



The Voice of Rural & Regional Carriers

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August 18, 2010

**Via ECFS**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: CG Docket No. 09-158  
RM-11592; RM-11497  
WT Docket No. 06-150, WT Docket No. 05-265  
PS Docket No. 06-229  
GN Docket No. 09-51**

Dear Ms. Dortch:

On August 17, 2010, Steven K. Berry, President and CEO of the Rural Cellular Association (RCA); Tim Donovan, Director, Legislative Affairs for RCA; and the undersigned met with Joel Gurin, Mark Stone, and Colleen Heitkamp in the Consumer and Governmental Affairs Bureau (CGB) to discuss carrier transparency and disclosure and consumer protection issues including early termination fees, an automatic bill shock mandate, handset exclusivity, data roaming, and 700 MHz interoperability.

RCA representatives explained how most of its members have pro-rated early termination fees (ETFs), decreasing proportionately as the customers' contract term expires. RCA members clearly disclose ETFs in the terms and conditions at the time a consumer enters a contract. Generally speaking, RCA members' ETFs are the lowest in the wireless industry.

RCA and CGB officials discussed RCA members' bill shock measures. RCA explained that most RCA members do not offer automated bill shock alerts because they are unnecessary and, more importantly, too costly. Automatic bill shock measures are unnecessary because RCA members already provide accurate and detailed billing information to their customers through detailed billing statements, updated websites, and individualized bill review. For rural carriers, carefully tailored efforts to minimize bill shock and their personal attention in the event of higher than typical charges provide a competition advantage. Further, in addition to compliance with state consumer protections laws, many RCA members have voluntarily adopted CTIA's Consumer Code for Wireless Service.

In addition to being unnecessary, an automatic bill shock mandate would be particularly detrimental to rural and regional carriers. Billing system upgrades 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, 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. Therefore, imposing mandatory notification regulations will have the result of providing rural and regional consumers an unexpected and disproportionate increase in charges on their wireless bills.

Additionally, automated bill shock measures are harder for rural and regional carriers to employ due to their difficulty acquiring the latest handsets with the proper functionality. Handset exclusivity exacerbates the competitive struggle for rural and regional carriers in the wireless industry. Data from 3Q last year shows that the larger carriers, in cooperation with handset manufacturers, locked up in exclusive deals 46 of the 50 most popular handsets. This type of exclusivity harms competition, especially in smaller rural and regional markets. Although rural and regional carriers can compete against the larger carriers on price, service quality, and customer service, among other factors wireless consumers consider when choosing their carrier, smaller carriers' lack of access to the most popular and innovative handsets undercuts the ability to offer the latest handset functionality.

The lack of a data roaming mandate also prevents rural and regional carriers from effectively competing with the nationwide carriers because they struggle to offer nationwide plans at reasonable rates, despite consumer demand. RCA explained how its members have limited options to obtain nationwide mobile services, but their customers still expect nationwide coverage and competitive prices. Larger carriers have the ability to block rural and regional carriers from obtaining data roaming with reasonable terms and conditions because there is no regulatory mandate and consolidation in the wireless market has reduced the number of potential roaming partners. RCA encouraged the FCC to mandate automatic data roaming.

Linked to roaming and handset exclusivity, RCA representatives described how interoperability throughout the 700 MHz band is crucial for both public safety and consumers to reap the benefits of roaming and access to the latest handsets. Device flexibility and interoperability in the 700 MHz bands will allow all operators and consumers to enjoy scale economies. A greater variety of handsets will be available at lower cost. Service will improve, especially in rural areas, as a result of greater coverage and seamless roaming. Lack of interoperability in the 700 MHz band will impose significant costs and burdens upon A Block licensees which will competitively disadvantage smaller and regional carriers, public safety and consumers. RCA requested that the FCC act quickly on the 700 MHz Block A Good Faith Purchasers Alliance Petition to prevent balkanization of the 700 MHz spectrum.

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's Rules.

Sincerely,



Rebecca Murphy Thompson  
General Counsel

cc: Mr. Joel Gurin  
Mr. Mark Stone  
Ms. Colleen Heitkamp