Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Measures Designed to Assist U.S. Wireless Consumers to Avoid "Bill Shock"	)	CG Docket No. 09-158
	)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Charles W. McKee
Vice President, Government Affairs
Federal and State Regulatory
Sprint Nextel Corporation
900 Seventh Street N.W., Suite 700
Washington, D.C. 20001
703-433-3786

Scott R. Freiermuth
Counsel, Government Affairs
Federal Regulatory
Sprint Nextel Corporation
6450 Sprint Parkway
Overland Park, KS 66251
913-315-8521

July 6, 2010

Table of Contents

Executive Summary

Sprint appreciates the Commission's desire to understand how the American mobile market compares to the European mobile market on the subject of "bill shock" and to better understand the practices that American mobile service providers utilize to ensure customers are well-informed to avoid any "unwelcome surprises" on their bills. As such, Sprint is happy to work with the Commission to provide consumers more information on these matters. Sprint does not believe, however, that European-style regulation is necessary. Such regulation would undermine the "light regulatory touch" approach that has fostered innovation and competition in the United States.

Sprint makes the following points in its comments:

1. Sprint provides numerous tools to empower customers to manage their wireless service and usage to minimize the risk of bill shock. The American wireless consumer market remains highly competitive and service providers have every incentive to ensure that their customers remain satisfied or the customer will churn. Given this competitive dynamic, Sprint has undertaken numerous initiatives to improve the flow of information between it and its customers at all stages of the subscriber life cycle (*i.e.,* before, during and after the sale). Sprint provides customers a number of both "push" (*e.g.,* text alerts) and "pull" (*e.g.,* plan optimizer) methods for managing their accounts and preventing "bill shock."

2. Sprint is not aware of a systemic "bill shock problem" warranting the Commission's intervention. The bill shock problem in Europe has little relevance to American Consumers. To begin, the cost of wireless service for voice, text and data is considerably higher in Europe than in the United States. These high prices are then exacerbated by the prevalence of international roaming – all of which lead to European bill shock. These conditions simply do not exist in the United States. In addition, Sprint respectfully submits that the Commission's recent consumer survey does not support the conclusion that bill shock is a major issue in the United States.

3. Adoption of new rules could undermine, rather than promote, the public interest. The Commission's "light touch" regulatory approach has served the American consumer well. Sprint is concerned that additional regulation will undermine the ability of competitors to differentiate themselves in the market and is not suited to the dynamic, ever-changing United States wireless market. A one-size fits all approach would stifle mobile service providers' (and consumers') ability to experiment with innovative approaches to the consumer-carrier information exchange.

4. The Commission should conduct a workshop with industry before considering adoption of any new rules. Sprint shares the Commission's belief that information sharing is important to a well-functioning market. As such, Sprint will happily participate in a dialogue with the Commission, consumers and industry to explore ways in which to improve the flow of information to reduce any perceived issues surrounding bill shock.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Measures Designed to Assist U.S. Wireless Consumers to Avoid "Bill Shock"	)	CG Docket No. 09-158
	)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint") submits these comments in response to the Commission's "Bill Shock" Public Notice.[1] Bill shock as defined by the Commission is "the unwelcome surprise that some consumers experience when their monthly bill is dramatically larger than expected."[2] Sprint has labored mightily over the past two years to increase its customers' satisfaction precisely by addressing such "unwelcome" surprises. Sprint is happy to assist with this inquiry and is willing to work with the Commission to further understand the information and tools that may help reduce any customer confusion. Ultimately, however, Sprint believes that a fair assessment of current industry practices will demonstrate that no regulation is required in this area.

I. INTRODUCTION

Mobile service providers have a strong financial incentive to ensure their customers do not receive "surprises" in their monthly bills. As the Chief of the Consumer Bureau has ob-

---

1 *See* Public Notice, *Comment Sought on Measures Designed to Assist U.S. Wireless Consumers to Avoid "Bill Shock,"* CG Docket No. 09-158, DA 10-803 (May 11, 2010), *synopsis published at* 75 Fed. Reg. 28249 (May 20, 2010).

2 Separate Statement of Chairman Genachowski, *Fourteenth Annual Wireless Competition Report*, WT Docket No. 09-66 (May 20, 2010).

served, helping customers to avoid bill shock is "good business for wireless carriers."[3] Customers who receive unexpected charges tend to be unhappy customers – and unhappy customers rarely remain customers. As Commissioner McDowell recently noted when observing the number of competitive mobile service and broadband providers available to American consumers:

> These numbers illustrate that the vast majority of consumers have a meaningful opportunity to change providers if they cannot withstand a "bill shock" or are unhappy with their mobile broadband experience.[4]

Sprint has devoted itself to the improvement of customer care over the past two years. Indeed the recent American Customer Satisfaction Index ("ACSI") Survey shows that Sprint was the most improved company for consumer satisfaction over the past two years across all industries.[5] Sprint has done this by focusing on issues such as "bill shock" and other issues that undermine consumer satisfaction. Sprint has developed programs to ensure customers are well-informed at various stages of their subscribership and offers its customers numerous tools to monitor their usage – all of which are designed to minimize the chance customers will encounter any surprises including bill shock. Sprint believes its major competitors have undertaken similar steps and offer similar tools.

Sprint submits that the key points in this proceeding are these:

1. Sprint and its competitors offer consumers many ways to manage their service and usage – and it is not apparent that the availability even more information would materially change the consumer experience;
2. The Commission should not assume that there is a systemic bill shock problem. Comparisons between the European Union and United States

---

[3] *See* FCC News, *FCC Bureau Launches Initiative to Help Consumers Avoid "Bill Shock"* (May 11, 2010).

[4] Separate Statement of Commissioner McDowell, *Fourteenth Annual Wireless Competition Report*, WT Docket 09-66 (May 20, 2010).

[5] http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1439320

wireless markets is tenuous at best and the issues present in Europe have already been largely addressed in the United States; and,

3. It is unlikely that European-style regulation would benefit consumers. New rules could actually have the perverse effect of inhibiting providers from continuing to innovate to find even better solutions to meet the ever-evolving needs of wireless users and undermine differentiation in the market.

Sprint submits that the wireless industry is addressing the Commission's concerns and service providers and customers undoubtedly will continue to experiment with revised bill shock mitigation techniques in search of even more effective solutions.

II. SPRINT PROVIDES NUMEROUS TOOLS TO EMPOWER CUSTOMERS TO MANAGE THEIR WIRELESS SERVICE AND USAGE AND TO MINIMIZE THE RISK OF BILL SHOCK

In response to the Commission's questions in the Public Notice, Sprint below describes its current practices relative to the information and tools it provides to customers for account management.

A. At the Point-of-Sale. It is critically important that a customer, at the time of buying (or changing) a wireless service plan, understand what they are buying and what is, and is not, included within the plan they choose.

Sprint complies with the CTIA Consumer Code for Wireless Service, which Commissioner Baker has recognized has "served consumers and industry well."[6] Among other things, Sprint reviews with consumers material terms and conditions when they initiate service or make a material change to their service. For example, the customer is given a print out of the material rates, terms and conditions, and customers are asked to read and acknowledge (*e.g.,* clicking on a signature capture device) the key terms. At the end of the sales process, the customer is asked to

[6] Remarks of Commissioner Baker, Broadband Policy Summit VI, *A Proven Way: A Regulatory Approach to Promote the Public Interest by Creating Jobs, Fostering Investment, and Driving Broadband Opportunity* (June 10, 2010).

sign the electronic agreement, and the customer is thereafter provided a Transaction Summary and a Subscriber Agreement containing the information reviewed and acknowledged by the customer.

B. Post Sale – the First 30 Days. Sprint has a Free Guarantee/30-Day Return/Exchange Program. Under this Program, at any time within the first 30 days and for any (or no) reason, Sprint will upon request:

- Refund monthly charges incurred as part of the plan purchased;[7]
- Refund the activation fee;
- Refund the purchase price of the wireless device;
- Waive any early termination fee ("ETF");
- Waive the restocking fee; and
- Refund taxes and any Sprint surcharges associated with the above charges.

Sprint, however, does far more during the first 30 days of service. It also proactively takes the following steps:

✓ *The Welcome or Confirmation Letter*. Sprint sends, generally within a day or two of the sale, a Welcome Letter to new customers that discloses prominently the terms of service and the contract start and end dates. And, for customers that make a significant change to their plan, Sprint sends a similar Confirmation Letter.

✓ *The First Call*. Upon activation, each new customer's first call is routed automatically to Sprint's Welcome Center. These calls give Sprint an additional opportunity to confirm the customer understands the plan purchased.

✓ *The First Bill*. Customers receive their first bill within 7-10 days of activation. The first bill (and subsequent bills) contains basic information concerning the customer's calling plan, including the monthly rate, number of included minutes, nights/weekends time information, text messaging and data information, *etc.* In nearly all cases, the first bill will also contain call detail information. By receiving the first bill soon after activation and well before Sprint's 30-day trial period concludes, consumers have a good chance to reaf-

7 This refund does not include charges outside of the plan purchased (*e.g.,* digital downloads, songs, games, applications, *etc.*).

firm they chose the right plan (or alternatively, cancel service or change the plan).

C. Post Sale – After the First 30 Days. Sprint continues its proactive efforts after the first month of service:

- ✓ *Usage Status.* At any time, customers may dial *4 from their handsets to get an automated tally of the minutes, text messages, and data used to date. Customers are not charged to access this or any of the other tools discussed in this Part. In addition, during this *4 call, customers are asked if they would like to receive a text message summarizing their usage information. Note that this information is easily accessible to customers who are blind or visually impaired.
- ✓ *Check-in Courtesy Calls*. Sprint proactively does an outreach to new customers during the second, fifth and 12th months after signing up for service as a "check-in" to ensure the customer is satisfied and has no unresolved issues.
- ✓ *Overage Courtesy Calls*. Sprint also proactively notifies customers the first time they have incurred significant voice, text or data overage charges. This call provides customers an opportunity to adjust their service plan to accommodate their evolving wireless service needs.
- ✓ *Contract Extension Policies*. Should a customer wish to change his or her plan, Sprint allows customers to make changes at any time without worrying about extending their contracts. The optimizer tool (discussed below) and Sprint's contract extension policy are designed to ensure customers are completely satisfied and to give customers the flexibility to make changes to their service plan as their wireless communications needs change.
- ✓ *Sprint Plan Optimizer* – Sprint provides customers with an on-line tool so they can ascertain if there exists a better plan as their needs evolve, by logging into www.sprint.com/planfit There, customers can see how they have been using their phone with detailed usage charts allowing them to compare their current plan to others that may be a better value.
- ✓ *On-Line Alerts* – Sprint recently launched a new Sprint.com which provides notifications and alerts concerning customers' activity (through My Sprint) on their usage, billing, payment options, devices and more when they log onto Sprint.com. These alerts appear prominently upon the customer logging into their account.
- ✓ *Prepaid Service Alerts*. Sprint sends its prepaid customers reminders when they need to add money to their balances in order to continue service without interruption. Depending on the plan, customers may incur additional charges or may not have use of their phone until they add money or until their next monthly automatic payment takes effect.

- ✓ *Mobile Broadband Connection Plan Usage Status*. As part of a new initiative scheduled to launch this summer, for customers subscribing to connection plans (*e.g.,* mobile broadband cards, USB modems, embedded modems), Sprint will notify customers who have a registered email or SMS capable phone number via text message and/or e-mail when they reach 75 percent and 90 percent of the 300 MB data roaming cap and/or the 5 GB total data usage limit. These notices will give customers an opportunity to sign up for a metered option that would allow them to use data beyond their limit for a charge of $0.05 per MB on the Sprint network or $0.25 per MB off network (roaming).

In addition Sprint provides consumers with several parental controls that are effective in preventing account holders from incurring unwanted charges. Parental controls give customers an easy, convenient way to manage wireless usage and access for everyone on the account – and all of these are provided to Sprint customers at no charge.

- *Block digital media downloads.* Customers can log-in to their account and block media downloads to prevent a phones primary user from buying and downloading games, ringers, screensavers or other content. This feature is managed online through My Sprint.
- *Limit wireless web access*. Customers can sign in and block web access so sub-account holders (*e.g.,* children and teens) can only reach designated websites deemed appropriate for minors. Wireless web access is managed online or on the phone.
- *Block two-way text messages*. Customers can block unwanted incoming text messages by adding selected telephone numbers to the "block numbers" section in the online My Sprint account. And, customers can block all outbound text messages, by calling Sprint.
- *Restrict voice calls.* Customers can restrict incoming/outgoing voice calls to a pre-approved list on selected devices. In addition, customers can call Sprint in order to block all voice calls.
- *Roaming Call Guard.* While nearly all Sprint plans include nationwide roaming at no additional cost, consumers can control whether or not they roam by changing the settings on their phone. The "call guard" feature when activated requires customers to press extra keys when making a roaming call. Similarly, customers can change setting on their phone to be warned when data roaming. Finally, customers can prevent roaming altogether by setting their phone to work only on the Sprint network.

In summary, Sprint provides customers with multiple "push" and "pull" methods for managing their accounts and preventing "bill shock." Sprint looks forward to reviewing the comments filed in this proceeding and will continue to evaluate other methods designed to inform customers of account usage. Sprint has ample incentive to ensure that customers do not have any surprises when they receive their invoices.

III. SPRINT IS NOT AWARE OF A SYSTEMIC "BILL SHOCK PROBLEM" WARRANTING FCC INTERVENTION AT THIS TIME

Congress fundamentally changed the regulatory regime for wireless services in the 1993 Budget Act.[8] As the Commission has recognized, "the statutory plan is clear":

> Congress delineated its preference for allowing this merging market to develop subject to only as much regulation for which the Commission and the states could demonstrate a clear cut need.[9]

Sprint is not aware of a systemic or structural "bill shock problem," and it therefore does not believe there exists at this time a "clear cut need" that would warrant new regulation.

It appears the current inquiry is driven by two developments: (a) the European Parliament enacted last year certain message alert requirements in connection with intra-EU Community roaming, and (b) the results of a recent consumer survey that the Commission had commissioned. As discussed below, Sprint submits that neither development warrants adoption of any new rules.

---

8 Among other things, Congress extended the FCC's regulatory authority to include intrastate wireless services, barred States from regulating wireless rates and entry, and gave the FCC forbearance authority so wireless carriers are not subject to regulations designed for monopoly markets. *See* 47 U.S.C. §§ 2(b), 332(c).

9 *Connecticut Rate Regulation Denial Order*, 10 FCC Rcd 7025, 7031 ¶ 10 (1995), *aff'd,* 78 F.3d 842 (2d Cir. 1996).

A. THE BILL SHOCK PROBLEM IN EUROPE HAS LITTLE RELEVANCE TO AMERICAN CONSUMERS

The Public Notice asks whether the Commission should adopt new "bill shock" rules similar to those adopted last year by the European Parliament for intra-EU roaming:

> [T]he [EU's] "bill shock" provisions are designed to ensure that a customer is fully aware of the roaming charges he or she is incurring so that the consumer does not receive a higher than expected bill for these services.[10]

The situation in the European Union ("EU"), however, is very different than the situation here, and Sprint submits that given these vast differences, the solutions adopted in the EU have little or no relevance to our country.

Wireless service in Europe is very expensive. As the Commission recently found, in 2008 EU consumers paid, on average, <u>*over three times more per minute*</u> than U.S. consumers: $0.16 vs. $0.05, respectively.[11] The statute the EU Parliament enacted last year did not address these high charges. It rather addressed intra-EU roaming charges only, where the retail prices paid by consumers are even higher than that paid in one's home country. The fundamental purpose of this legislation was to facilitate the development of what already exists in this country – nationwide one-rate plans:

> This regulation introduces a common approach to ensure that users of public mobile communications networks when travelling within the Community do not pay excessive prices for Community-wide roaming services in comparison with competitive national prices.[12]

Mobile operators in the EU do not, to Sprint's knowledge, offer "EU community" plans – that is, plans which cover usage regardless of where the customer is located within the 27-

---

10 Bill Shock Public Notice at 1-2.

11 *See Fourteenth Annual Wireless Competition Report,* WT Docket No. 09-66, FCC 10-81, at ¶ 361 (May 20, 2010).

12 Regulation (EC) No. 544/2009 of the European Parliament and of the Council of 18 June 2009, Whereas Clause 45, Official Journal of the European Journal, L167/17 (June 29, 2009).

country EU community. As a result, EU consumers are deemed to be roaming whenever they travel to another EU country. For example, when a Vodafone customer in the U.K. travels to Italy, the customer typically pays a per-minute roaming charge even though the customer likely is roaming on Vodafone's own network in Italy. Similarly, a T-Mobile customer in Germany is treated as a roamer when the customer uses T-Mobile's network in neighboring Austria.

The European Parliament determined last year that roaming prices within the EU were "excessively high."[13] The European Commission was more blunt, stating that EU roaming prices were "a rip-off."[14] Consider the following:

- Voice: As recently as June 2007, the average price for voice roaming within the EU was €1.15 minute (or $1.43 U.S. at today's exchange rate)[15] – or "four times higher than national mobile calls."[16] In 2007, the Parliament imposed a price cap on voice roaming that beginning in 2009, was €0.46/minute to originate a call (or $0.57 U.S.) and €0.22 to receive a call (or $0.27 U.S.).[17] In the 2009 law, this cap will be reduced in 2011 to €0.35 to originate a call (or $0.43 U.S.) and €0.11 to receive a call (or $0.14 U.S.).[18]
- SMS: As recently as June 2009, the average price to send a text message while roaming in the EU was €0.29 per message (or $0.36 U.S.) – or "up to 10 times more expensive than national text messaging."[19] EU consum-

---

13 *See* Regulation (EC) No. 544/2009 of the European Parliament and of the Council of 18 June 2009, Article 1, § 2, Official Journal of the European Journal, L167/16 (June 29, 2009).

14 European Commission Press Release, *End of "Roaming Rip-Off": Cost of Texting, Calling, Surfing the Web Abroad to Plummet from Today Thanks to EU Action*, IP/09/1064 (July 1, 2009), *available at* http://ec.europa.eu/information_society/newsroom/cf/itemdetail.cfm?item_id=5097.

15 In these comments, Sprint uses the euro/dollar exchange rate that applied on June 20, 2010. On this day, the exchange rate was one euro = $1.2392 and one dollar = 0.807 euro.

16 European Commission Memo, *Roaming: High Prices of SMS & Data Services*, Memo/08/505 (July 15, 2008), *available at* http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/505&format=HTML&aged=0&language=EN&guiLanguage=en.

17 *Ibid.*

18 European Commission Press Release, *End of "Roaming Rip-Off": Cost of Texting, Calling, Surfing the Web Abroad to Plummet from Today Thanks to EU Action*, IP/09/1064 (July 1, 2009).

19 European Commission Memo, *Roaming: High Prices of SMS & Data Services*, Memo/08/505 (July 15, 2008).

ers paid to send a text message while roaming €0.50 in the U.K. (or $0.62 U.S.) and €0.80 in Belgium (or $0.99 U.S.).[20] In the 2009 law, Parliament imposed a price cap of €0.11 (or $0.14 U.S.) to send a message while roaming.[21]

- Data: As recently as June 2009, the retail price for data roaming "range[d] from €5 to €10 per megabyte (MB) although they can be even higher" – or from $6.20 to $12.39 U.S/MB.[22] The European Parliament last year chose not to impose a price cap on the retail price for 3G roaming.[23] However, it imposed immediately "a new wholesale cap of €1 per MB downloaded [or $1.24 U.S./MB], compared to an average wholesale price of €1.68 per MB, with peaks in Ireland (€6.82), Greece (€5.30) and Estonia (€5.10)."[24] Next year, in 2011, this wholesale cap will be cut in half, to €0.50/MB (or $0.62/MB).[25]

Thus, as the European Commission stated before the Parliament adopted the new price caps, with these high roaming prices, EU consumers faced "nasty surprises" and "unpleasant 'bill shocks' running to thousands of euro when they return from their travels."[26]

The situation in the United States is vastly different, with the result that American consumers do not face anywhere near the frequency or level of bill shock that EU consumers have encountered. This is due to several reasons:

1. Most U.S. consumers never face any roaming charges even though they may be traveling in an area of the country not served by their provider. As the FCC recently noted, "From a customer perspective, many service plans

---

20 *Ibid.*

21 European Commission Press Release, *End of "Roaming Rip-Off": Cost of Texting, Calling, Surfing the Web Abroad to Plummet from Today Thanks to EU Action*, IP/09/1064 (July 1, 2009).

22 European Commission Memo, *Roaming: High Prices of SMS & Data Services*, Memo/08/505 (July 15, 2008).

23 *See* Regulation (EC) No. 544/2009 of the European Parliament and of the Council of 18 June 2009, Whereas Clause 38, Official Journal of the European Journal, L167/15 (June 29, 2009)("It would therefore be premature at this stage to regulate [data roaming] prices at the retail level.").

24 European Commission Press Release, *End of "Roaming Rip-Off": Cost of Texting, Calling, Surfing the Web Abroad to Plummet from Today Thanks to EU Action*, IP/09/1064 (July 1, 2009).

25 *Ibid.*

26 European Commission Memo, *Roaming: High Prices of SMS & Data Services*, Memo/08/505 (July 15, 2008).

now include nationwide roaming at no additional cost to subscribers."[27] Indeed, in 2008, roaming revenues, as a percent of total U.S. service revenues, fell to 2.5 percent.[28]

2. Many U.S. consumers subscribe to plans with unlimited usage, including unlimited usage for text messaging and data, and such "all you can eat" plans are now also widely available with prepaid service.[29] As but one example, with Sprint's Simply Everything® plan ($99.99 monthly), customers receive unlimited talk, messaging and data on Sprint's network. Such unlimited plans make it virtually impossible for customers to experience bill shock.

3. The retail prices paid by U.S. consumers remain inexpensive relative to EU prices – even with the new price caps the European Parliament adopted last year. For example, the current (2010) EU wholesale cap on 3G data roaming is €0.80 per MB (or $0.99/MB U.S.). At this price level, an EU customer's service provider would pay $60 U.S. for 60 megabytes of data – the equivalent of 17 percent of a gigabyte ("GB") of data.

   In contrast, with Sprint's Mobile Broadband Connection 4G/3G plan, for $59.99 monthly, customers receive unlimited 4G usage, 5 GB monthly in on-net 3G usage, and 300 MB monthly for off-net roaming. The retail price customers pay for additional on-net 3G usage (above the 5 GB included in the plan) is only $0.05/MB – or only five percent (5%) of the current wholesale cap in the EU for a megabyte of data.

In summary, given the availability in the U.S. of "all you can eat" plans, there is less of an opportunity for U.S. consumers to face bill shock. In addition, given that prices in the U.S. are substantially less than those charged in the EU, the size of any bill shock faced by U.S. consumers would only be a fraction of the size EU consumers would encounter under comparable usage.

In last year's legislation, the European Parliament also drafted certain "transparency" rules, which the Commission's Public Notice accurately refers to as usage alerts. Two points bear noting about these new alerts. First, the Parliament did not impose this requirement on "na-

[27] *Fourteenth Annual Wireless Competition Report,* WT Docket No. 09-66, FCC 10-81, at ¶ 124 (May 20, 2010). *See also id*. at ¶ 87.

[28] *See id.* at ¶ 199 and Table 21.

[29] *See Fourteenth Annual Wireless Competition Report* at ¶¶ 87-103.

tional" (or intra-country) services – even though the prices for such services are much higher than prices in the U.S. Second, it is Sprint's understanding the EU operators had provided their customers with no or minimal information about their usage consumed while roaming. In stark contrast, Sprint and other U.S. providers give their customers access to a wealth of current information so they can intelligently manage their service and usage.

In close, legislation in Europe was necessary because the EU market was not functioning properly. In stark contrast, the U.S. wireless retail market continues to operate successfully to the benefit of consumers – both in the prices consumers pay for service and in the access consumers have relative to their usage. Consequently, there is no reason for the government to intervene in our successful market.

B. THE BILL SHOCK SURVEY RESULTS DO NOT PROVIDE A FACTUAL FOUNDATION FOR FCC INTERVENTION AT THIS TIME

The Commission recently released the results of a survey it commissioned involving nearly 2,500 wireless users.[30] Based on these results, the Commission has stated that "30 million Americans – or one in six mobile users – have experienced 'bill shock.'"[31] Sprint respectfully submits that the Commission cannot reasonably draw such a conclusion based on the limited survey results that have been made publicly available to date.

Bill shock, the Commission has observed, involves "unexpected fees."[32] Bill shock does not include additional charges that the customer knows about and expects to be included in the monthly bill (because the customer is not "shocked" by these extra fees). Unfortunately, the

---

30 *See* FCC News, *FCC Survey Confirms Consumers Experience Mobile Bill Shock and Confusion About Early Termination Fees* (May 26, 2010).

31 *Id.* at 1.

32 *See id.* at 1. *See also id.* at 2 (bill shock involves "unexpected charge[s]" and "unwelcome surprises").

question asked of survey respondents did not distinguish between expected and unexpected charges, but rather asked survey participants about bill increases generally:

> Q52. Has your cell phone bill ever increased suddenly, from one month to the next, even if you did not change the calling or texting plan for your phone?[33]

Thus, the survey results do not enable the Commission to determine what percentage of survey participants encountered bill shock – as opposed to increased charges that users expected to receive.

There are other factors that limit substantially the value of the survey results for use in agency decisionmaking. For example, the question asked did not seek a response that was limited in time; it rather asked whether the survey participant "ever" experienced a sudden increase in plan charges. But nearly 110 million Americans have used wireless service for over a decade,[34] and given the way Question 52 was framed, a survey participant may have responded affirmatively based on something that occurred 10, 15 or even 20 years ago. Given the revolutionary changes within the wireless sector over the past decade (*e.g.,* services/capabilities available, plans offered, operator commitment to customer care as market penetration approaches 90 percent), Sprint submits that customer experiences that occurred more than two or three years ago have limited relevance to the market as it exists today.

Additionally, Question 52 did not distinguish between charges imposed by the service providers for usage (which are addressed in a customer's contract) and charges imposed by third parties for such things as downloading music or video files (which cannot be covered in plans because they are not known or can change at any time). The vast majority of mobile users are

---

33 Survey Results at 9.

34 *See Fourteenth Wireless Competition Report,* WT Docket No. 09-66, FCC 10-81, at Table C-1 (May 20, 2010).

served by operators which comply with the Mobile Marketing Association's U.S. Consumer Best Practices Guidelines for Cross-Carrier Mobile Content Programs.[35] Under these MMA Guidelines, a consumer request to purchase certain content will not be approved until the customer completes a double opt-in process.[36] Given this stringent industry standard, no wireless user can reasonably claim that a charge to download a song, for example, was unexpected.

In close, based on the lack of precision in the questions posed to survey participants, Sprint submits that the Commission cannot draw any conclusions regarding the prevalence of bill shock within the mobile marketplace today.

IV. ADOPTION OF NEW RULES COULD UNDERMINE, RATHER THAN PROMOTE, THE PUBLIC INTEREST

The Commission in its Public Notice asks about the "feasibility of instituting usage alerts and cut-off mechanisms similar to those required under the EU regulations":

> Specifically, we seek comment on whether technological or other differences exist that would prevent wireless providers in this country from employing similar usage controls as those now required by the EU.[37]

As discussed above, the particular solution that the European Parliament adopted was designed to address a major problem that does not exist in this country. Accordingly, there is no reason to believe this particular EU model is the best approach for American consumers.

Sprint questions whether there is a need for any regulation in the area of bill shock. After all, as discussed above, service providers have strong financial incentives to ensure their customers are informed – and the market will punish those providers (*via* the loss of customers to the

---

35 *See* http://mmaglobal.com/bestpractices.pdf.

36 *Id.*

37 Bill Shock Public Notice at 2.

competition) that do not do a good job of keeping their customers informed and happy. Indeed, most carriers already make available real time access to their data usage.

The Commission should reject a "European style" approach to regulation, whereby the government dictates universal use of a particular methodology or technology in the consumer space. There are numerous flaws with this approach. First of all, such an approach imposes new costs on the entire industry as each provider must modify its current practices to meet the particular model the government selects. More fundamentally, this approach assumes that all consumers, all services, and all service plans are best served by one uniform approach, thus limiting the ability of carriers to offer new services and differentiating themselves in the market.

The most pernicious impact of the "European style" approach to regulation is that it inhibits experimentation and innovation – because it freezes in time the one approved approach over all others, including approaches that consumers might prefer. Sprint and its competitors, in a never-ending desire to retain customers and increase customer satisfaction, continue to revise their methods of sharing information with customers (without overwhelming them), and carriers compete with each other to find the approach consumers find most effective. To be sure, our industry has not yet achieved perfection. The subject of usage data availability is too new, and consumers' knowledge (or lack thereof) of megabytes and gigabytes and tying that knowledge to different applications is still too diverse. Yet, the freedom U.S. network operators currently possess to experiment with new methods virtually guarantees that the entire industry will continue to make progress in implementing even more effective solutions to the benefit of the American consumer. Sprint submits that an attempt by government to limit this flexibility and to discourage further innovations would affirmatively harm American consumers, in both the near and long term.

The Commission's annual wireless competition reports confirm that the "American, light-touch approach" to regulation of the wireless industry has resulted in enormous benefits to American consumers. Americans pay far less for service than their EU counterparts, and they have access to national one-rate plans, including unlimited plans, that EU consumers can only dream about – which collectively reduce both the risk and size of any bill shock that Americans might face. American consumers have a larger choice in wireless devices and have access to the latest network technology, including the Sprint/Clearwire 4G network, with other 4G networks becoming operational in the near future. And, American consumers today have a choice among a diverse array of ways to access their usage data, and additional methods undoubtedly will be introduced in the future.

Given this successful track record, now is not the time for the Commission to abandon the "American, light-touch approach" to regulation in favor of the European preference for command-and-control regulation for the innovative wireless industry.

V. THE COMMISSION SHOULD CONDUCT A WORKSHOP WITH INDUSTRY BEFORE CONSIDERING ADOPTION OF ANY NEW RULES

As discussed above, the Commission has recognized that under the regime Congress established for the wireless industry, new regulation is appropriate only if there exists a "clear cut need" for the regulation.[38] Sprint does not believe that such a need can be established on the record evidence.

Nevertheless, the Commission may still have concerns that consumers may not have access to sufficient data about their account or that the approaches industry has developed and makes available to customers are not sufficient. That the wireless industry has already imple-

---

38 *Connecticut Rate Regulation Denial Order*, 10 FCC Rcd 7025, 7031 ¶ 10 (1995), *aff'd,* 78 F.3d 842 (2d Cir. 1996).

mented voluntarily different means for customers to access their usage data demonstrates that carriers listen to their customers. Sprint is confident it can represent that our industry is also willing to listen to any concerns that the Commission may have.

Accordingly, if the Commission believes that the industry should do more than it is currently doing, then Sprint recommends that the industry and the Commission sit down and discuss these concerns. It is possible that industry can address fully whatever concerns the Commission may have. But even if industry is not successful in this effort, industry may be able to propose more targeted and effective means that would best address the specific concerns raised. Indeed, there may be ways for "the Commission and industry [to] work together to educate consumers about the information available to them."[39] After all, and it is important to emphasize, the Commission and industry share the same objective – namely, ensuring that consumers are informed and happy.

---

39 *Consumer Information and Disclosure NOI*, 24 FCC Rcd 11380, 11395 ¶ 44 (2009).

VI. CONCLUSION

For the foregoing reasons, Sprint Nextel respectfully requests that the Commission take action consistent with the positions discussed above.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Charles W. McKee
Charles W. McKee
Vice President, Government Affairs
Federal and State Regulatory
Sprint Nextel Corporation
900 Seventh Street N.W., Suite 700
Washington, D.C. 20001
703-433-3786

Scott R. Freiermuth
Counsel, Government Affairs
Federal Regulatory
Sprint Nextel Corporation
6450 Sprint Parkway
Overland Park, KS 66251
913-315-8521

July 6, 2010