

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Consumer Information and Disclosure)	CG Docket No. 09-158
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170
)	
IP-Enabled Services)	WC Docket No. 04-36
)	
)	

To: The Commission

COMMENTS OF SOUTHERNLINC WIRELESS

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless (“SouthernLINC Wireless”) hereby submits its comments in response to the Federal Communications Commission’s *Notice of Inquiry* on consumer information and disclosure, truth-in-billing, and billing format.¹

I. INTRODUCTION

Intense retail competition in the commercial mobile wireless services market compels carriers to be as consumer-friendly as possible, including ensuring that consumers have as complete and accurate information as possible about all aspects of a carrier’s services and service offerings. The Commission’s current truth-in-billing rules and industry measures, such as the CTIA Consumer Code for Wireless Service, are also working effectively to inform and empower consumers.

¹ / *Consumer Information and Disclosure, Truth-in-Billing and Billing Format, IP-Enabled Services*, CG Docket No. 09-158, CC Docket No. 98-170, WC Docket No. 04-36, Notice of Inquiry, FCC 09-68 (rel. Aug. 28, 2009) (“*NOI*”).

In addition, it is essential that the Commission recognize that the costs and burdens associated with any new regulations would not be evenly distributed and would have a significant and disproportionate impact on smaller regional and rural carriers that lack the economies of scale of the nationwide carriers. Moreover, the imposition of new regulations would impede innovation and investment in the wireless sector by restricting carriers' flexibility, no matter their size, and compelling the diversion of resources away from the development and introduction of new services and service offerings in order to satisfy new regulatory mandates.

For these reasons, SouthernLINC Wireless submits that there is no need for the Commission to adopt new regulations in this area.

II. INDUSTRY SELF-REGULATION AND CURRENT TRUTH-IN-BILLING ARE WORKING EFFECTIVELY

A. Industry Self-Regulation Has Proven Effective

In a highly competitive market such as the one for retail commercial mobile wireless services, customer satisfaction is – and must be – the number one priority. Dissatisfied customers can, and do, “vote with their feet” and will freely leave a carrier that does not provide them with the services, value, and experience that they expect and demand. Competition therefore compels wireless carriers to be as consumer-friendly as possible. To compete successfully, a carrier must ensure that consumers have as complete and accurate information as possible about all aspects of its services and service offerings. Providing anything less would serve to alienate existing and potential customers, which no carrier can afford to do in such a competitive retail market.

In addition to the self-regulation that intense competition compels, CTIA adopted a Consumer Code for Wireless Service that addresses information that must be disclosed to

consumers.² The CTIA Consumer Code provides the public with a clear guidepost regarding what consumers can and should expect from their wireless service provider, and adherence with the Code effectively serves as a publicly-accessible “seal of approval” for consumers. Although the CTIA Consumer Code is voluntary, it is strictly followed by most – if not all – wireless carriers in the country, including SouthernLINC Wireless. Finally, there is a plethora of independent third party sources that provide consumers with news, reviews, comparisons, and buying tips for mobile wireless services and devices.³

B. The Current Truth-in-Billing Rules are Sufficient

SouthernLINC Wireless submits that the Commission’s current truth-in-billing rules are working and have had the desired effect of making customer bills easier to understand.⁴ One of the keys to the success of the current rules is that, while they require the disclosure of certain information in certain locations, they still provide carriers with sufficient flexibility to develop and tailor the format and presentation of their bills to best meet their customers’ needs and demands.

The combination of disclosure requirements and flexibility provided by the current rules works because no carrier can afford to send bills that its customers cannot understand. First, customers will not pay bills whose charges and totals they cannot decipher and calculate. In addition, explaining poorly structured bills to confused and irate customers consumes personnel resources that carriers would prefer to utilize elsewhere (and more productively). Furthermore,

² / CTIA Consumer Code for Wireless Service, http://files.ctia.org/pdf/The_Code.pdf (last accessed Oct. 12, 2009).

³ / Examples include Consumer Reports (either through its magazine or through its website at <http://www.consumerreports.org>), CNET (<http://www.cnet.com>), and The-Cell-Phone-Advisor.com (<http://www.the-cell-phone-advisor.com/>).

⁴ / *NOI* at ¶ 36.

billing confusion that requires carrier explanations frequently damages the carrier-customer relationship, leaving the customer frustrated and very likely distrustful of the carrier. It is therefore very much in each carrier's interest to provide customers with bills that present the information the customer needs in a manner and format that is tailored to be clear and understandable to that carrier's customers.

Finally, the Commission should continue to exempt CMRS providers from the requirements of Section 64.2401 of the Commission's Rules, 47 C.F.R. § 64.2401, that carriers separate charges by service provider and clearly identify those charges for which non-payment will (or will not) result in disconnection of basic local service.⁵ These rules were designed to apply to local exchange carriers at a time when consumers typically received their local and long distance telephony services from different providers, with the charges for these services combined on a single bill for the customer's benefit. However, this model simply does not apply to CMRS, and subjecting CMRS carriers to these requirements would thus serve no purpose.

III. THE COSTS OF NEW REGULATIONS WOULD EXCEED THE BENEFIT TO CONSUMERS

A. Additional Requirements Would Impose a Significant and Disproportionate Burden on Smaller Regional Carriers

In its *NOI*, the Commission appropriately recognizes that disclosure policies necessarily impose a cost burden on the industry.⁶ However, it is essential that the Commission further recognize that these cost burdens will not be evenly distributed among all industry players and will, in fact, land most heavily on the smaller regional and rural carriers that play a crucial role in maintaining a well-functioning marketplace.

⁵/ *NOI* at ¶ 19.

⁶/ *See NOI* at ¶ 5.

For example, any new requirements the Commission may decide to impose on the formatting and display of information on customer bills would require carriers to make significant changes to their billing platforms and systems, including, but not limited to, large-scale software and hardware upgrades or replacements, as well as the integration of new and existing databases and other systems used in the operation and management of the network. Such changes would be expensive, complex, and resource-intensive and would require long lead times to implement.

Not only are the costs of implementing such changes high, but they disproportionately burden small and mid-size carriers, who have much smaller customer bases over which these costs can be spread and who also have far more limited personnel and other resources available to implement these changes. Small and mid-size carriers would be compelled to expend their already limited and finite resources on compliance with new billing and formatting rules rather than on expanding and improving their service offerings and service quality or on the introduction of new services, handsets, and devices to consumers. As a result, it is consumers – particularly those in rural and underserved markets – who would ultimately be harmed by the cost of implementing new regulations intended to empower them.

In addition, the costs and complexity of implementing any standardized formatting or information display requirements the Commission may impose on customer bills or on carrier marketing efforts would be further exacerbated by the fact that carriers must comply not only with the Commission's rules but also, simultaneously, with applicable state laws and regulations. Numerous states have consumer protection laws regarding the type and extent of information that must be disclosed on bills provided to state residents, as well as on advertisements, promotions, and other marketing materials directed at residents of that state. The specific

requirements that must be met in each state can vary widely – and in some cases be contradictory – yet carriers must nevertheless comply with each of them. Compliance with this patchwork of state and federal regulation already imposes a significant administrative and cost burden on carriers – especially smaller carriers with far more limited resources – and this burden would only be further increased by the imposition of new formatting and information display requirements.

As set forth above, the costs of implementing and complying with any new formatting or information display requirements would be substantial and would impose a significant and disproportionate burden on smaller regional and rural carriers, an outcome that would contradict not only the tenets of sound public policy but also the mandates of the Regulatory Flexibility Act.⁷ If the Commission should nevertheless decide to adopt such requirements, it should therefore do so in a way that eases the burden on smaller carriers and their customers, whether through exemptions or the adoption of less onerous requirements for smaller carriers.

B. The Cost of Compliance with New Requirements Would Impede Wireless Service Innovation

The same day the Commission launched the instant inquiry on consumer information and disclosure, it also launched a separate, but related, inquiry intended to “identify concrete steps the Commission can take to support and encourage further innovation and investment in [the wireless market].”⁸ As Chairman Julius Genachowski stated, the timing of these inquiries “was

⁷ / 5 U.S.C. §§ 601 *et seq.*

⁸ / *Fostering Innovation and Investment in the Wireless Communications Market, A National Broadband Plan For Our Future*, GN Docket Nos. 09-157, 09-51, Notice of Inquiry, FCC 09-66 (rel. Aug. 27, 2009) (“*Wireless Innovation NOI*”), at ¶ 1.

not coincidental.”⁹ Ironically, however, the implementation of the various consumer information and disclosure measures suggested by the Commission in the instant inquiry could actually serve to stifle innovation in the wireless market.

Regional and rural carriers have a long track record of bringing new and innovative services and service offerings to the market. But, as discussed above, implementation and compliance with new customer information and disclosure requirements would impose significant administrative and cost burdens on smaller regional and rural carriers and would divert scarce resources that these carriers could otherwise use to develop and introduce innovative new services.

The Commission has also raised the possibility of imposing information disclosure requirements when consumers are initially choosing a service provider and a service plan – in other words, questioning whether new information disclosure requirements should be imposed on the marketing of wireless services.¹⁰ Aside from the direct costs involved in revising and reformatting websites, print and other media advertisements, in-store displays and brochures, point-of-sale materials, and other marketing and promotional efforts, the adoption of new standardized formatting and information disclosure and display requirements would restrict carriers’ ability to develop and introduce innovative new services and service offerings.

According to the *NOI*, the purpose of such information display, disclosure, and formatting requirements is to enable consumers to compare and contrast services and service offerings.¹¹ But the very hallmark of a truly innovative service or product is that it has no

⁹ / Prepared Remarks of Chairman Julius Genachowski, “America’s Mobile Broadband Future,” International CTIA Wireless IT & Entertainment, San Diego, California (Oct. 7, 2009), at 9.

¹⁰ / *NOI* at ¶¶ 23 – 34.

¹¹ / *See, e.g., NOI* at ¶ 23.

equivalent already on the market and thus cannot be directly compared. In fact, the imposition of mandatory information, display, and formatting requirements would likely serve to *discourage* the development of any new service or any new pricing plan that cannot be fit neatly into a mandatory information disclosure “box.” In an environment heavily burdened with the types of requirements the Commission appears to contemplating, the primary questions carriers will be compelled to ask themselves when considering potential new service offerings (no matter how innovative) will become “does it easily fit within the information display, disclosure, and formatting regulations” and “how much will it cost for the changes needed to make it fit within these regulations” – not “will consumers want this service” or “how quickly can it reach consumers.”

IV. USAGE ALERTS SHOULD BE VOLUNTARY

In its *NOI*, the Commission describes “usage alerts,” which are warnings (typically text messages) sent to individual customers regarding their service usage, such as notices that they are approaching a certain threshold of minutes or charges, warnings that certain charges will be incurred if a service is used, etc.¹² While SouthernLINC Wireless agrees that usage alerts may be useful to consumers, their implementation by carriers should also be voluntary.

Carriers use a wide variety of technologies and platforms for the databases, billing systems, and other technical infrastructure used to manage and support their networks. Depending on each carrier’s specific configuration, it could be very difficult – and in some cases perhaps impossible – to implement individualized usage alerts due to issues such as technology, network capacity, the integration of information from customer databases and billing systems, etc. In addition to these issues, offering usage information that is “real time” for any customer

¹² / *NOI* at ¶ 44.

could present a significant obstacle, diluting the presumed value of such information.

Furthermore, the complexity of implementing a usage alert system necessarily imposes additional costs that may be too high for smaller carriers, who again have more limited resources, to bear.

Finally, individualized usage alerts also present a practical problem with respect to enterprise and government customers. These customers typically have multiple devices – and sometimes multiple plans – under a single account, and it would not necessarily be clear to whom such an alert should be sent. The answer, from the customer’s perspective, would likely vary from customer to customer. This uncertainty further complicates the implementation of any usage alert service.

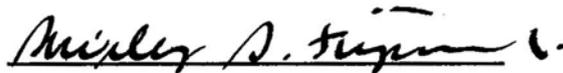
V. CONCLUSION

As a result of intense retail competition and industry self-regulation, wireless consumers already enjoy a wealth of readily-available information about wireless services and service offerings, and thus there is no need for further Commission regulation in this area. However, to the extent the Commission may decide to take action in this area, it must recognize that the measures it may adopt will impose a significant and disproportionate burden on smaller regional and rural carriers and the customers they serve. Any action the Commission decides to take should be done in a manner that minimizes the burdens on smaller carriers and their customers, whether through exemptions or the adoption of less onerous requirements for smaller carriers. Moreover, the Commission must take care that any action it may take in this docket does not have the effect of impeding innovation and investment in the wireless market.

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

Respectfully submitted,

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