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April 14, 2010

Via Electronic Submission

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

Re: ***Notice of Oral Ex Parte Communication***
Intercarrier Roaming, WT Docket No. 05-265

Dear Ms. Dortch:

This letter is to inform you that on April 13, 2010, Sprint Nextel Corporation (“Sprint”), through its representatives Charles W. McKee and Maria L. Cattafesta, participated in separate meetings with John Giusti (Chief of Staff and Legal Advisor to Commissioner Copps) and with Louis Peraertz (Legal Advisor to Commissioner Clyburn) regarding the above-referenced proceeding.

Sprint reiterated its support for the permanent and complete elimination of the in-market exception to the automatic roaming rule consistent with the arguments made in its prior filings in this docket. A requirement that roaming be offered on just, reasonable, and non-discriminatory terms (*i.e.*, consistent with Sections 201 and 202 of the Act) will ensure that consumers continue to have universal coverage while allowing carriers the flexibility to reach reasonable commercial arrangements.

Sprint also discussed the April 7, 2010, *ex parte* letter Verizon filed in this docket. In that letter, Verizon proposed that the Commission clarify in its order that “‘just and reasonable’ rates, terms and conditions for in-market roaming under Section 201(b) may properly differ from those for out-of-market roaming, and that it may be reasonable under Section 202(a) in some circumstances to discriminate among roaming partners requesting in-market roaming.”¹ Verizon

¹ Letter to Marlene H. Dortch, Secretary, FCC, from Tamara Preiss, Verizon, WT Docket No. 05-265 at 1 (April 7, 2007).

also proposed several factors specific to determining whether in-market roaming is just and reasonable and not unreasonably discriminatory.²

Sprint urged the Commission to reject Verizon's proposal. While elimination of the in-market exception would impose a duty on wireless carriers to provide in-market roaming pursuant to Sections 201 and 202, Verizon's proposed clarifications and factors, if adopted, would have the net effect of recreating the current in-market exception. First, the proposal essentially asks the Commission to pre-approve Verizon's ability to discriminate by charging higher rates for in-market roaming than it charges for out-of-market roaming. By definition, however, a complaint brought under Sections 201 and 202 must consider all of the relevant circumstances presented by a particular case. Without the specific facts before it, the Commission cannot predetermine whether discrimination in this context is reasonable without effectively reinstating the in-market exemption. Moreover, as a matter of policy, Verizon provides no justification for such discrimination other than a desire to preserve the existing in-market exception.

Verizon's proposed factors elevate the in-market versus out-of-market distinction as the primary factor in determining whether a particular roaming arrangement is just, reasonable, and non-discriminatory. Sprint argued that the Commission must review each Section 208 roaming complaint pursuant to the just, reasonable, and non-discriminatory standards of Sections 201 and 202 based on the many factors that may be relevant to each particular case, not based on the in-market factors Verizon proposes.

Sprint noted, for example, that if the Commission were attempting to evaluate a wireless carrier's network build-out, it would need to look at the overall activity of the carrier rather than attempting to focus narrowly on a single license or geographic area. Spectrum licenses vary widely in geographic size and scope. A carrier may hold a license covering a Major Trading Area ("MTA") or it may hold all of the smaller Basic Trading Areas ("BTAs") that make up that particular MTA. Build-out in that area could represent 90% coverage of POPs in the MTA, but be significantly less in a particular BTA, given the variances in population distribution across that MTA.

Rather than adopting Verizon's proposal, Sprint urged the Commission to ensure that it: (1) establishes a strong presumption in favor of roaming (regardless of any in-market versus out-of-market distinction) pursuant to Sections 201 and 202; and (2) maintains maximum flexibility to review roaming complaints filed under Section 208.

In response to questions on FCC regulation of data roaming, Sprint indicated that it is reviewing its automatic data roaming position. The parties also discussed the potential role of 3G and 4G data roaming.

² *Id.* at 2.

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Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed with your office. Please let us know if you have any questions regarding this filing.

Respectfully submitted,

/s/ Maria L. Cattafesta _____

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cc: (via e-mail)

John Giusti
Louis Peraertz
Charles W. McKee