
**Before the
Federal Communications Commission
Washington, DC 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

REPLY COMMENTS OF T-MOBILE USA, INC.

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T-Mobile USA, Inc. (“T-Mobile”) submits these reply comments in response to the above-captioned Notice of Inquiry (“*NOI*”)¹ issued by the Federal Communications Commission (“FCC” or “Commission”).

I. INTRODUCTION AND SUMMARY

The record is clear in this proceeding that the wireless industry reflects a dynamic exercise of customer power through the choice of service providers, rate plans, and technology. The number of complaints lodged against wireless carriers is incredibly small when compared to the approximately 277 million wireless subscribers, and the vast array of options available to wireless users makes clear that consumers have the ability to “vote with their feet.” In this highly competitive market, T-Mobile cannot be successful unless it provides its customers with the information they require to make informed decisions prior to purchasing T-Mobile products and services and to maintain customer satisfaction once they become T-Mobile subscribers.

¹ *Consumer Information and Disclosure; Truth-in-Billing and Billing Format; IP-Enabled Services*, Notice of Inquiry, FCC 09-68 (rel. Aug. 28, 2009) (“*NOI*”).

T-Mobile is proud of its record of customer service and will continue making customers its top priority.

Precisely because T-Mobile and its competitors are highly responsive to customer demand, the Commission need not impose any new consumer information rules on wireless carriers. New obligations could inadvertently limit competition, investment, and innovation in the marketplace by reducing providers' flexibility to respond creatively and proactively to evolving marketplace conditions. And, since additional regulation always comes with costs to providers and the consumers they serve, proscriptive rules should only be imposed when there is a demonstrated market failure, which is not the case here. Moreover, to the extent "regulation" is deemed desirable, the Commission should look first to voluntary efforts by the industry itself. The CTIA Consumer Code for Wireless Services ("CTIA Consumer Code" or "Code") has proven to be effective in guiding the wireless industry toward reasonable consumer practices while also ensuring an appropriate level of flexibility to service providers.² For these reasons, the Commission should tread carefully and avoid the adoption of any additional rules on consumer disclosure in the wireless marketplace.

II. A FACT-BASED ANALYSIS OF THE RECORD SHOWS THAT THERE IS NO COMPELLING EVIDENCE OF A PROBLEM

A. Complaint Data Does Not Support Additional Regulation

T-Mobile fully supports the Commission's new emphasis on making decisions through a "fact-based, data driven" process³ and urges the Commission to see that the facts simply do not

² See CTIA, *Consumer Code*, available at <http://www.ctia.org/content/index.cfm/AID/10352> (last visited Oct. 23, 2009).

³ Julius Genachowski, Chairman, Federal Communications Commission, *America's Mobile* (continued on next page)

justify a change in the current truth-in-billing regime or the addition of new disclosure requirements. One key fact the Commission should take away from the comments in this proceeding is that on average only approximately *three* of every *one million* wireless subscribers complained to the Commission about billing and rates on a monthly basis in 2008.⁴ On a percentage basis and based on the over 270 million subscribers of wireless services at the end of 2008,⁵ this means that only .00003 percent of wireless subscribers filed complaints with the Commission each month that year. As Verizon and Verizon Wireless correctly note, “this number is statistically insignificant.”⁶

While much is made of a perceived increase in complaints relating to wireless billing and rates received by the FCC between 2006 and 2008,⁷ it is important to look at more recent data to put this 2008 number into context. CTIA correctly notes that the total number of consumer complaints against wireless carriers actually decreased in the first quarter of 2009 from the first quarter of 2008, a reduction of almost 15 percent.⁸ Moreover, when telemarketing complaints under the Telephone Consumer Protection Act (“TCPA”) are excluded (complaints about

Broadband Future, Remarks at International CTIA Wireless I.T. & Entertainment, at 9 (Oct. 7, 2009).

⁴ See Comments of Verizon and Verizon Wireless at 6-7 (filed Oct. 13, 2009) (“Verizon Comments”). See also FCC Consumer & Governmental Affairs Bureau, *Quarterly Inquiries and Complaints Reports*, available at <http://www.fcc.gov/cgb/quarter/> (listing the informal consumer inquiries and complaints for each quarter from 2002 to the present).

⁵ See CTIA, *CTIA Semi-Annual Wireless Industry Survey*, available at http://files.ctia.org/pdf/CTIA_Survey_Year-End_2008_Graphics.pdf (last visited Oct. 22, 2009).

⁶ Verizon Comments at 7.

⁷ *NOI* at ¶15. See also Comments of Consumer Federation of America, *et al.* at 29 (filed Oct. 13, 2009); Comments of National Association of State Consumer Advocates at 4-6 (filed Oct. 13, 2009).

⁸ Comments of CTIA at 17-18 (filed Oct. 13, 2009) (“CTIA Comments”).

telemarketing to wireless customers that are generally beyond a wireless carrier's control), the complaint level is even less relevant.⁹ Without TCPA complaints, the total wireless complaints for the first quarter 2008 and first quarter 2009 were 6,125 and 4,299, respectively, a drop of nearly 30 percent.¹⁰ Most significantly, while there was a slight uptick in 2008, the annualized rate of 40 billing and rate-related complaints per one million subscribers in 2008 is still half the number from four years earlier.¹¹

The recent *GAO Report* on wireless consumer satisfaction, cited by the Commission as evidence of consumer confusion and uncertainty,¹² actually demonstrates the absence of both.¹³ A closer look at that study reveals that an estimated “84 percent of adult wireless phone users are very or somewhat satisfied with their wireless phone service.”¹⁴ GAO looked at customer satisfaction with respect to five areas of key concern: billing, terms of service contract, explanation of service, call quality, and customer service. It estimated that 85 percent of wireless phone users are very or somewhat satisfied with call quality, while the percentages of those very

⁹ As the Government Accountability Office (“GAO”) recently found, TCPA complaints relate not to carrier conduct but to that of third party telemarketers. *See Preliminary Observations about Consumer Satisfaction and Problems with Wireless Phone Service and FCC’s Efforts to Assist Consumers with Complaints, Testimony Before the Senate Comm. on Commerce, Science, and Transportation, 111th Cong.*, GAO-09-800T (June 17, 2009) (Statement of Mark Goldstein, Director Physical Infrastructure Issues), available at <http://www.gao.gov/new.items/d09800t.pdf> at 5, n.12 (“*GAO Report*”) (“Because such problems generally deal with telemarketers, not the services provided by wireless carriers, we did not examine this issue within the scope of our review.”).

¹⁰ CTIA Comments at 18.

¹¹ *Id.* at 19.

¹² *NOI* at ¶15.

¹³ *See generally GAO Report.*

¹⁴ *Id.* at 4.

or somewhat satisfied with “billing, contract terms, carrier’s explanation of key aspects of service at the point of sale, and customer service” range from about 70 to 76 percent.¹⁵

Non-government data also makes clear that wireless consumers are increasingly satisfied with their service. An annual survey conducted in September 2008 by the Consumer Reports National Research Center reported that 60 percent of readers were “completely or very satisfied” with their wireless service, a substantial improvement over the 2007 numbers.¹⁶ The survey of 51,700 readers indicated that “cell-phone service has become significantly better,” “[c]ontract terms for cell-phone service are less onerous, and there were fewer problems with call quality.”¹⁷ In explaining the trend in increased satisfaction, Consumer Reports cited fewer problems with connectivity and a reduction in complaints regarding contract extensions as a result of certain carrier decisions to stop the practice of automatically extending contracts when consumers make changes to their service plan.¹⁸

Other independent third-party studies recognize this trend in increasing customer satisfaction. J.D. Power and Associates’ (“J.D. Power”) 2009 Wireless Customer Care Performance Study (Volume 2) is based on responses from more than 12,000 wireless customers who contacted their carrier's customer care department within the past year.¹⁹ The study found

¹⁵ *Id.* at 6.

¹⁶ See *Best Cell Phone Service*, CONSUMER REPORTS, Jan. 2009, available at <http://www.consumerreports.org/cro/electronics-computers/phones-mobile-devices/phones/cell-phone-service-providers/cell-phone-service/overview/cell-phone-service-ov.htm> (“*Consumer Reports Best Cell Phone Service*”).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See Press Release, J.D. Power and Associates, *Increased First-Contact Problem Resolution and Shortened Hold Times Drive Improvements in Wireless Customer Care Performance* (Aug. (continued on next page)

that “wireless customer care performance has improved considerably as customers report shorter hold times and improved rates of problem resolution on the first contact, compared with six months ago.”²⁰ Specifically, the study found that more than 76 percent of calls to customer service are resolved on the first contact, compared with just 66 percent six months ago.²¹ In addition, hold times now average 5.55 minutes, compared with 6.58 minutes in February 2009, a 15 percent reduction in just six months.²² Notably, J.D. Power ranked T-Mobile (in a tie) as highest in wireless customer care performance,²³ and continued to highlight T-Mobile’s highest rankings for information provided to consumers during their retail experience.²⁴

Similarly, in its first quarter 2009 study, the American Consumer Satisfaction Index (“ACSI”) reported that customer satisfaction with wireless telephone service reached a new all-time high for the third consecutive year at 69 percent.²⁵ ACSI also determined that T-Mobile exceeded the average score with a rating of 71 percent customer satisfaction rating.²⁶ Of course, these figures leave room for improvement, but as discussed below, more government regulation

13, 2009), *available at* <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2009148>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ See Press Release, J.D. Power and Associates, *Smartphone Users are More Satisfied with their Wireless Retail Sales Experience, Compared with Traditional Handset Users* (Sept. 17, 2009), *available at* <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2009200> (last visited Oct. 28, 2009).

²⁵ See The American Customer Satisfaction Index, *Q1 2009 and Historical ACSI Scores – Wireless Telephone Service* (May 19, 2009), *available at* http://theacsio.nexcess.net/index.php?option=com_content&task=view&id=180&Itemid=203 (last visited Oct. 20, 2009).

²⁶ *Id.*

is not an effective way to encourage that movement. Wireless providers compete on customer service as much as price, coverage, and devices, and they have every incentive to ensure consumer satisfaction without new rules.

B. The CTIA Consumer Code Is Effective

T-Mobile strongly supports the CTIA Consumer Code as an appropriate model for dealing with any possible concerns regarding consumer information and disclosure.²⁷ The CTIA Consumer Code allows each signatory company the flexibility to respond to customer concerns within a fiercely competitive and fast-paced marketplace. The industry's track record is impressive since it first adopted the CTIA Consumer Code in 2003. Since that time, 31 companies have become signatories to the Code and, as noted above, the rate of wireless complaints have fallen in half, from an annualized rate of 80 billing and rate-related complaints per one million subscribers in 2004 to 40 such complaints in 2008.²⁸ Customer satisfaction continues to rise as documented both by government agencies and third parties – while signatory companies regularly surpass the fundamental tenets of the CTIA Consumer Code in order to satisfy existing customers and acquire new ones. The Commission appropriately supported the dynamics of the CTIA Consumer Code, as noted by AT&T, when it explicitly endorsed its tenets in 2004, when it allowed wireless carriers to demonstrate their qualifications to be “eligible

²⁷ See CTIA Comments at 20-24 (a detailed discussion of how the CTIA Consumer Code answers many of the questions raised in the *NOI*).

²⁸ See CTIA Comments at 19. See also Comments of AT&T at 12 (filed Oct. 13, 2009) (“AT&T Comments”); Comments of SouthernLINC Wireless at 3 (filed Oct. 13, 2009) (“SouthernLINC Wireless Comments”).

telecommunications carriers” by adherence to the Code.²⁹

T-Mobile agrees with the Rural Communications Association (“RCA”) that it “would be administratively efficient for the Commission to rely on voluntary industry mechanisms in the first instance, if the agency were to determine in this proceeding that further steps are necessary to enhance consumers’ access to communications service information”³⁰ Ultimately, the CTIA Consumer Code is a “zero-cost, highly effective method of creating stringent but evolving norms within the wireless industry that benefit consumers and avoid the delay and associated administrative costs of federal governmental intervention.”³¹ With no data or evidence militating in favor of contrary action, the Commission should reaffirm its previous endorsement of the CTIA Consumer Code.

III. T-MOBILE HAS TAKEN A LEADERSHIP ROLE IN CUSTOMER SERVICE

T-Mobile is a leader among national and regional providers in wireless customer service, an innovator of customer-friendly wireless products and services, and a catalyst for industry responsiveness to the needs of wireless customers. T-Mobile has been recognized regularly by J.D. Power as performing particularly well in cost of service, billing, and customer care,³² and just last month, T-Mobile received the highest ranking among national wireless carriers in the

²⁹ See AT&T Comments at 12-13 (citing *Federal-State Joint Board On Universal Service Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1576-77 ¶30 (2004)).

³⁰ Comments of Rural Cellular Association at 8 (filed Oct. 13, 2009) (“RCA Comments”).

³¹ CTIA Comments at 20.

³² See, e.g., Press Release, J.D. Power & Associates, *Despite Higher Costs for Additional Services, Wireless Customers Report Particularly High Levels of Satisfaction with Wireless Plan Upgrades* (Apr. 24, 2008), available at <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2008044>.

J.D. Power 2009 Wireless Retail Sales Satisfaction Study (Volume 2).³³ The award reflects T-Mobile's continued achievements for overall customer experiences, whether in-store, online, or on the phone.³⁴ The results of the J.D. Power study show that customers rate T-Mobile highly in four key factors measured to determine overall retail performance: sales staff, merchandise display, store facility, and cost. T-Mobile ranks highest or above average in all four categories.

In addition, T-Mobile has imposed upon itself the goal of becoming the most highly regarded service company, and formulates its consumer policies with this objective always in mind. For instance, T-Mobile implemented an initiative referred to as the "Connect with Retail" program that requires mid- to upper-management employees, across all departments (including our Chief Executive Officer), to work as company retail representatives for several days each year. These employees are assigned to a T-Mobile store, where they sell service and devices, answer questions, and trouble-shoot technical and billing problems, all to better understand the T-Mobile consumer experience. This exercise, which has been in place for four years, often results in tangible changes to systems, operations, and processes related to activations, technical support, and service quality, as well as an enhanced sensitivity to consumer needs when setting company direction.

A. Advertising Disclosures

When marketing products and services, T-Mobile provides information designed to allow

³³ See J.D. Power and Associates, *2009 Wireless Retail Sales Satisfaction Ratings (Volume 2)*, available at [http://www.jdpower.com/Telecom/ratings/wireless-retail-sales-satisfaction-ratings-\(volume-2\)/](http://www.jdpower.com/Telecom/ratings/wireless-retail-sales-satisfaction-ratings-(volume-2)/) (last visited Oct. 21, 2009) ("*J.D. Power 2009 Wireless Retail Sales Awards*").

³⁴ The award also echoes T-Mobile's recent success of having received highest ranking, including two ties, in nine of the last 10 Customer Care Performance Studies conducted by J.D. Power. See *supra* Section II.A.

consumers to make educated decisions about whether to take advantage of certain offers. For example, as it typically does, T-Mobile is running print advertisements touting its new Even MoreSM price plans that provide various unlimited nationwide calling plans. The advertisements include, among other things, the simplicity of the pricing of the service as well as numerous disclosures of items that have been noted important to our customers such as the amount of the early cancellation fee, T-Mobile's regulatory programs fee, that additional taxes would apply, and the percentage range of estimated taxes. T-Mobile's advertising efforts like this have been acknowledged by J.D. Power, which specifically highlighted T-Mobile's top rating, among others, for customer satisfaction with the price and promotion of merchandise.³⁵

B. Disclosure of System Coverage

T-Mobile continues to introduce innovative tools, products, and quality services, as well as provide front-line employees the effective tools to educate customers, all of which foster consumer satisfaction. For example, T-Mobile introduced the Personal Coverage Check ("PCC"), a street-level interactive coverage tool, several years ago because it recognized early on the importance of offering complete transparency to consumers about T-Mobile coverage in any given specific location. Enrolling customers who later are dissatisfied with T-Mobile's coverage is incongruent with one of the core company-wide objectives of creating an acceptable wireless experience for all customers.³⁶ The PCC (located both in T-Mobile retail stores and on www.t-mobile.com) is a service that allows customers to check whether T-Mobile's wireless

³⁵ See *J.D. Power 2009 Wireless Retail Sales Awards*, *supra* n.33.

³⁶ See T-Mobile, *Personal Coverage Check*, available at <http://www.t-mobile.com/coverage/pcc.aspx> (last visited Oct. 20, 2009). The PCC allows prospective consumers to assess the strength of T-Mobile wireless coverage at any address, intersection, or landmark relevant to their own use.

coverage is appropriate for them *in advance* of purchasing service.³⁷ The PCC has been celebrated in industry trade articles as an “honest” approach to wireless service and subsequently imitated by our competitors.³⁸ As part of its interest in providing coverage awareness, T-Mobile has employed related efforts to educate its customers and also solicits their support for improving coverage in the locations that matter to them most.³⁹

C. Disclosure of Terms and Conditions at Point of Sale

T-Mobile recognizes the benefits of empowering customers to make informed decisions prior to purchasing its products and services – information that is disclosed in the service agreement, the terms and conditions, or other materials such as T-Mobile's Privacy Policy, EasyPay (automatic payment process) description, and Premium Handset Protection Program. T-Mobile sales representatives review this information with customers at the point of sale and require customer acknowledgement of material terms and conditions. T-Mobile makes similar disclosures to existing customers who upgrade or modify their service plans. Importantly, it is

³⁷ Commenters that continue to raise concerns about coverage map information may not be aware of T-Mobile's PCC and the similar mapping and coverage tools subsequently implemented by most other carriers. *See, e.g.*, Comments of Massachusetts Department of Telecommunications and Cable at 13 (filed Oct. 13, 2009) (calling for a referral to an applicable coverage map); Comments of Fepulea'i Arthur Ripley, Jr., Attorney General of American Samoa, *et al* at 6 (filed Oct. 13, 2009) (calling for disclosures in respective coverage maps of “weak spots” and “dropped call zones” to better apprise consumers of potential problem areas).

³⁸ *See* Sascha Sagan, *T-Mobile Personal Coverage Check Gets “A” for Honesty* (Mar. 9, 2005), available at <http://www.pcmag.com/article2/0,2817,1774481,00.asp> (last visited Oct. 20, 2009).

³⁹ *See* T-Mobile, *Take Action for Better Connections!*, available at <http://www.t-mobile-takeaction.com/> (last visited Oct. 20, 2009) (T-Mobile's Take Action Campaign enlists the support of customers to stay informed about company efforts to improve wireless coverage). By dialing 611 on their cell phones, T-Mobile customers can call customer service to identify locations where they drop calls or experience poor coverage. Customer service then feeds this information into company engineering profiles for the location of new cell sites.

T-Mobile's policy not to extend the term of a contract when a customer switches to a non-promotional plan, and, when a customer does opt for a new promotion, T-Mobile provides the customer with detailed information related to that promotion and corresponding disclosures for the product and service. In addition, T-Mobile requires the customer to again acknowledge the early termination fee, applicable terms and conditions, product return information, any additional fees to the device upgrade, and his or her dispute resolution preference via either a manual or automated process at point of sale

In addition, T-Mobile provides separate and detailed disclosures at point of sale for other wireless products and services, including prepaid products and services such as T-Mobile's innovative FlexPaySM service.⁴⁰ T-Mobile FlexPaySM allows customers to choose almost any T-Mobile rate plan on a month-to-month basis or pursuant to a contract. With month-to-month FlexPaySM service, the T-Mobile customer pays full price for the handset. Under a one- or two-year contract, the customer receives a discount on the handset. With either FlexPaySM option, there are no deposits. Also, customers pay for their handset, first monthly service charge, and any associated taxes and fees at the point of sale – while still benefitting from existing T-Mobile voice service plans. Again, all applicable rights, obligations, and limitations for T-Mobile FlexPaySM are provided to the customer at the point of sale.

D. Contract Terms and Conditions

As a nationwide wireless service provider operating in an intensively competitive market, T-Mobile appreciates the importance of offering reasonable terms and conditions of service and

⁴⁰ See T-Mobile, *Meet the new plans*, available at <http://www.t-mobile.com/Shop/Plans/Cell-Phone-Plans-Overview.aspx> (last visited Oct. 28, 2009).

ensuring that customers understand both the limitations of service and their rights and obligations. For these reasons, T-Mobile discloses its terms and conditions to customers at the point-of-sale.⁴¹ If contract service does not fit a customer's needs, the customer can opt to purchase service from T-Mobile on a prepaid basis without accepting many of the terms and conditions associated with term service agreements; or she can choose from one of T-Mobile's new Even MoreSM rate plans.⁴² T-Mobile's Even MoreSM plans are flexible and straightforward, provide new ways for customers to get the latest phones and devices, and offer extremely competitive pricing for any combination of voice, messaging, and data without having to enter into an annual contract.

T-Mobile understands that customers may need time to review contract terms and to determine if they like a new mobile device. For this reason, T-Mobile offers a reasonable return period in conformity with the CTIA Consumer Code.⁴³ During this return period, the customer has the right to cancel the contract at no charge, except for charges incurred through the date of cancellation, and to receive a full refund for undamaged equipment.⁴⁴ After the expiration of the

⁴¹ See *infra* Section III.C.

⁴² See T-Mobile, *Introducing Even MoreSM and Even More PlusSM*, available at http://www.t-mobile.com/discover/discover.aspx?WT.z_HP=Discover#3 (last visited Oct. 28, 2009) ("*Even MoreSM Service Plans*"); see also TmoNews The Unofficial T-Mobile Blog, *Project Dark is a Go!* (Oct. 25, 2009), available at <http://www.tmonews.com/2009/10/project-dark-is-a-go/> (last visited Oct. 27, 2009); Ed Hansberry, InformationWeek, *T-Mobile Launches Project Dark* (Oct 26, 2009), available at http://www.informationweek.com/blog/main/archives/2009/10/tmobile_launche_2.html;jsessionid=IXB2GTKIVO5QE1GHPCKH4ATMY32JVN (last visited Oct. 27, 2009).

⁴³ T-Mobile's return period is 14 days, except in California where it is 30 days.

⁴⁴ Customers remain responsible for paying the service and all charges, fees, and taxes incurred through the date of cancellation.

return period, customers are responsible for paying an early termination fee, which decreases over time.

T-Mobile also recognizes that sometimes customers may incur unauthorized charges due to lost or stolen equipment, amended terms and conditions, as well as billing disputes between the parties. T-Mobile's terms and conditions provide generally that a customer is not responsible for charges incurred after notifying T-Mobile of the lost or stolen phone.

Finally, T-Mobile does not automatically extend contracts for any customer at the expiration of the term. Instead, customers can continue to take service on a month-to-month basis unless and until they choose to enter into a new contract.⁴⁵ This gives customers time and flexibility to compare service offerings from T-Mobile and its competitors while maintaining wireless service.

E. Billing Practices

T-Mobile customers have many options to obtain information about their accounts. All postpaid customers have access to monthly billing statements, either online or in paper form, which summarize the charges incurred in the previous month. Customers also may view at no charge all account information online including their bill, call details, and text message status (used/remaining) by setting up a password and accessing their account at <https://my.t-mobile.com>. Customers who sign up for paperless billing receive an e-mail and/or SMS notification when their bills are ready for viewing online.

T-Mobile offers many innovative products and tools to assist customers in managing their

⁴⁵ *Consumer Reports* acknowledges that automatic contract extensions are no longer a significant complaint of consumers. See *Consumer Reports Best Cell Phone Service*, *supra* n.16.

accounts and their spending on wireless services. One such program is T-Mobile's Family AllowancesSM plan, which provides controls for multi-line customers who want to manage multiple lines while avoiding unexpected charges.⁴⁶ Using Family AllowancesSM, a customer can set upfront limits for minutes, messages, and downloads for herself and other family members on the same plan.⁴⁷ Family AllowancesSM allows customers to set different limits for each line on the account, establish "always allowed" and "never allowed" phone numbers, set time-of-day blocking, and manage service using an innovative T-Mobile web based tool. T-Mobile also offers its customers a "Mobile Makeover" by suggesting that they visit www.billshrink.com, an independent third party site that evaluates a customer's unique calling needs against other national wireless plans to find the most economical option for that customer.⁴⁸

In addition to the Family AllowancesSM plan, customers can access several convenient self-help services directly from their handset to monitor their account usage. Postpaid customers can dial #BAL# and receive their account balance and the date their last payment was received

⁴⁶ See T-Mobile, *Family Wireless 101*, available at http://www.t-mobile.com/shop/addons/services/information.aspx?PAsset=FamilyWireless&tp=Svc_Tab_FW101FamilyAllowances (last visited Oct. 21, 2009) ("*Family Wireless 101*").

⁴⁷ See *NOI* at ¶35 ("We consider empowering consumers to better manage service plans critical in an era where multiple services are bundled into a single bill, and where billing technologies may have improved sufficiently to provide consumers detailed, real-time information on usage and the potential for incurring 'overage' charges."); see also *Family Wireless 101*, *supra* n.46.

⁴⁸ See T-Mobile, *Get your Mobile Makeover*, available at http://www.t-mobile.com/promotions/pcmtemplate.aspx?Passet=Pro_Pro_MobileMakeover&POasset=Pro_Pop_MobileMakeover&partner=BillTmo&wt.ac=0667DIS04 (last visited Oct. 27, 2009). In addition, there are numerous other third party sites and blogs where consumers can go to obtain information in a rapidly evolving and innovative wireless space that includes open platforms. See, e.g., Talk Android, *Android Forums - Talk Android Community*, available at <http://www.talkandroid.com/android-forums/> (last visited Oct. 28, 2009).

and the amount of payment; they can dial #MSG# to determine the number of used, remaining and/or additional (i.e. overage) text messages since the start of their current bill cycle; and they can dial #MIN# to receive current minute balances. Prepaid customers can dial #999# to receive their prepaid account and minute balances. As touched on above, customers also can access this information online for free at <https://my.t-mobile.com>.

T-Mobile continually strives to make its invoices more readable and understandable, consistent with requirements that may vary from jurisdiction to jurisdiction. T-Mobile's bill contains separate sections that delineate monthly recurring charges, such as monthly rate plan charges, local airtime, long distance and international charges, and charges for one-time purchases such as those of ringtones. Federal, state and local taxes, and fees are itemized separately and are also contained in a separate section of the bill. Customers may opt to receive their bills in English or Spanish. T-Mobile also offers various methods for its customers to receive customer care support. Not only can customers talk with a live T-Mobile customer care representative, but they can also communicate with live representatives by chat line service through T-Mobile's website, through Twitter, or through T-Mobile's online forums.⁴⁹

Finally, T-Mobile customers have 60 days after receipt of their bills to dispute any charges. Every bill informs customers that if they have questions about their bill, they should call customer service at a toll free number or dial 611 from their T-Mobile phone (at no charge, with no minutes used). Every bill also provides the mailing address and e-mail address where customers can also send questions to T-Mobile.

⁴⁹ See T-Mobile, *T-Mobile Forums*, available at http://forums.t-mobile.com/tmbl/?WT.z_unav=mst_support_forums (last visited Oct. 28, 2009).

F. Access by Persons with Disabilities

T-Mobile is committed to ensuring the accessibility of its products and services for all customers and is an active participant in various fora concerning wireless users with disabilities.⁵⁰ Together with these groups, T-Mobile works diligently to facilitate and enhance the experience of customers with special needs when purchasing and using T-Mobile products and services.

T-Mobile currently offers a number of Hearing Aid Compatible (“HAC”) handsets, all of which have minimum ratings of M3. Some of these devices have ratings of T3 for users of the telecoil functionality on their hearing aids. The selection of HAC handsets is diverse, representing a broad range of functionality and pricing. T-Mobile offers both higher end handsets that represent cutting edge technology and sophisticated functionality, as well as handsets with more traditional features and capabilities. Information can be found on the company’s website about these devices.⁵¹ In addition, to facilitate the shopping experience, rating information can be found in the packaging of the device, as well as on feature cards most commonly found next to the device in a T-Mobile-owned and operated store. Beyond T-Mobile’s traditional return policies discussed above, HAC handsets and devices can be tested before purchase in T-Mobile-owned and operated retail stores. In addition, T-Mobile has established a customer care center that is devoted to supporting calls received from customers utilizing TTY technology.

⁵⁰ *NOI* at ¶¶52-55.

⁵¹ A listing of the 20 plus HAC handsets can be found at T-Mobile, *Safety, Community & Sponsorships: TTY Policy*, available at http://www.t-mobile.com/Company/Community.aspx?tp=Abt_Tab_Safety&tsp=Abt_Sub_TTYPolicy (last visited Oct. 20, 2009).

For visually impaired customers, many brands of screen-reading software are compatible with T-Mobile devices using Windows Mobile operating systems – specifically HTC products, such as the T-Mobile Dash. T-Mobile provides a Directory Assistance Credit Program through which visually impaired customers receive a monthly credit for a certain number of directory assistance calls. Finally, www.t-mobile.com is compatible with screen reading software, which significantly enhances the online experience for consumers with vision loss.

IV. ADDITIONAL REGULATION COULD LIMIT COMPETITION, INVESTMENT, AND INNOVATION IN THE MARKETPLACE

T-Mobile is concerned that additions to the Commission’s truth-in-billing rules could have the unintended effect of chilling competition, investment, and innovation in the area of customer service. As the fourth largest wireless company, T-Mobile must work hard to attract and retain customers, and the company has identified customer service as a key differentiator from its larger competitors.⁵² As shown above, T-Mobile is both responsive to its customers’ needs and innovative in its approach to meeting those needs – otherwise it could not remain competitive in the industry. Because of this competition, consumers can make choices in products by carrier and by type of service purchased, all based on their own individual needs and preferences. These choices are the ultimate “vote” on whether carriers have adequately met the needs of wireless customers.⁵³ An overly prescriptive regulatory regime would only serve to

⁵² See Nielsenwire, *Tops In 2008: Top Advertisers, Most Popular Commercials* (Dec. 15, 2008), available at <http://blog.nielsen.com/nielsenwire/consumer/tops-in-2008-top-advertisers-most-popular-commercials/> (last visited Oct. 20, 2009) (detailing that AT&T Inc. and Verizon Communications Inc. were two of the top four U.S. advertisers in 2008, each spending over \$1 billion on traditional media advertising).

⁵³ See also Comments of Sprint Nextel Corporation at 9 (filed Oct. 13, 2009) (“Customers demand immediate access to helpful information and quick resolution. Carriers unable to meet
(continued on next page)

make it more difficult for T-Mobile and others to develop unique and compelling customer service offerings and respond quickly to competitive changes.⁵⁴

For these reasons, the Commission should proceed with caution in attempting to formulate a new framework for wireless consumer standards, recognizing that such an attempt could have the perverse result of limiting the choices that would otherwise be available to customers.⁵⁵ CTIA provides a compelling picture of how carriers have expanded consumer choice in responding to consumer demand for improvements in billing over the past 15 years:

The wireless voice subscriber, for example, has seen an evolution from the original pay-per-minute subscription of the mid-1990's to today's "bucket" plans and a host of new service offerings designed to meet U.S. consumers' high level of demand for wireless. Creative pricing plans that have emerged include free nights and weekends, rollover minutes, free in-network calling, circle calling plans, unlimited use plans, and many others. . . . [C]arriers have introduced [many different pricing plans] over time in response to changes in consumer demand and competitive pressures – from, AT&T Wireless's revolutionary introduction in

these demands will have unhappy customers, who are more likely to leave for the services of a competitor.”).

⁵⁴ See, e.g., CTIA Comments at 55; Comments of the Independent Telephone and Telecommunications Alliance at 6 (filed Oct. 13, 2009); RCA Comments at 2; Comments of Dish Network, L.L.C. at 6 (filed Oct. 13, 2009) (“Moreover, regulations governing billing practices and consumer disclosures invariably will delay competitive responses to market forces.”) (“Dish Comments”).

⁵⁵ For example, late last year, T-Mobile began offering customers the option of spreading handset payments over a three-month period, and eliminated a fee previously applied when a customer upgraded his or her handset. And, as noted above, with the just-introduced Even MoreSM plan, handset costs are effectively spread over a number of months. See TmoNews The Unofficial T-Mobile Blog, *More information on the equipment installment plan* (Nov. 12, 2008), available at <http://www.tmonews.com/2008/11/more-information-on-the-equipment-installment-plan/> (last visited Oct. 20, 2009); Sean Fallon, Gizmodo, *T-Mobile Offering Four-Month Payment Plans For Cellphones and Accessories* (Feb. 2, 2009), available at <http://gizmodo.com/5144572/t+mobile-offering-four+month-payment-plans-for-cellphones-and-accessories> (last visited Oct. 21, 2009); see also *Even MoreSM Service Plans*, *supra* n.42.

May 1998 of its Digital One Rate plan, which allowed customers to purchase a bucket of minutes to use on a nationwide basis for a single flat rate, without any roaming and long-distance charges, to the introduction in 2003 of new “family plans” that permitted subscribers to sign up for multiple lines, with all lines sharing the available minutes on the plan jointly, to the unlimited calling service plans designed to compete directly with wireline local telephone service.⁵⁶

CTIA points out that carriers, including T-Mobile, have introduced these creative pricing plans for the simple purpose of attracting and retaining customers. Mandating notice periods or other disclosures as some have suggested could reduce carriers’ flexibility to respond promptly and in a pro-consumer manner to marketplace developments.⁵⁷

Of particular concern are the potential costs of Commission-imposed changes to billing requirements. Dish Network, CTIA, and others recognize that billing systems are very complex software systems and are not easily modified because they are integrated into all aspects of a company’s services and operations.⁵⁸ FCC-imposed changes to billing platforms and systems would require significant “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

⁵⁶ CTIA Comments at 5-6 (footnotes omitted).

⁵⁷ *See, e.g.*, Comments of BillShrink, Inc. at 4 (filed Oct. 13, 2009) (calling for a minimum 30-day notice period before any changes to “plan prices, features, phone specifications, eligibility, and compatibility for every zip code in the US”); Comments of Citizens Utility Board (filed Oct. 13, 2009) (calling for all companies “to offer at least four standard, basic calling plans—often referred to as ‘plain vanilla’ plans”; specific plans include: (1) up to 50 calls a month, with no special calling features; (2) 51 to 200 calls a month, with no special calling features; (3) unlimited calling with no special calling features; and (4) unlimited calling with the choice of two special calling features.).

⁵⁸ *See* Dish Comments at 6 (“customer billing systems are complex and it would be costly and time-consuming to redesign these systems to comply with new billing regulations”); *see also* CTIA Comments at 53 (“there are very real costs associated with complying with any regulation, but especially those that address billing”).

management of the network,”⁵⁹ and, as RCA points out, additional billing and disclosure requirements would have a significantly disproportionate impact on smaller carriers.⁶⁰

Ultimately, such costs would be borne by consumers.

Finally, the Commission has recognized that regulating wireless companies’ interactions with their customers could impose costs on consumers and limit competition, investment, and innovation, which is why in 1994, the Commission made a decision to forbear from requiring Commercial Mobile Radio Service (“CMRS”) providers to file tariffs.⁶¹ The ruling was particularly noteworthy because it came before the introduction of Personal Communications Service (“PCS”) and at a time when each of the cellular licensees in a market still had significant market power. In making its decision, the Commission found that requiring tariff filings could “(1) take away carriers’ ability to make rapid, efficient responses to changes in demand and cost, and remove incentives for carriers to introduce new offerings; (2) impede and remove incentives for competitive price discounting, since all price changes are public, which can therefore be quickly matched by competitors; and (3) impose costs on carriers that attempt to make new offerings.”⁶² The 277 million wireless subscribers in the United States today demonstrate that the Commission was on the right track 15 years ago; it should keep this in mind as it weighs the

⁵⁹ SouthernLINC Wireless Comments at 5. SouthernLINC Wireless also notes 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” that would arise with changes to the truth-in-billing regulations. *Id.* at 7.

⁶⁰ *See* RCA Comments at 14-15.

⁶¹ *In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd 1411 (1994).

⁶² *Id.* at 1479.

costs and benefits of imposing new disclosure regulations in the CMRS marketplace.⁶³ The Commission has recognized that, in a competitive marketplace, customers have the opportunity to “shop around” if they believe a particular carrier does not meet their needs, and that it is not necessary for the Commission to intervene.⁶⁴ There is no market failure presented in this proceeding that would warrant the imposition of additional burdensome regulation. In a thriving and competitive marketplace, wireless carriers have every incentive to respond effectively and rapidly to consumer demand because if they do not, they will lose customers. In a lagging economy, with an industry that is facing intense competition, we urge the Commission to stay its hand and avoid additional rules at this time.

⁶³ Some state commissions also have recognized the value of a competitive marketplace as opposed to excessive state regulation. Recently, the Connecticut Department of Public Utility Control in Docket No. 07-05-03 concluded after a two-year study of wireless consumer complaints not to seek any specific or additional regulation of wireless quality of service. More importantly, it applauded the collaboration that has occurred with the wireless industry on behalf of consumers. The benefits of competition over regulation also have been recognized by other jurisdictions including the New York Public Service Commission in *Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings*, Docket No. 05-C-0616; and the State of Indiana via House Enrolled Act 1279.

⁶⁴ *Jacqueline Orloff v. Vodafone AirTouch Licenses LLC, d/b/a Verizon Wireless and New Par*, Memorandum Opinion and Order, 17 FCC Rcd 8987, 8999 (2002), *aff'd Orloff v. FCC*, 352 F.3d 415 (D.C. Cir.) (2003), *cert. denied* 542 U.S. 937 (2004).

V. CONCLUSION

For the foregoing reasons, T-Mobile urges the Commission to refrain from proposing any additional billing or consumer disclosure obligations on the CMRS industry.

Respectfully submitted,

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