

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993)	WT Docket No. 10-133
)	
Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, including Commercial Mobile Services)	

To: The Commission

COMMENTS OF MOBILE FUTURE

Mobile Future¹ provides these comments in response to the Commission’s Public Notice seeking comment on the state of mobile wireless competition.² The American wireless marketplace is competitive, healthy, and perpetually innovating; the facts are unequivocal and speak for themselves. Consumer-driven innovation is the cornerstone of this success. This innovative center of economic growth has been forged in the crucible of decades of light-touch regulatory policies that promote investment and competition. Consumer choice, rather than government preferences, is the central tenet of innovation.

In every corner of the market, consumers enjoy a wide range of service providers, pricing plans, devices, and applications. Our nation is home to the world’s lowest per-

¹ Mobile Future is a broad-based coalition of businesses, non-profit organizations and individuals interested in and dedicated to advocating for an environment in which innovations in wireless technology and services are enabled and encouraged. Our mission is to educate the public and key decision makers on innovations in the wireless industry that have transformed the way Americans work and play and to promote continued investment in wireless technologies.

² FCC Public Notice, “Wireless Telecommunications Bureau Seeks Comment on the State of Mobile Wireless Competition,” DA 10-1234 (rel. June 30, 2010).

minute voice prices, largest 3G customer base, and most diverse and ingenious applications and device markets. The United States is the envy of the mobile innovation world for the robust nature of its wireless networks and the billions of dollars in diverse private capital investment that flow into this next-generation infrastructure each year.

Choice defines every corner of the U.S. wireless ecosystem. According to the Commission's most recent competition report, more than two-thirds of Americans can choose among five or more facilities-based wireless providers; 91% can choose from four or more; and 96% have a choice of three or more wireless providers.³ The service providers are diverse and include not only the four nationwide facilities-based carriers – AT&T, Sprint Nextel, T-Mobile, and Verizon Wireless, but also several regional and smaller providers, e.g., Leap Wireless, MetroPCS, U.S. Cellular, Cellular South, NTELOS, and SouthernLINC. Options for consumers have continued to increase with the entry of additional facilities-based providers such as Clearwire and Atlantic Tele- Network and soon Cox Communications and LightSquared.⁴ The more than sixty Mobile Virtual Network Operators in the U.S. marketplace provide additional choices for consumers as well.⁵

³ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, *Fourteenth Report*, FCC 10-81 at 37, Table 4 (rel. May 20, 2010).

⁴ See Press Release, Clearwire, Clearwire Brings CLEAR 4G to Merced and Visalia, California (July 1, 2010), <http://newsroom.clearwire.com/phoenix.zhtml?c=214419&p=irol-newsArticle&ID=1443337&highlight>; Press Release, Allied Wireless Communications Corp., Atlantic Tele-Network Completes Acquisition of Former Alltel Assets from Verizon Wireless (April 26, 2010), <http://www.awcc.com/news.html#042610>; Phil Goldstein, *Cox's Wireless Launch Pushed to Late Summer*, FIERCEWIRELESS, May 13, 2010, <http://www.fiercewireless.com/story/coxs-wireless-launch-pushed-out-further/2010-05-13>; Press Release, LightSquared, Introducing LightSquared: Revolutionizing the U.S. Wireless Industry (July 20, 2010), <http://www.lightsquared.com/press-room/press-releases/>.

⁵ *Global MVNO market Surpasses 600 in Q2 2010*, WIRELESS INTELLIGENCE, June 24, 2010, <https://www.wirelessintelligence.com/analysis/2010/06/global-mvno-market-surpasses-600-in-q2-2010>.

Consumers can choose among a wide variety of service plans and enjoy some of the lowest prices in the world.⁶ Plans range from family discounts to pre-paid, no contract options, and post-paid plans. A variety of unlimited plans are available that bundle voice, data, text messaging, or web-services for as little as \$40 a month.⁷ Data only plans are available for just \$15 per month.⁸

American consumers are taking full advantage of the low cost per-minute pricing. U.S. subscribers use almost twice as many Minutes of Use (“MOUs”) as users in any other country, averaging 824 MOUs per month, and continue to use services at a rate nearly *five times* the figure for the Organization for Economic Co-Operation and Development countries in Europe.⁹ Mobile data usage has also exploded in the United States. One analyst estimates that the “U.S. data traffic has grown at a ~120% annual rate over the past two years.”¹⁰ Six out of ten Americans are going online using a mobile

⁶ See GLEN CAMPBELL, BANK OF AMERICA – MERRILL LYNCH, GLOBAL WIRELESS MATRIX 2Q10: DATA REMAINS STRONG, VOICE DECLINE EASES 2-3 tbl. 1-2, 41 (July 9, 2010).

⁷ See Verizon Wireless, <http://www.verizonwireless.com/b2c/mobilebroadband/?page=plans> (last visited July 28, 2010); T-Mobile, http://www.tmobile.com/promotions/springcampaign/evenmore.aspx?PAsset=Pro_Pro_EvenMoreFortyNineDollarFTPln (last visited Apr. 30, 2010); Press Release, AT&T, AT&T Announces New Unlimited Plans (Jan. 15, 2010), <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30401&mapcode=>; Press Release, MetroPCS Communications, Inc., MetroPCS Introduces Wireless for All Nationwide Service Plans with No Hidden Taxes or Regulatory Fees (Jan. 12, 2010), <http://investor.metropcs.com/phoenix.zhtml?c=177745&p=irol-newsArticle&ID=1373920&highlight=>; Press Release, Leap Wireless, Leap to Introduce New Unique Nationwide Cricket Monthly Voice and Broadband Products Into Broad National Retail Distribution (Sept. 16, 2009), <http://phx.corporate-ir.net/phoenix.zhtml?c=191722&p=irol-newsArticle&ID=1332367&highlight=>.

⁸ See Verizon Wireless, <http://www.verizonwireless.com/b2c/mobilebroadband/?page=plans> (last visited July 28, 2010).

⁹ See GLEN CAMPBELL, BANK OF AMERICA MERRILL LYNCH, GLOBAL WIRELESS MATRIX 1Q10: A MODEST RECOVERY, ASIA IN THE LEAD 2 tbl. 1 (Apr. 13, 2010) (“GLOBAL WIRELESS MATRIX 1Q10”).

¹⁰ See AB BERNSTEIN RESEARCH, U.S. TELECOMMUNICATIONS AND GLOBAL TELECOM EQUIPMENT: THE WIRELESS DATA EXAFLOOD 1 (June 14, 2010) (“AB BERNSTEIN RESEARCH”).

device according to a recent study¹¹ with African Americans and Latinos leading the way in their use of data applications on handheld devices.¹²

An increasing and diverse number of mobile devices are also available to consumers, including handsets, smartphones, netbooks and modem/aircards. Mobile devices are ubiquitous in modern American life, fast evolving into nimble connected computers in the palms of our hands.¹³ The impressive adaptability of smartphones and other devices also continues to have a transformative impact on the accessibility of these tools for people with disabilities.¹⁴ New devices are constantly entering the marketplace.¹⁵ And from the Apple iPad to Google G1 to Blackberry Storm and the Amazon Kindle, each successive year barrier-breaking device innovation is the rule rather than the exception.

U.S. wireless customers can access more than 240,000 mobile applications and at least seven competing applications stores.¹⁶ The apps marketplace, born from American

¹¹ See AARON SMITH, MOBILE ACCESS 2010, PEW INTERNET & AMERICAN LIFE PROJECT 2-3 (July 7, 2010), <http://www.pewinternet.org/Reports/2010/Mobile-Access-2010.aspx>.

¹² *Id.*

¹³ See, e.g., AB BERNSTEIN RESEARCH 1 (estimating that about 30% of post-paid subscribers have smartphones).

¹⁴ See *Mobile Ability, The Transformational Impact of Wireless Innovation for People with Disabilities*, MOBILE FUTURE, July 2010.

¹⁵ See, e.g., Press Release, T-Mobile, Samsung Vibrant from T-Mobile USA to Bring Robust Entertainment Experience on a Brilliant Screen (June 28, 2010), http://www.t-mobile.com/company/PressReleases_Article.aspx?assetName=Prs_Prs_20100628&title=Samsung%20Vibrant%20from%20T-Mobile%20USA%20to%20Bring%20Robust%20Entertainment%20Experience%20on%20a%20Brilliant%20Screen; Press Release, AT&T, AT&T to Offer iPhone 4 on June 24 (June 7, 2010), <http://www.att.com/gen/press-room?pid=18004&cdvn=news&newsarticleid=30863&mapcode=consumer|Wireless>; Press Release, Sprint Nextel, HTC EVO^(TM) 4G Breaks Sales Records for Sprint on Launch Day; America's First 4G Phone is a Hit with Customers – Updated (June 7, 2010), http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1436066&highlight=.

¹⁶ See Distimo, <http://www.distimo.com/appstores/> (last visited July 30, 2010).

competition and innovation, has seen astronomical growth.¹⁷ The number of downloaded apps has increased nine times over the past two years.¹⁸ At the Apple App Store alone, more than three billion applications have been downloaded since its launch less than two short years ago.¹⁹ And, while the apps marketplace is expanding rapidly, growing at a 60% pace last year thanks to paid, ad-supported and subscription models, the overwhelming majority of applications consumers use are offered at low- and no-cost.²⁰ These options alongside diverse business models all vie for consumers' attention and loyalty.

Carriers also continue to invest in their networks, \$20.7 billion in 2009, to keep ahead of consumer demand.²¹ Carriers are aggressively upgrading and enhancing their 3G footprints and migrating to faster 4G technology. For example, T-Mobile doubled its 3G footprint in 2009²² and plans to upgrade its network to HSPA+ by the end of 2010, covering more than 100 metropolitan areas and 185 million people.²³ AT&T's 3G

¹⁷ See Tarmo Virki, *App Pioneer GetJar Plans to Stay Independent*, REUTERS, July 29, 2010, <http://in.reuters.com/article/idINIndia-50502520100729>; Jason Ankeny, *The App Store That's Never Closed*, ENTREPRENEUR, Feb. 2010, <http://www.entrepreneur.com/magazine/entrepreneur/2010/february/204586.html>.

¹⁸ See Ralph De La Vega, President and CEO, AT&T Mobility, "Apps for All" Building a World-Class Platform to Enable Innovation, Keynote Presentation at the 2010 AT&T Developer Summit, Slide 2 (Jan. 6, 2010) ("Vega Presentation"), http://developer.att.com/developer/index.jsp?page=event&id=6.3_v1_8900142.

¹⁹ See Distimo, <http://www.distimo.com/appstores/> (last visited July 30, 2010).

²⁰ See Vega Presentation, Slide 3.

²¹ See GLOBAL WIRELESS MATRIX 1Q10 14 tbl. 7.

²² Press Release, T-Mobile USA, T-Mobile USA Reports First Quarter 2010 Results 1, 6 (May 12, 2010), http://www.t-mobile.com/Company/InvestorRelations.aspx?tp=Abt_Tab_InvestorRelations; 14th Report at 8. T-Mobile's network covered 205 million people as of December 31, 2009. See Press Release, T-Mobile USA, T-Mobile USA Reports 4th Quarter and Full Year 2009 Results 1 (Feb. 26, 2010), <http://www.t-mobile.com/Cms/Files/Published/0000BDF20016F5DD010312E2BDE4AE9B/5657114502E70FF301270BB668BE399A/file/TMUS%20Q4%20Press%20Release%20FINAL.pdf>.

²³ Press Release, T-Mobile USA, T-Mobile USA Reports First Quarter 2010 Results 1, 6 (May 12, 2010), http://www.t-mobile.com/Company/InvestorRelations.aspx?tp=Abt_Tab_InvestorRelations; Press Release, T-Mobile, 4G Speeds From T-Mobile Now Broadly Available in the Northeastern U.S. and Other Major

service covers 360 markets and about 233 million people as of year-end 2009 with plans to launch HSPA+ to more than 250 million people in 2010.²⁴ Clearwire's 4G WiMax network is available in 44 markets as of July 2010, covering 51 million people with plans to add 8 more markets by the end of the summer.²⁵ MetroPCS also expects to launch 4G LTE service this year.²⁶

Yes, mobile competition thrives as demonstrated by the diverse choices available to U.S. consumers. The current light regulatory framework has cultivated mass innovation and economic expansion to the broad benefit of our nation and its consumers. Just how effective this framework remains is self-evident in the day-by-day rollouts of fresh offerings and new consumer choices. The Commission must stay the course with sound policy that continues to facilitate innovation, investment and competition.

All stakeholders, from policymakers in Washington to innovators across the country to the consumers each serves, have a vested interest in seeing the wireless marketplace continue to grow and thrive. The wireless sector is a critical engine of job creation and economic growth, supporting 2.4 million American jobs in 2009 and adding

Cities (May 24, 2010), http://www.t-mobile.com/company/PressReleases_Article.aspx?assetName=Prs_Prs_20100524&title=4G%20Speeds%20From%20T-Mobile%20Now%20Broadly%20Available%20in%20the%20Northeastern%20U.S.%20and%20Other%20Major%20Cities.

²⁴ See AB BERNSTEIN RESEARCH 15; AT&T, Media Kit: Wireless Networks, <http://www.att.com/gen/press-room?pid=1941> (last visited July 13, 2010); CHETAN SHARMA AND SARLA SHARMA, STATE OF THE (MOBILE) BROADBAND NATION – A BENCHMARKING STUDY, CHETAN SHARMA CONSULTING 8 (Dec. 2009).

²⁵ Press Release, Clearwire, Clearwire Brings CLEAR 4G to Merced and Visalia, California (July 1, 2010), <http://newsroom.clearwire.com/phoenix.zhtml?c=214419&p=irol-newsArticle&ID=1443337&highlight>. Clearwire expects to expand 4G service to 120 million people nationwide in 2010. Press Release, Clearwire, Clearwire Extends 4G Leadership in the United States (Mar. 23, 2010), <http://newsroom.clearwire.com/phoenix.zhtml?c=214419&p=irol-newsArticle&ID=1404906&highlight>.

²⁶ AB BERNSTEIN RESEARCH 16.

an estimated \$100 billion to the U.S. GDP each year.²⁷ Mobile innovation is inherently intertwined with U.S. economic policy, jobs, health care, education, public safety and clean, efficient energy, not to mention games and entertainment.

Mobility is becoming increasingly central to all parts of our lives, from home appliances, doctors' medical tablets, community power grids and beyond. Virtually everything is becoming connected and efficient in what the President himself calls "the next transformation in information technology."²⁸ These trends require three key elements to be sustained: (1) additional spectrum; (2) tremendous investment; and (3) a continuation of the light-touch regulatory framework Congress established in 1993. President Obama's recent memorandum announcing his Administration's intention to substantially increase the amount of spectrum available to meet consumers' fast-growing mobile needs by 500 MHz is a landmark follow-on to the ambitious goals set forth in the Commission's National Broadband Plan. The Commission should act expeditiously to make this spectrum available, so that carriers can put it to its highest and best use for the benefit of consumers, while still maintaining a light regulatory approach to further the continued investment in the networks of tomorrow.²⁹

²⁷ Reply Comments of CTIA-The Wireless Association, GN Docket No. 09-157 and Docket No. 09-51 at 4 (November 5, 2009); CTIA, CTIA's Wireless Industry Indices, Semi-Annual Data Survey Results: A Comprehensive Report from CTIA Analyzing the U.S. Wireless Industry, Year-End 2009 Results (May 2010) (reporting year-end 2009 data).

²⁸ See Presidential Memorandum for the Heads of Executive Departments and Agencies, "Unleashing the Wireless Broadband Revolution" (rel. June 28, 2010).

²⁹ As a recent study by Mr. Coleman Bazelon demonstrates, regulatory mandates, such as net neutrality obligations, can have significant unintended consequences. See COLEMAN BAZELON, THE EMPLOYMENT AND ECONOMIC IMPACTS OF NETWORK NEUTRALITY REGULATION: AN EMPIRICAL ANALYSIS 16 (Apr. 23, 2010) ("[N]etwork neutrality rules could lead to a broadband sector that is almost 18% smaller than it would otherwise be by the end of the decade. That decrease would disproportionately impact the wireless sector An 18% reduction in the broadband sector would lead to a loss of almost 350,000 broadband sector jobs, both union and non-union jobs, and impact about 1.5 million jobs economy-wide.").

The Commission should also move quickly to offer meaningful reassurance to consumers, investors, and Congress that it understands the cornerstones of a successful American wireless marketplace and will ensure that consumer choices, rather than government preferences, continue to guide mobile innovation. Of course, there will be a need for government intervention in the case of market failures. However, the Commission should focus its attention on policies that promote innovation and investment that, in turn, empower consumers through competitive choices.

The mobile wireless marketplace in America is a true success story. The keys to that success are: a vigilant, light-touch regulatory approach; profound private sector risk-taking and investment; and aggressive innovation by an increasingly diverse mobile ecosystem – all guided by the passion, feedback and demand of consumers. The Commission’s next competition report should conclude that wireless competition is effectively delivering on these consumer-centric goals.

Respectfully submitted,

By: /s/ Jonathan Spalter
Jonathan Spalter, Chairman
Allison Remsen, Executive Director
MOBILE FUTURE
1325 Pennsylvania Avenue, N.W.
Suite 600
Washington, DC 20004
(202) 756-4154
www.mobilefuture.org

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