonable expectations by *de facto* amending existing build-out requirements; and
 - Harms competition and consumers.
- A wide range of wireless carriers, including small, midsize and large carriers, support reforming the home market exclusion.

Position Overview

- The home market exclusion effectively *removes* longstanding Title II protections in a carrier's home market.
 - Title II oversight can be consistent with a competitive marketplace.
 - Title II protections – especially through the complaint process – help ensure continued competition in the CMRS marketplace.
 - But the exclusion has removed those protections wherever home carriers have “spectrum usage rights.”
- T-Mobile's petition for reconsideration proposed redefining the exclusion to ensure all carriers have Title II protections:
 - The exclusion should apply only to areas where a home carrier has an operating CMRS network, not everywhere that a home carrier has “spectrum usage rights.”
- With this narrow fix, Title II will help ensure that roaming agreements will take place on an even playing field.

Reasons To Change the Home Market Exclusion

- The exclusion does not take into account the economic, technical, legal, or practical obstacles involved in building out a wireless network.
- Especially where a carrier has no existing infrastructure, constructing new facilities takes time because of issues such as state/local tower-siting, engineering challenges, environmental factors, and obtaining backhaul facilities.
- The exclusion effectively punishes facilities-based carriers despite the tremendous upfront investments made in spectrum and initial build out.

Reasons To Change the Home Market Exclusion

- Various roaming scenarios demonstrate the complicated issues and factors that affect carriers' roaming decisions.
 - Build-out of “island-like” licensed areas becomes more economically rational after obtaining spectrum and operations in adjacent markets (e.g., Knoxville, TN).
 - Facilities siting issues can leave roaming as the only option by which a wireless carrier can provide service to customers (e.g., State College, PA).
 - It takes time to replace previously existing coverage when small rural roaming partner is acquired (e.g., West Virginia).

Reasons To Change the Home Market Exclusion

- When appropriate, T-Mobile leases or sells spectrum to other carriers that can build out an area more quickly. For example:
 - Providing spectrum to and partnering with other wireless carriers that can more quickly build and operate a GSM network in exchange for long term, affordable roaming rates. (e.g., Western Wireless).
 - Selling spectrum to local exchange carriers that seek to provide wireless services in their local territory (e.g., Northeast Pennsylvania).
 - Selling spectrum to smaller wireless carriers that can more quickly construct GSM networks in rural areas (e.g., Commnet Wireless).

Reasons To Change the Home Market Exclusion

- A carrier's inability to secure roaming services at reasonable rates, terms and conditions could result in:
 - Accepting roaming services at unreasonable rates, terms and conditions;
 - Not accepting roaming services; or
 - Uneconomic build out.
- Vital resources are directed away from pro-consumer features and services and areas where it may be more economical and practical to build out, and consumers face losing roaming coverage.
- These results are the antithesis of the FCC's stated policy goal of promoting affordable, seamless wireless coverage when it adopted the automatic roaming rule.

The Jan. 30 Furchtgott-Roth Declaration: Weaknesses of the Current Home Market Exclusion

- The exclusion creates a discriminatory market environment.
 - Shifts the legal presumption from regulatory parity to a preference for discrimination based upon license status.
- FCC policies have always provided wireless providers with the incentive to acquire spectrum licenses as opposed to acting solely as resellers and roamers.
- But the current exclusion makes it more difficult for new market entrants to deploy competitive services and may discourage carriers from holding licenses.

The Jan. 30 Furchtgott-Roth Declaration: Weaknesses of the Current Home Market Exclusion

- Despite the FCC's intent that the home market exclusion promote build out of infrastructure in all geographic areas, the opposite outcome appears more likely.
 - Adopting more stringent construction requirements on a prospective basis, such as those that apply to 700 MHz licenses, better promotes the FCC's objectives.
- The current exclusion may harm American consumers.
 - U.S. consumers currently enjoy some of the lowest wireless service rates in the world and are unaware of roaming boundaries under existing arrangements.
 - This situation is likely to change as roaming services become less efficient as a result of the home market exclusion.