

**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;)
IP-Enabled Services)

COMMENTS OF RURAL CELLULAR ASSOCIATION

Rural Cellular Association (RCA)¹ hereby submits these Comments in response to the Federal Communications Commission’s (FCC or Commission) Public Notice² seeking comment on whether the Commission should adopt usage control measures that will help consumers avoid receiving higher than expected bills for their wireless communications services. RCA agrees that consumers should have the benefit of relevant information pertaining to the provision of wireless services and choice, but “bill shock” mitigation is more appropriately addressed by each individual carrier. RCA members provide their customers with detailed account information, including usage information, maps, and details on additional charges like roaming. While some may not

¹ RCA is an association representing the interests of nearly 100 regional and rural wireless licensees providing commercial services to subscribers throughout the Nation and licensed to serve more than 80 percent of the country. Most of RCA’s members serve fewer than 500,000 customers.

² See *Comment Sought on Measures Designed to Assist U.S. Wireless Consumers to Avoid “Bill Shock”*, CG Docket No. 09-158; Public Notice, DA 10-803 (May 11, 2010) (*Bill Shock Public Notice*); *2009 Consumer Information and Disclosure; Truth-in-Billing and Billing Format; IP-Enabled Services*, CG Docket No. 09-158; CC Docket No. 98-870; WC Docket No. 04-36, Notice of Inquiry, 24 FCC Rcd 11380 (2009) (*2009 Consumer Information and Disclosure NOI*).

have automated “bill shock” alerts, RCA members have adopted internal practices and procedures to remediate billing concerns directly with their customers. Direct billing review and resolution is the most cost effective and cost efficient means for smaller and regional carriers to notify their customers about incurring additional costs on their monthly bill. If it truly wants to empower consumers, the Commission should eliminate handset exclusivity, mandate automatic roaming and ensure interoperability throughout the 700 MHz spectrum band, thus giving consumers more choices in every market.

I. A Bill Shock Mandate is Unnecessary; RCA Members Provide Accurate and Detailed Account and Billing Information and Have Adopted Voluntary, Internal Bill Shock Prevention Measures

Mandating automated usage alerts and controls is not necessary because RCA carrier members voluntarily have adopted internal customer controls.³ RCA carrier members provide their customers with accurate and detailed account and billing information, both on their monthly bills and through online resources. RCA carrier members’ best competitive tools are stellar customer service and high customer satisfaction. RCA carrier members have had great success retaining customers and keeping churn rates low because of the individual attention they pay to each customer, including monitoring customers’ bill and wireless usage. RCA carrier members’ customer service representatives are always available to walk customers through calling plans and potential rate changes, and they do so routinely. In addition, RCA carrier members have online tools for customers to monitor and track their wireless usage and to educate and inform customers about new calling plans that may provide a better individual fit.

³ In fact, some RCA carrier members already have instituted automated consumer protection and bill shock prevention measures, including automatic overage alerts.

In a recent meeting with the FCC, RCA members shared their experiences and competitive challenges in the current wireless marketplace.⁴ For rural carriers, carefully tailored efforts to minimize bill shock provide a competition advantage. For example, an RCA member retroactively changed a customer's calling plan to include both voice and data, eliminating almost \$1,000 in overage fees. In preparing monthly bills, the RCA member's invoice specialist noticed that its customer had used her wireless phone to transfer large data files, even though she did not have a data package. In order to avoid "bill shock" and understandably upsetting an otherwise satisfied customer, the RCA member asked this customer if she would like to switch plans to include data services and retroactively applied the new rates and calling plan, saving the customer almost \$1,000. As a result of its individualized customer service, this RCA member will likely keep this customer for years to come.

In its *Notice of Inquiry* on this matter,⁵ the FCC expressed an interest in understanding cost-effective best practices in information disclosure. In addition to the individualized approach to bill shock prevention, many RCA members have voluntarily adopted CTIA's Consumer Code for Wireless Service (Consumer Code).⁶ As signatories

⁴ See letter from Rebecca Murphy Thompson, General Counsel for Rural Cellular Association, to Marlene H. Dortch, Secretary of the Federal Communications Commission, filed in WC Docket No. 05-337; CC Docket No. 96-45; WT Docket No. 05-265; WT Docket No. 09-66; and RM-11592 (June 17, 2010).

⁵ 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, 2009 WL 2751095 (Aug. 28, 2009).

⁶ CTIA, "Consumer Code for Wireless Service" (Consumer Code), accessed at http://www.ctia.org/consumer_info/service/index.cfm/AID/10352. RCA has previously advocated for the Commission to examine the utility of voluntary industry codes and standards. While the Consumer Code is a good model to ensure consumer protection, the Commission should work with industry representatives to develop an updated, expanded and enhanced code of voluntary standards for all communications services. RCA welcomes the opportunity to explore with the Commission ways to expand the Consumer Code to make it a more effective consumer

to the Consumer Code, several RCA members have voluntarily agreed to disclose rates and terms of service to consumers at the time of the sale and on their websites, including monthly access charges, number of minutes in the calling plan, charges for overages, roaming charges, and other charges collected by the carrier. As called for under the Consumer Code, RCA carrier members also make coverage maps available at the time of the sale and continually in updated form on their websites, so customers are always aware of the carriers' calling areas and, in turn, where and when a customer may incur roaming or off-network charges. Finally, in addition to internal and self-imposed bill shock prevention measures, wireless carriers are also subject to state consumer protection regulations.

Between imposing internal bill shock prevention methods, self-regulating and adopting voluntary industry best practices, and implementing state consumer protection regulations, an FCC bill shock mandate is not necessary. RCA carrier members continue to make efforts toward achieving the Commission's goal of empowering consumers⁷ and increasing customer satisfaction with the industry's services and products.⁸ Before adopting an onerous billing requirement, the FCC must take note of successful efforts by rural and regional carriers to provide useful information to consumers about service selection and billing.⁹ Voluntary self-regulation, like the Consumer Code, allows carriers the flexibility to modify, update and enhance billing and notification procedures as technology evolves and to individually respond to specific customer needs. Voluntary

information tool. *See* RCA Comments at 8-11, CG Docket No. 09-158; CC Docket No. 98-870; and WC Docket No. 04-36 (filed Oct. 13, 2009).

⁷ *Connecting America: The National Broadband Plan* (National Broadband Plan) at 9, 11.

⁸ *See* 2009 Consumer Information and Disclosure NOI, ¶ 49.

⁹ *See* RCA Comments at 5, CG Docket No. 09-158; CC Docket No. 98-870; and WC Docket No. 04-36 (filed Oct. 13, 2009).

mechanisms are the most cost-efficient alternatives to rigid regulatory requirements that would ultimately harm rural and regional consumers.

II. A Bill Shock Mandate is Costly and Particularly Detrimental to Small and Regional Carriers and Consumers

Requiring rural and regional carriers to institute automatic usage alerts and cut-off mechanisms would impose burdensome and costly requirements that would ultimately be borne by the customer. RCA fully supports the Commission's goal, as outlined in the National Broadband Plan, to ensure robust competition and to maximize consumer welfare, innovation and investment.¹⁰ Imposing an automated bill shock requirement at the expense of consumers, while well-intended, ultimately would prove contrary to this goal. The regulation would reduce rural and regional carriers' competitive customer service advantage and increase the fees paid by wireless subscribers in an already highly-taxed market.

If forced to impose automatic bill shock alerts, rural and regional would have to upgrade their networks and billing systems to provide an automatic usage alerts, which is very costly. RCA carrier members' billing systems are not currently configured to institute usage alerts. RCA carrier members spent a significant amount of money instituting their current billing systems. Asking rural and regional carriers to upgrade their billing systems and networks to institute bill shock prevention measures, which are more efficiently and effectively accomplished by RCA members individually, would cause severe economic strain.

In seeking a cost-effective means to information disclosure,¹¹ the FCC must evaluate the burdens that automated bill shock requirements could impose on rural

¹⁰ National Broadband Plan at 2.

¹¹ 2009 Consumer Information and Disclosure NOI, ¶ 5.

wireless carriers and other small service providers. Rural and regional carriers are already struggling to build out 3G and 4G networks as their customers are demanding access to the latest broadband technology at the fastest speeds. If one considers all the financial challenges rural and regional carriers are currently facing, including the cap on universal service,¹² loss of data roaming revenue from consolidation in the wireless market,¹³ loss of customers to larger carriers that have the latest exclusive handset deals,¹⁴ the economic downturn, and the expense to bid on, win and pay for 700 MHz spectrum that is unusable under the current private band plans,¹⁵ rural and regional carriers cannot afford another costly regulatory requirement. To comply with an onerous billing requirement, rural and regional carriers will have to pass onto the customer the cost to upgrade their networks and billing systems. The potential costs, both to carriers and customers, and the competitive harms associated with automated bill shock prevention measures outweigh the benefits of these alerts. Instead, the FCC should allow carriers the flexibility to respond to consumer demands as they see fit.

Furthermore, the FCC's proposed regulation would be particularly detrimental to rural and regional carriers. Billing system upgrades, such as notification mechanisms

¹² See letter from Todd Lantor and David Nace, Counsel for Rural Cellular Association, to Julius Genachowski, Chairman of the Federal Communications Commission, filed in WC Docket No. 05-337 and CC Docket No. 96-45 (July 23, 2009).

¹³ See RCA Comments in WT Docket No. 05-265 (filed June 15, 2010).

¹⁴ See letter from Rebecca Murphy Thompson, General Counsel for Rural Cellular Association, to Marlene H. Dortch, Secretary of the Federal Communications Commission, filed in WC Docket No. 05-337; CC Docket No. 96-45; WT Docket No. 05-265; WT Docket No. 09-66; and RM-11592 (June 17, 2010); see also RCA Comments in WT Docket No. 09-66 (filed July 13, 2009).

¹⁵ See Letter from the A Block Group to Marlene H. Dortch, Secretary of the Federal Communications Commission filed in WT Docket No. 06-150; PS Docket No. 06-229; GN Docket No. 09-51; and RM Docket No. 11592 (dated May 10, 2010); see also letter from Rebecca Murphy Thompson, General Counsel for Rural Cellular Association, to Marlene H. Dortch, Secretary of the Federal Communications Commission, filed in WC Docket No. 05-337; CC Docket No. 96-45; WT Docket No. 05-265; WT Docket No. 09-66; and RM-11592 (June 17, 2010); see also RCA Comments in WT Docket No. 09-66 (filed July 13, 2009).

suggested in the Public Notice,¹⁶ present a flat cost to a mobile wireless carrier regardless of size. Similar to rural and regional carriers' experience with other network upgrades and requirements,¹⁷ smaller carriers cannot distribute these upgrade cost across a large number of customers, exponentially increasing the upgrade cost per customer when compared to national carriers. While RCA appreciates the Commission's attempt to reduce the chance of "bill shock," applying mandatory notification regulations will have the result of providing rural and regional consumers an unexpected and disproportionate increase in charges on their wireless bills.

The best way the FCC can achieve its goal of ensuring robust competition, maximizing consumer welfare, and building out broadband in rural America is to address the challenges that rural and regional carriers and consumers are currently experiencing, as discussed above. Instead of imposing unnecessary and costly regulatory obligations on rural and regional carriers, the FCC should put an end to handset exclusivity, mandate automatic roaming and ensure interoperability among the 700 MHz spectrum band. These three solutions will empower consumers with increased broadband service and equipment choices.

III. Conclusion

RCA urges the Commission not to adopt unnecessary and costly bill shock obligations. RCA supports the agency's goal of protecting and empowering consumers through access to information about their wireless services, but additional usage and

¹⁶ See *Bill Shock Public Notice*.

¹⁷ See letter from Rebecca Murphy Thompson, General Counsel for Rural Cellular Association, to Marlene H. Dortch, Federal Communications Commission, filed in WC Docket No. 07-114 (June 30, 2010); see also letter from Todd Lantor, Counsel to Rural Cellular Association, to Marlene H. Dortch, Secretary of the Federal Communications Commission, filed in WC Docket No. 07-114 (May 4, 2010).

measuring requirements will impose significant costs on service providers and ultimately the consumer. These new costs would impose a disproportionate burden on rural wireless carriers, especially as they battle to remain competitive in a marketplace that is dominated by large national carriers. To truly ensure robust competition, maximize consumer welfare, encourage broadband build out in rural America, and increase consumer choice, the FCC must act now to end exclusivity, mandate automatic roaming, and require interoperability among the 700 MHz spectrum band.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'RMT', with a long horizontal flourish extending to the right.

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