

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)

Implementation of Section 6002(b) of the)
Omnibus Budget Reconciliation Act of 1993)
Annual Report and Analysis of Competitive)
Market Conditions With Respect to)
Commercial Mobile Services)

WT Docket No. 08-27

REPLY COMMENTS OF T-MOBILE USA, INC.

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TABLE OF CONTENTS

INTRODUCTION AND SUMMARY..... 1

**I. RECENT COMMISSION ACTIONS WILL FURTHER ENHANCE THE
COMPETITIVENESS OF WIRELESS SERVICES 2**

A. Number Portability..... 3

B. Spectrum Auctions..... 4

**II. THE COMMISSION SHOULD ENSURE THAT WIRELESS CARRIERS CAN
CONTINUE TO PROVIDE RELIABLE, UBIQUITOUS SERVICE..... 5**

A. The Commission Should Move Quickly To Modify the Home Market Exclusion .. 6

**B. The Commission Should Prescribe Reasonable and Transparent Procedures for
CMRS Pole Attachments..... 7**

**III. THE MARKET FOR SPECIAL ACCESS SERVICE IS NOT COMPETITIVE,
RESULTING IN INCREASED COSTS TO CMRS CONSUMERS..... 8**

**IV. THE COMMISSION SHOULD REJECT REQUESTS TO IMPOSE
UNNECESSARY NEW REGULATIONS ON WIRELESS PROVIDERS 10**

CONCLUSION 15

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REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”) hereby submits its reply comments on the Federal Communications Commission’s (“FCC’s” or “Commission’s”) Public Notice (“Notice”)^{1/} regarding the state of competition in the commercial mobile radio service (“CMRS”) industry.

INTRODUCTION AND SUMMARY

As the Commission has found year after year, the CMRS marketplace is vibrantly competitive, and wireless carriers, including T-Mobile, continue to introduce new and exciting services, technologies, and pricing options.^{2/} The Commission’s recent actions streamlining number porting and auctioning new spectrum for commercial wireless use will better enable wireless carriers such as T-Mobile to respond to consumer demand. Nevertheless, T-Mobile is

^{1/} Public Notice, Wireless Telecommunications Bureau Seeks Comment on Commercial Mobile Radio Services Market Competition, WT Docket No. 08-27, DA No. 08-453 (rel. Feb. 25, 2008).

^{2/} T-Mobile holds licenses covering 284 million people across the U.S. In addition, T-Mobile USA operates one of the largest Wi-Fi (802.11b) wireless broadband (WLAN) networks in the country (including roaming sites), available in 9,700 convenient public access locations nationwide, including Starbucks locations where T-Mobile will provide HotSpot Wi-Fi service either directly or through a roaming agreement with AT&T for at least the next five years. T-Mobile also offers HotSpot @Home, a revolutionary new service and phone that provides unlimited nationwide calling in the home via the subscriber’s WiFi network and outside the home over T-Mobile’s nationwide GSM network. In January 2008, J.D. Power and Associates announced that, for the seventh consecutive reporting period, T-Mobile ranks highest among the five largest wireless carriers for customer service.

concerned about several pending matters that have the potential to undermine the wireless industry's focus on innovation and providing quality services to consumers. In particular, the Commission can help promote seamless, ubiquitous wireless service by revising the "home market exclusion" to its automatic roaming requirement and ensuring that CMRS providers have access to poles on fair and reasonable rates, terms, and conditions. Additionally, the Commission should reform special access pricing rules. The inability of CMRS providers to purchase essential special access services from incumbent local exchange carriers ("ILECs") at reasonable rates, terms, and conditions continues to threaten the development of both intramodal and intermodal competition.^{3/} Finally, in a number of pending rulemakings concerning early termination fees, state regulation of CMRS, short codes/SMS, and network management, the Commission should ensure that the Congressionally-mandated goal of a uniform, national CMRS market where competition is the primary regulator is given the appropriate substantial weight.

I. RECENT COMMISSION ACTIONS WILL FURTHER ENHANCE THE COMPETITIVENESS OF WIRELESS SERVICES

In the past year, the Commission has taken important steps to enhance the competitiveness of wireless services and thereby increase consumer welfare. First, the Commission's recent *Declaratory Ruling*^{4/} simplifying local number portability ("LNP") validation should ease the process for consumers of switching from a wireline to a wireless

^{3/} T-Mobile and other CMRS providers depend on wireline special access services, such as DS1s, to knit together their networks. These special access services, and especially the crucial initial links from cellular base stations to ILEC central offices, are generally available only from a single provider – the ILEC itself.

^{4/} *Telephone Number Requirements For IP-Enabled Services Providers, Local Number Portability Porting Interval and Validation Requirements, IP-Enabled Services, Telephone Number Portability, CTIA Petitions For Declaratory Ruling on Wireline-Wireless Porting Issues, Final Regulatory Flexibility Analysis, Numbering Resource Optimization, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, WC Docket Nos. 07-243, 07-244, and 04-36, CC Docket Nos. 95-116 and 99-200, FCC 07-188 (rel. Nov. 8, 2007) ("LNP Declaratory Ruling" or "LNP Further Notice").*

provider without having to relinquish phone numbers. Second, the Commission has addressed wireless spectrum scarcity by identifying and auctioning additional spectrum for licensed commercial use. With respect to both these issues, however, the Commission can and should take additional steps.

A. Number Portability

In 2006, T-Mobile and Sprint Nextel filed a Petition for Declaratory Ruling that sought to streamline the number porting process and thereby limit the use of excessive information requirements as a means of obstructing or delaying the porting process.^{5/} While the wireless industry years ago voluntarily adopted a uniform and efficient process for intramodal wireless LNP, wireline carriers have resisted all efforts to move in that direction. Commission assistance in simplifying the number porting process therefore is essential to enable consumers to move numbers promptly and efficiently from one carrier to another, particularly when the port is intermodal, *i.e.*, from a wireline to a wireless carrier.

In its *2007 LNP Declaratory Ruling*, the Commission took an important first step by requiring that validation of a simple port request be based on no more than four data fields.^{6/} ILECs have until July 31, 2008 to meet this requirement^{7/} and, as the wireless industry's years of experience with LNP demonstrates, there is no justification for further delay. Additional regulatory involvement may be needed, however, to ensure that ILECs continue down the path the Commission has set for them.

^{5/} See Petition For Declaratory Ruling filed by T-Mobile USA, Inc. and Sprint Nextel Corporation, CC Docket No. 95-116 (filed Dec. 20, 2006) ("*LNP Petition*").

^{6/} *LNP Declaratory Ruling* ¶¶ 47-48.

^{7/} In February 2008, the Commission delayed implementation of the four-fields requirement until September 30, 2008 for Embarq and until July 31, 2008 for all other affected companies. See *Local Number Portability Porting Interval and Validation Requirements, Telephone Number Portability*, Order, WC Docket No. 07-244, CC Docket No. 95-116, FCC 08-31 (rel. Feb. 8, 2008).

In particular, as T-Mobile explained in its comments in response to the *LNP Further Notice*, it is essential that the Commission require the industry to adopt a standardized port request form for intermodal ports.^{8/} The wireless industry's long experience with such a form demonstrates that it is useful in facilitating prompt and accurate ports. Currently, each wireline carrier uses its own individual form—sometimes multiple forms within the same company—which is highly inefficient and inevitably leads to errors and delays. If the industry cannot or will not come to a consensus on the appropriate information to be exchanged to accomplish a wireline-wireless port in the near future, the Commission should refer the form's development to the North American Numbering Council. In addition, the Commission should shorten the intermodal porting interval to one business day.^{9/} Only when wireline-wireless porting becomes as effortless as porting between two wireless carriers can the Commission be assured that the objectives of its LNP rules are being achieved – namely, increased choice for consumers and enhanced telecommunications competition.

B. Spectrum Auctions

To address the persistent problem of spectrum scarcity for CMRS, the Commission has responded in the best way possible—by auctioning additional spectrum. U.S. wireless carriers today do more with less than do carriers in almost any other nation in the world. As CTIA has recently noted, of the top ten OECD markets, only three—South Korea, Canada, and Mexico—have allocated less spectrum for commercial wireless than have the United States.^{10/}

^{8/} See Comments of T-Mobile USA, Inc., WC Docket No. 07-244, CC Docket No. 95-116 (filed March 24, 2008), at 3-6.

^{9/} See *id.* at 6-10.

^{10/} See CTIA *Ex Parte* Communication in WT Docket Nos. 07-71 and 05-194, dated January 8, 2008, at 3 (“CTIA January 8 *Ex Parte*”).

Recent auctions will help alleviate this spectrum crunch. Auction 76 will add 1,091 licenses in the 700 MHz band.^{11/} Auction 66 awarded 1,087 licenses covering 90 MHz of spectrum in the AWS band. As CTIA has reported, however, even if one includes the as-yet operational AWS and 700 MHz spectrum in the calculation, each megahertz of spectrum allocated for commercial wireless use in the United States serves nearly 828,000 customers (on a MHz-POP basis), compared to only 202,000 subscribers per megahertz of spectrum in the United Kingdom.^{12/} As new wireless data services and products become available, more unencumbered commercial spectrum—and not just more efficient use of what we have—will be needed to provide the speeds and coverage that consumers increasingly demand.

II. THE COMMISSION SHOULD ENSURE THAT WIRELESS CARRIERS CAN CONTINUE TO PROVIDE RELIABLE, UBIQUITOUS SERVICE

T-Mobile and other wireless carriers are continuously striving to extend their coverage, enlarge their networks, and fill in gaps in coverage so that consumers can receive the most reliable, widely available mobile service. The availability of reliable, ubiquitous wireless service is an important goal standing alone, and is even more important when viewed in terms of other Commission priorities such as E911 and universal service. The Commission can foster the availability of seamless wireless service by modifying the “home market exclusion” to the new automatic roaming requirement^{13/} and by revising the pole attachment regime to facilitate CMRS attachments.

^{11/} See Public Notice, Winning Bidders Announced for Auction 73, DA 08-595, at 1 (rel. March 20, 2008).

^{12/} See CTIA January 8 *Ex Parte* at 3.

^{13/} See *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15817 (2007) (“*Automatic Roaming Order*”).

A. The Commission Should Move Quickly To Modify the Home Market Exclusion

For carriers that have not built out 100 percent of their licensed service areas—that is to say, for all domestic wireless carriers—roaming agreements are the only means of providing ubiquitous, reliable service in the near term. The new home market exclusion in the *Automatic Roaming Order*, however, tacitly authorizes the very largest existing facilities-based network operators to deny a request for automatic roaming to another carrier licensed in the same market, even for areas where the other carrier has not built facilities.^{14/} The home market exclusion ignores the practical economic realities of operating a wireless network and, in doing so, could reduce competition nationally and even more dramatically in some areas of the country. The exclusion also has the effect of adding to, and thus *de facto* amending, the Commission’s well-established build-out requirements for CMRS licenses.

As the smallest of the four national wireless carriers, T-Mobile relies upon multiple roaming agreements even as it expands its own network, including its recent investment of \$4.19 billion in AWS spectrum in Auction 66. The Commission’s adoption of an implied right of one carrier to deny roaming to another facilities-based carrier in the same market, without recourse to Commission review of that denial under sections 201 and 202 of the Act, is a dramatic departure from precedent, and undermines the goals of the Commission’s automatic roaming requirement to the detriment of both competition and consumers.

T-Mobile and other wireless carriers have invested and continue to invest billions of dollars in building out their networks, but in some areas, it is more efficient (for both carriers and customers) to enter into roaming agreements to provide services than to construct duplicative

^{14/} See Petition for Partial Reconsideration of T-Mobile USA, Inc., WT Docket No. 05-265 (filed October 1, 2007).

facilities. Moreover, rural carriers nationwide are able to rely upon roaming revenue from other wireless carriers even when those other carriers hold licenses in their geographic areas precisely because the market encourages efficient use of roaming agreements rather than unnecessarily duplicative buildout. Indeed, the option of using roaming agreements in certain areas helps enable T-Mobile to offer an affordable nationwide wireless calling plan. In essence, network expansion and roaming are two sides of the same coin—both are important ways of ensuring that consumers enjoy reliable, ubiquitous wireless service.

B. The Commission Should Prescribe Reasonable and Transparent Procedures for CMRS Pole Attachments

T-Mobile and other wireless carriers are constantly expanding their facilities to provide more ubiquitous, reliable coverage. Because local zoning restrictions often hinder the construction of communications towers, utility poles are often a wireless carrier's best (or only) option to provide facilities-based service. While many utilities now treat CMRS facilities as routine attachments, some still have not adopted reasonable and transparent procedures for CMRS attachments.

As T-Mobile has explained,^{15/} ensuring that utilities have in place reasonable and transparent pole attachment procedures, with key information easily accessible on their websites, would significantly reduce transaction costs and expedite the buildout of wireless networks, all to the benefit of consumers. The Commission should also address abusive practices by pole owners that impede the expansion of wireless service, such as the unreasonable identification of poles as interstate transmission facilities and the leveraging of access rights to interstate transmission facilities to dramatically raise rates for local distribution poles, the unreasonable calculation of

^{15/} See generally Comments of T-Mobile USA, Inc., WC Docket No. 07-245, RM Nos. 11293 and 11303 (filed March 7, 2008).

attachment space, discriminatory capacity expansion practices, and unpredictable negotiation procedures. Finally, adoption of a wireless-specific rate formula and a single rate for attachments used to provide broadband Internet service and application of the accelerated docket rules to pole attachment complaints would promote ubiquitous and affordable wireless telephony and broadband Internet access services.

III. THE MARKET FOR SPECIAL ACCESS SERVICE IS NOT COMPETITIVE, RESULTING IN INCREASED COSTS TO CMRS CONSUMERS

In stark contrast to claims of effective competition by various ILECs, the market in which wireless carriers purchase special access services is almost always a single-provider monopoly. As T-Mobile demonstrated in 2005 and again in 2007,^{16/} ILECs face little or no competition for their special access offerings and remain the sole source in most of their service areas for the special access services that T-Mobile and other carriers need for the critical links between their base stations, mobile switching centers (“MSCs”), and ILEC central offices, as well as the interoffice transport links required for backhaul. It is therefore no surprise that the Government Accountability Office (“GAO”) found in 2006 that competitive special access service is not widely available, even relying upon a methodology that the GAO acknowledged could *overstate* the availability of what little competition exists.^{17/}

T-Mobile already relies heavily upon special access as a critical component of its service offerings; as T-Mobile and other wireless providers continue to deploy advanced data-intensive services, their need for special access services—and broadband and OCn services in particular—

^{16/} See Comments of T-Mobile USA, Inc., WC Docket No. 05-25 (filed June 13, 2005); Comments of T-Mobile USA, Inc., WC Docket No. 05-25, RM-10593 (filed August 8, 2007) (“T-Mobile 2007 Special Access Comments”).

^{17/} United States Government Accountability Office, Report to the Chairman, Committee on Government Reform, House of Representatives, *Telecommunications: FCC Needs to Improve Its Ability to Monitor and Determine the Extent of Competition in Dedicated Access Services*, GAO-07-80, at 12-21 (Nov. 2006) (“GAO Report”).

will continue to grow. Commission intervention is therefore immediately required to correct widespread market failure in the special access market and to ensure the availability of special access services on reasonable rates, terms, and conditions.

The current regulatory regime for special access services accounts for neither the monopoly pricing power of most ILECs nor the characteristics of the wireless market that make MSA-level predictions from existing pricing flexibility triggers worthless. A carrier such as T-Mobile that seeks to provide seamless intermodal competition to wireline ILEC services throughout an MSA does not benefit from the fact that competitive special access providers are serving some number of office buildings within that MSA; in fact, the types of “competition” that the pricing flexibility rules attempt to measure are usually unrelated to the services that wireless carriers primarily depend upon. Additionally, the revenue metrics relied upon to trigger pricing flexibility—which have been used to support almost every ILEC petition for special access pricing flexibility—do not actually predict competition in the real world.

Against this backdrop, the GAO Report confirms what T-Mobile and other wireless carriers already know—that the grant of Phase II pricing flexibility causes prices for special access to go up, not down, which demonstrates that the current pricing flexibility rules are broken.^{18/} To remedy this market failure, the Commission should move quickly to adopt the special access reforms described by T-Mobile in the special access proceeding, including limiting the size of geographic areas eligible for pricing flexibility; analyzing competition for special access service separately in each of the markets for channel termination, channel mileage, and other special access services; and adopting more stringent triggers for price cap LECs to

^{18/} See T-Mobile 2007 Special Access Comments at 7. See also Comments of Ad hoc Telecommunications User’s Committee, CC Docket No. 05-25, at A-23 (filed August 8, 2007); Comments of Sprint Nextel Corporation, WC Docket No. 05-25, RM-10593, at Attachment 2 ¶¶ 48-58 and Exhibit 1 (filed August 8, 2007).

satisfy before obtaining pricing flexibility in these newly defined markets.^{19/} Because this revamping of the pricing flexibility rules will result (as it should) in more ILECs being subject to price cap regulation in more areas, the Commission should update its price cap regulations as well to reflect the differences between types of special access services described above and to ensure that a portion of efficiency gains are passed through to consumers, among other important revisions.^{20/}

IV. THE COMMISSION SHOULD REJECT REQUESTS TO IMPOSE UNNECESSARY NEW REGULATIONS ON WIRELESS PROVIDERS

The Commission recently found in its *Twelfth Annual CMRS Report* that “U.S. consumers continue to experience significant benefits – including low prices, new technologies, improved service quality, and choice among providers – from competition in the CMRS marketplace.”^{21/} Ongoing developments in the wireless industry demonstrate that, in a competitive market such as the wireless market, carriers such as T-Mobile respond to consumer demand for product and service improvements without need of regulatory intervention. It is because of T-Mobile’s constant efforts to provide better products and better service that, in January 2008, J.D. Power and Associates announced that, for the seventh consecutive reporting period, T-Mobile ranks highest among the five largest wireless carriers for customer service.^{22/}

Recent examples of competition-driven consumer benefits include T-Mobile’s industry-leading Personal Coverage Check (“PCC”) tool, which was the first service to allow potential

^{19/} See T-Mobile 2007 Special Access Comments at 9-14.

^{20/} See *id.* at 14-15.

^{21/} *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Twelfth Report, FCC 08-28, WT Docket No. 07-71, ¶ 1 (rel. Feb. 4, 2008) (“*Twelfth Annual CMRS Report*”).

^{22/} See Press Release, “JD Power and Associates Reports: T-Mobile Ranks Highest in Wireless Customer Care Performance for a Seventh Consecutive Time,” January 31, 2008.

subscribers to view T-Mobile's signal coverage down to the neighborhood level. Because services such as these are a primary avenue of competition in wireless markets, it is no surprise that AT&T, Sprint Nextel, and Verizon have all introduced similar tools in response. Likewise, in response to customer input regarding early termination fees, all four national wireless carriers have announced plans to restructure their rate plans to allow for pro-ration of early termination fees. These developments, along with the fact that wireless consumers today use seven times more minutes per month than they did a decade ago, while paying the same or less today than they did back then,^{23/} are proof that competition is an efficient regulator in the wireless market.

Nonetheless, a number of interested parties continue to call for the Commission to impose various forms of regulation on the wireless industry. These interests are asking the Commission to step back and allow plaintiffs' lawyers or the numerous state attorneys general to impose a patchwork quilt of rate and term regulations on wireless carriers. On numerous issues including early termination fees ("ETFs"), regulation of short codes and SMS, state regulation of wireless, and wireless network management, the Commission should stick to the first principles that Congress has mandated for the wireless market: competition is a better regulator than any federal or state agency, and a uniform national wireless regulatory framework benefits consumers.

Early Termination Fees. It has been three years since the Commission issued its Public Notice on the Petition for an Expedited Declaratory Ruling filed by CTIA asking the Commission to confirm that ETFs in wireless carriers' service contracts constitute "rates

^{23/} See CTIA *Ex Parte* Communication in PS Docket No. 06-229; WT Docket Nos. 96-86, 05-194, 06-150, 06-169, and 07-71, dated January 23, 2008, at 5-6 ("CTIA January 23 *Ex Parte*").

charged” for CMRS.^{24/} As T-Mobile and others have made clear, state regulation of ETFs is barred under section 332(c)(3)(A) of the Communications Act and Commission precedent.^{25/}

Wireless customers can already choose from a broad array of wireless plans both with and without ETFs. T-Mobile offers an innovative service called FlexPaysm, which allows customers to subscribe to T-Mobile monthly rate plans (including myFavessm) with no contract and no ETF, or allows customers to agree to a contract with an ETF in order to take advantage of discounted equipment. And, as discussed above, all of the major national wireless carriers have announced new proration policies for ETFs. In this market, the Commission need not take steps to regulate ETFs, and Congress explicitly prohibited the states from doing so. The Commission should therefore take this opportunity to reaffirm that states may not regulate ETFs and should refrain from taking any steps with regard to ETFs that would impair wireless carriers’ ability to price their rate plans efficiently and provide customers an array of options.

State Regulation of Wireless. The growth and innovation of the wireless sector has been fueled not only by competition, but also by a framework established by Congress to deregulate state oversight of rates and entry. Congress recognized long ago that a uniform, national regulatory regime for wireless would promote competition, innovation, and lower prices for consumers; for this reason, states are explicitly prohibited from regulating wireless entry and

^{24/} *Petition of the Cellular Telecommunications & Internet Association For An Expedited Declaratory Ruling*, WT Docket No. 05-194 (filed Mar. 15, 2005); see Public Notice, “Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling Filed by CTIA Regarding Whether Early Termination Fees Are ‘Rates Charged’ Within 47 U.S.C. Section 332(c)(3)(A),” WT Docket No. 05-194 (May 18, 2005).

^{25/} See, e.g., Comments of T-Mobile USA, Inc. In Support of CTIA Petition for Declaratory Ruling, WT Docket No. 05-194 (filed August 5, 2005); Reply Comments of T-Mobile USA, Inc. In Support of CTIA Petition for Declaratory Ruling, WT Docket No. 05-194 (filed August 25, 2005).

rates.^{26/} The Commission should protect the competitive nature of the wireless marketplace by preempting state regulation of ETFs, wireless billing, and other state efforts that would interfere with a unified nationwide regulatory structure for what consumers expect to be a unified, nationwide service.

Short Codes and SMS. As T-Mobile discussed at length in its comments in response to the recent Public Knowledge petition,^{27/} regulating SMS and short code services as common carrier services is a solution in search of a problem—and a solution that would directly harm consumers. There has been no need demonstrated for such regulation. The one or two anecdotal examples are an insufficient basis for imposing even benign regulations. Treating SMS and short code services as common carrier services would be far from benign; to the contrary, prohibiting carriers from exercising discretion over their networks could open customers' wireless phones to a flood of unwanted messages, including spam and viruses. There is every reason to believe that wireless networks could be deluged with unwanted messages by “spambots,” and in the worst case scenario rendered inaccessible by consumers due to an overwhelming number of unfiltered messages.

Network Management. The Commission's *Twelfth Annual CMRS Report* reconfirms that the wireless marketplace is competitive and functioning efficiently. In a competitive market, where carriers compete to provide the newest and most desirable equipment and services, there is no justification for imposing unwarranted restrictions on wireless carriers' ability to manage their networks. In the wireless market in particular, such regulations would come at the cost of

^{26/} See, e.g., Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 6002(b)(2), 107 Stat. 312 (1993) (codified at 47 U.S.C. § 332(c)(3)(A)) (preempting state regulation of CMRS rates).

^{27/} See generally Comments of T-Mobile USA, Inc., WT Docket No. 08-7 (filed March 14, 2008).

spectral efficiency and network security, which could easily result in a decrease in consumer choice, public safety, and quality of service.

Unlike traditional wireline networks, wireless communications, including both voice and data transmissions, occur in a strictly limited spectral environment where each user's consumption of bandwidth comes at the cost of other users' ability to do so. The capacity of a cell site is shared between all users of a cell; carrier-specific network management practices are therefore essential to minimize interference and to maximize the user experience. Consumers benefit from these practices, and there is no one-size-fits-all set of network management rules that could even come close to duplicating the success—as experienced by the average wireless consumer—of each carrier's individually tailored network management practices. In some cases, management may require giving network priority to voice transmissions over bandwidth-intensive peer-to-peer file sharing applications; such trade-offs are a simple necessity in a bandwidth-constrained wireless environment.

These same concerns over wireless reliability, service quality, and security counsel against adopting Skype's proposal to impose outdated monopoly wireline equipment rules on CMRS providers.^{28/} Chairman Martin's recent announcement of his intent to circulate an order dismissing the *Skype* petition^{29/} will ensure that consumers continue to benefit from technological advances. The wireless service and equipment markets are robustly competitive and innovative, offering consumers substantial choice and flexibility in assembling packages of services, equipment, and applications that meet their needs. In all these ways, the wireless marketplace is far different from the landline monopoly environment of 40 years ago that gave rise to the

^{28/} See generally Comments of T-Mobile USA, Inc., RM-11361, at 9 (filed April 30, 2007) (“T-Mobile Skype Petition Comments”).

^{29/} See, e.g., Cecilia Kang, “FCC Chairman to Seek Dismissal of Skype's Plea for Open Access to Wireless Networks,” *Washington Post*, April 2, 2008, at D4.

Carterfone decision.^{30/} The suggestion by Skype and others that federal regulators can “do better” than competitive market forces to bring new and innovative wireless devices to consumers is belied by market facts and contradicts the basic tenets of modern U.S. communications policy. Any attempt to import *Carterfone*-style regulations from the 1960s into the wireless market of the 21st century would hamper, rather than foster, the development of new wireless devices and applications, and could result in less efficient use of spectrum, a lower-quality user experience, and decreased security.

CONCLUSION

In the current competitive CMRS environment, the Commission should take steps to protect the public interest by helping wireless carriers to provide more robust and ubiquitous networks, by ensuring that wireless carriers are treated fairly by incumbent local exchange carriers in the provision of special access, and by limiting unnecessary federal and state intrusion into wireless carriers’ operations.

Respectfully submitted,

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^{30/} See T-Mobile Skype Petition Comments at 3.