

March 20, 2008

Electronic Filing

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

Re: *Written Ex Parte Communication, WT Docket No. 08-27; RM-11361*

Dear Ms. Dortch:

The handset market in the United States is extremely robust. Contrary to claims made in various FCC proceedings and in the press, the number and variety of handsets available to consumers in the U.S. is nothing short of amazing. In this context, it is troubling that the wireless industry has endured a number of uninformed and untrue claims about the handset market, of late. CTIA takes this opportunity to set the record straight. In this ex parte filing, CTIA shows that:

- **There are at least 35 companies designing and manufacturing handsets for the U.S. market.**
- **There are more than 620 unique wireless devices for sale to consumers in the United States.**
- **American consumers have their choice of a variety of handsets that offer access to the Internet, including a growing number of handsets that have integrated Wi-Fi capability – and more hotspots to use the capability than elsewhere in the world.**
- **There are at least 16 Wi-Fi enabled handsets available in the U.S., and the number is growing.**
- **Consumers can purchase handsets from a number of sources, including large nationwide electronics stores, independent retail stores, manufacturer stores and websites, online auction sites, as well as carrier retail stores and web sites.**
- **The sales market for handsets continues to evolve – consumers can choose to buy subsidized or unsubsidized handsets.**
- **There are at least 50 handsets available to consumers that are unlocked.**



MANUFACTURERS

U.S. consumers benefit greatly from the robust competition between wireless handset manufacturers. There are more than 35 different handset manufacturers that compete on technological capabilities of the handsets as well as aesthetic appeal.

Alcatel	Option GT
Apple	Palm
Audiovox	Panasonic
Axxesstel	Pantech
Bandrich	Research in Motion
BenQ	Sagem
Casio	Samsung
Firefly	Sanyo
HP	Sharp
HTC	Siemens
Huawei	Sierra Wireless
Jitterbug	SK Telecom
Kyocera	Sony Ericsson
LG	Telular
Merlin	UTStarcom
Motorola	Waxess
Nokia	Withus
Novatel	

This intense level of competition provides a multitude of features – such as digital cameras, GPS-enabled handsets, personal health features and touch screen devices – as well as a range of “form factors.”

HANDSET OFFERINGS

According to CTIA research, American consumers have their choice of over 620 different handsets as of January 2008.¹ The several hundred pages of attached Internet screen shots detail the majority of the handsets available for purchase.² This vast array of choices is a far cry from the handful of choices that some have condemned the industry for offering. Although the number of devices itself is impressive, the variety of offerings shows the true breadth and scope of the wireless handset marketplace.

- Consumers have the opportunity to purchase handsets ranging from simple, voice-only devices like those offered by Jitterbug, Firefly and others, to multi-function devices like those offered by Apple, RIM, LG and others, and everything in between.
- Consumers also enjoy the benefits of devices at every price range – making wireless affordable for all Americans.
- Wi-Fi enabled handsets: U.S. consumers have their choice of 16 new Wi-Fi enabled devices from carriers, and a number of other devices on the secondary market. From surfing the Internet at Wi-Fi hotspots, to integrated Wi-Fi calling technologies, these innovative handsets are bringing new services and ways to connect existing services to U.S. consumers.
- Moreover, U.S. consumers have more access to Wi-Fi hotspots than consumers in other countries. According to the National Telecommunication and Information Administration, U.S. consumers have access to more than 66,000 hot spots – more than twice the number of any other country.³
- Bluetooth enabled handsets: Bluetooth – the short-range networking service that connects wireless handsets to other wireless devices – is increasingly available in many handsets. According to NPD Group, nearly three-quarters (72 percent) of handsets sold in the fourth quarter of 2007 came with Bluetooth capabilities.⁴

¹ From January 3rd through February 6th, 2008, CTIA reviewed almost 200 websites representing wireless service providers in the United States (including both licensees and Mobile Virtual Network Operators), as well as the websites of Phonescoop, third-party retailers such as Best Buy, CNET, Cellular Concepts, Lets Talk, Pure Mobile, the Sharper Image, and 1-800 Mobile. From these websites, we identified approximately 682 currently available wireless devices, including both wireless handsets and wireless aircards. Of these devices, more than 620 wireless devices appeared to be distinct products, based on distinguishing model numbers and appearance. In arriving at this number, we treated handsets of differing technological flavors (CDMA versus GSM) as identical for the purposes of the count, and we generally treated successive versions of such handsets as the RAZR and SLVR as a single model. Thus, it is a conservative count of available handsets.

² See Attachment A.

³ “Networked Nation: Broadband in America, 2007,” Nat’l Telecomm. & Information Admin., at Table 4, available at <http://www.ntia.doc.gov/reports/2008/NetworkedNationBroadbandinAmerica2007.pdf> (last accessed Feb. 21, 2008).

⁴ “Survey Sez: U.S. Handset Sales Topped \$11B Last Year,” TelecomWeb available at <http://www.telecomweb.com/tnd/259905.html> (last accessed Feb. 19, 2008).

- Smartphones: Those handsets that incorporate PDA capabilities and HTML browsers are increasingly popular with U.S. consumers. As handsets continue to become more like handheld computers, the services and capabilities available wirelessly continue to gain in popularity. By the end of 2007, smartphones comprised 12 percent of all handsets sold in America.⁵ Below is a snapshot of the availability of smartphones from the five largest U.S. carriers.

Smartphone Offerings of the Nationwide Wireless Carriers as of January 2008

	AT&T	Verizon Wireless	Sprint Nextel	T-Mobile	Alltel
Number of “Smartphones” Available	12	13	15	10	8

Source: Carrier Websites

As new and more advanced handsets become available, carriers continue to launch new competitive products and services that utilize the technologies. Verizon Wireless, for example, offers phones with its “branded” version of Qualcomm’s MediaFLO technology, VCast, to provide customers with mobile video.⁶ T-Mobile provides innovative Wi-Fi services, launching its HotSpot@Home service that tightly integrates Wi-Fi enabled handsets, T-Mobile’s public HotSpot service, and the ability to use any Wi-Fi hotspots that are open or for which the consumer have an access key.⁷ AT&T offers the iPhone, with its host of technological developments integrating Internet access into a handheld device.⁸ Sprint Nextel has announced its next generation of wireless broadband access, Xohm, based on the WiMAX technological platform.⁹ Alltel and other carriers also offer distinct handsets and services, all in the interests of competing to better serve customers. While these new and upcoming services bring consumers great benefit, they rely not only on carrier network upgrades, but also on compliant handsets that are capable of utilizing the services. This level of technological change is a constant in the wireless industry, as is evidenced by products that carriers have announced but not yet begun to provide commercially.

⁵ *Id.*

⁶ See “Verizon Wireless: VCast Video,” Verizonwireless.com available at <http://products.vzw.com/index.aspx?id=video> (last accessed Feb. 21, 2008).

⁷ See “HotSpot @Home by T-Mobile” at <http://www.theonlyphoneyouneed.com> (last accessed Feb. 21, 2008).

⁸ See “iPhone Exclusively from AT&T and Apple,” at <http://www.wireless.att.com/cell-phone-service/specials/iPhoneCenter.html?WT.svl=calltoaction&source=IC9801001e0n1400&ContentId=900334> (last accessed Feb. 21, 2008).

⁹ See XOHM, at <http://www.xohm.com> (last accessed Feb. 21, 2008).

HANDSET SALES

Some consumer groups claim that carriers have forced their customers to purchase handsets as part of their contracts, but the truth is that consumers have many avenues from which to purchase a handset. Consumers can choose from carriers, electronics retailers,¹⁰ manufacturer retail stores,¹¹ online retailers,¹² and online auction sites,¹³ including:

<p><u>Retail Stores:</u> Best Buy Circuit City CompUSA Kmart Office Depot Sears Target Wal-Mart</p> <p><u>Manufacturer Retail Stores:</u> Apple Retail Stores Nokia Retail Stores Research in Motion Sony Style Stores</p> <p><u>Manufacturer Websites:</u> http://www.nokiausa.com http://www.store.motorola.com http://www.palm.com http://www.apple.com http://www.fireflymobile.com http://www.shopping.hp.com http://www.jitterbug.com http://www.sonystyle.com</p>	<p><u>Internet Sites:</u> Amazon.com Buy.com Buy DVDs and More ByteAmerica.com California Computer Center Clickitcellular.com Dell.com eBay Gizmos2go.com J & R electronics Let's Talk Newegg.com Overstock.com PCConnection.com PC Mall Pure Mobile Tigerdirect.com Techforless.com Wirefly.com</p>
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¹⁰ See, e.g., Best Buy at www.bestbuy.com; CompUSA at www.compusa.com; Circuit City at www.circuitcity.com.

¹¹ For example, the Apple iPhone is available from Apple retail stores throughout the U.S. and in countries where the iPhone is currently available. See Apple.com at http://store.apple.com/1-800-MY-APPLE/WebObjects/AppleStore.woa/wa/RSLID?nnmm=browse&mco=7397E5EF&node=home/shop_iphone/family/iphone (last accessed Feb. 15, 2008); see also Nokia – Flagship Stores, Nokia.com, available at <http://www.nokiausa.com/A4411001> (last accessed Feb. 15, 2008); Sony Style, www.sonystyle.com, available at http://www.sonystyle.com/webapp/wcs/stores/servlet/CategoryDisplay?catalogId=10551&storeId=10151&langId=-1&identifier=S_BrandShowcase_Retail_Locations (last accessed Feb. 15, 2008).

¹² See, e.g., Lets Talk at <http://www.letstalk.com/condor/home.htm> (last accessed Feb. 15, 2008); see also Pure Mobile at <http://www.puremobile.com/> (last accessed Feb. 15, 2008).

¹³ See, e.g., eBay.com at http://cell-phones.ebay.com/_W0QQ_trksidZp3907Q2em21 (a simple listing of the “Cell Phones” category on eBay showed more than 67,000 listings on Feb. 15, 2008).

The attached catalog from Best Buy is an example of the range of non-carrier options that consumers have.¹⁴ For example, Best Buy alone offers over 160 handset models – including unlocked handsets. To claim that consumers are forced to choose from a number of carrier-offered phones ignores the fact that there are literally hundreds of handsets from which consumers can choose. The fact that consumers in the United States continue to choose highly subsidized handsets from carriers is an example of the competitive market at work, not evidence of anticompetitive practices. In fact, while most wireless service providers list handsets for sale via their own websites, some smaller wireless companies include links to manufacturers’ websites to assist consumers in their purchase of handsets or for purchase directly from the manufacturer. Still others provide toll-free numbers and suggest consumers contact them for phone model information.

¹⁴ See Attachment B.

HANDSET PORTABILITY

While recent announcements by wireless carriers to allow consumers to bring any compatible, non-harmful device to their networks¹⁵ will certainly facilitate the use of unlocked devices, unlocked handsets have been available for consumer use since long before these new policies. For example, of the more than 620 wireless devices CTIA has identified, 54 handsets are offered on an unlocked basis by manufacturers or by third-party websites. Some carriers have long held policies of unlocking subsidized handsets. Verizon Wireless does not lock the handsets of consumers in contracts.¹⁶ AT&T unlocks phones when a customer has fulfilled their contract.¹⁷ T-Mobile generally unlocks phones after a customer has held an account for 90 days.¹⁸ Despite claims to the contrary, this is similar to the situation in most European markets. European carriers do not unlock all handsets purchased from the carriers. Generally, the same considerations that drive U.S. carrier unlocking decisions also drive European carriers, among them whether the customers' service is prepaid or post-paid, whether the customer has fulfilled their initial contract and how long the consumer has been a subscriber of the carrier. Additionally, just like in European markets, unlocked handsets are available to U.S. consumers from a number of sources.

While carriers and device manufacturers are making this ability available to consumers, consumers are generally not keeping their handsets long enough for it to matter. According to J.D. Power and Associates, the average lifespan of a wireless device is less than 18 months.¹⁹ This can largely be attributed to the dynamic nature of the wireless handset marketplace, as new devices and features are constantly being introduced. Smartphones, for example, have shown the largest growth in the U.S. market. According to Merrill Lynch, the percentage of smartphones in the U.S. market has grown nearly 200% from year-end 2006 to year-end 2007.²⁰ This in turn speeds the delivery of new and faster services to consumers, by more quickly placing handsets optimized to work with the continually upgraded wireless networks into the hands of consumers.

¹⁵ See Press Release, Verizon Wireless, Verizon Wireless To Introduce "Any Apps, Any Device" Option For Customers In 2008 (Nov. 27, 2007) available at <http://news.vzw.com/news/2007/11/pr2007-11-27.html> (last accessed Nov. 30, 2007); see also Leslie Cauley, "AT&T flings cellphone network wide open," USA Today.com, available at http://www.usatoday.com/tech/wireless/phones/2007-12-05-att_N.htm (last accessed Feb. 15, 2008); Press Release, T-Mobile USA, Industry Leaders Announce Open Platform for Mobile Devices (Nov. 5, 2007) available at http://www.t-mobile.com/company/PressReleases_Article.aspx?assetName=Prs_Prs_20071105&title=Industry%20Leaders%20Announce%20Open%20Platform%20for%20Mobile%20Devices (last accessed Nov. 30, 2007); Press Release, Sprint Nextel Corporation, Sprint Joins Open Handset Alliance (Nov. 5, 2007) available at http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1072575&highlight=handset (last accessed Nov. 30, 2007).

¹⁶ This policy is subject to approval by the handset manufacturer. See Mark Lowenstein, Comparisons Between U.S. and European Markets for Wireless Services and Devices: Myth vs. Reality, at 1 (March 2007).

¹⁷ *Id.*

¹⁸ See "Ask T-Mobile" at http://search.t-mobile.com/inquirapp/ui.jsp?ui_mode=question&question_box=unlock (last accessed Feb. 15, 2008).

¹⁹ Olga Kharif, "A Quantum Leap for Cell Phones," BusinessWeek.com available at http://www.businessweek.com/technology/content/aug2006/tc20060821_810437.htm (last accessed Feb. 15, 2008).

²⁰ Vivek Arya, et al., "Smartphone run has just begun," Merrill Lynch (Feb. 8, 2008).

SUMMARY

U.S. consumers have an abundance of choice in the wireless handset market. Consumers can purchase handsets from carriers, manufacturers, retail stores, websites and online auctions. They have their choice of more than 620 wireless handsets, manufactured by one of 35 companies designing and building wireless devices for the U.S. market. The wide variety of handsets available includes smartphones, Wi-Fi enabled devices, Bluetooth-enabled devices, unlocked devices and devices with other new and innovative features. To describe this market as anything other than robust and competitive would belie the incredible number of options available to U.S. consumers.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter and the handset research done by CTIA are being filed via ECFS and hand delivery with your office. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Christopher Guttman-McCabe

Christopher Guttman-McCabe

cc: Chairman Kevin Martin
Commissioner Michael Copps
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell
Aaron Goldberger
Bruce Gottlieb
Renée Crittendon
Wayne Leighton
Angela Giancarlo
Fred Campbell