

September 9, 2010

Via ECFS

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Notice of Ex Parte Presentation* - CC Docket No. 01-92 and WC Docket  
No. 07-135

Dear Ms. Dortch:

On September 8, 2010, CTIA–The Wireless Association® (“CTIA”) met with Christi Shewman of the Office of Commissioner Meredith Attwell Baker to discuss traffic pumping issues in the above-referenced dockets. CTIA was represented by Christopher Guttman-McCabe, Vice President, Regulatory Affairs; Scott Bergmann, Assistant Vice President, Regulatory Affairs; Jacqueline McCarthy, Director, State Regulatory and External Affairs; David Redl, Director, Regulatory Affairs, and undersigned counsel; as well as the following member company representatives: Brian Benison, AT&T; Russ Merbeth, Cricket; Robert McCausland, Hypercube, LLC; Norina Moy, Sprint Nextel; Garnet Hanly and Indra Chalk, T-Mobile USA, Inc.; Peter Connolly, Holland & Knight (for United States Cellular Corp.); Tamara Preiss, Verizon; Elaine Critides, Verizon Wireless.

In the meeting, CTIA urged the Commission to take action now to address traffic pumping. Traffic pumping schemes are proliferating across the country; thus, Commission action in this area cannot wait for comprehensive intercarrier compensation reform. Consistent with the National Broadband Plan’s recommendations, the Commission should take “interim steps to address ... access stimulation.”<sup>1</sup> The Commission’s action in this area should address all types of traffic (including intra-MTA traffic) and all types of providers (including CLECs).

The discussion in the meeting followed the attached slide presentation, which was distributed to the meeting attendees.

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<sup>1</sup> National Broadband Plan at 145, Rec. 8.1.

WILKINSON ) BARKER ) KNAUER ) LLP

Marlene H. Dortch, Secretary

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This filing is made consistent with the Commission's ex parte rules.

Sincerely,

/s/

L. Charles Keller

Attachment

cc (email): Christi Shewman

# Traffic Pumping

**Presentation to  
Christi Shewman,  
Office of Commissioner Baker**

**CTIA – The Wireless Association®  
September 8, 2010**

# Traffic Pumping – Introduction

- **FCC urgently needs to address the issue of traffic pumping in a manner that includes:**
  - All types of traffic (including intraMTA traffic); and
  - All providers (including CLECs).
- **Confluence of factors – including gaps in FCC rules, decisions on CMRS-CLEC interconnection, and need for ICC reform – has fueled:**
  - new and expanding versions of traffic pumping;
  - litigation; and
  - legal uncertainty.
- **The magnitude of the problems is significant and rapidly growing.**
- **FCC has the authority, ability, and record to address these issues.**

# Background

- **FCC has recognized traffic pumping problem since 2007**
  - NPRM sought comment on access stimulation by CLECs;
  - NPRM sought comment on stimulation of non-access traffic;
  - CTIA comments noted that wireless carriers are harmed by traffic pumping as well.
  
- ***North County v. MetroPCS* Decision**
  - Failed to clarify whether compensation is owed under section 20.11 in obvious arbitrage situations;
  - Failed to provide guidance on process or rules for setting rates in cases where compensation may be due.
  - Resulted in:
    - Reduced CLEC incentives to negotiate reasonable interconnection agreements;
    - Procedural quagmire for industry;
    - Burden and confusion for state commissions and federal courts;
    - Overhang of uncertain liability; and
    - Patchwork of conflicting results.

# An Expanding Problem

- **Wireless carriers are experiencing increasing traffic pumping volumes:**
  - From CLECs;
  - Of IntraMTA traffic.
  
- **Variations of traffic pumping include:**
  - free conference calling;
  - international bypass calling;
  - chat lines;
  - rehomeing numbers to create interMTA calling;
  - other arrangements to generate high volumes of terminating traffic.

# A Path Forward

- **FCC must act quickly to address traffic problem.**
- **Remedies must address:**
  - All traffic, including interMTA and intraMTA traffic;
  - Charges imposed by all providers, including CLECs and ILECs.
- **CTIA supports remedies including:**
  - Finding that traffic pumping (and revenue sharing to generate such traffic pumping) is an unjust and unreasonable practice, such that no compensation is due.
  - Development of a mechanism similar to that applied to dial-up ISP traffic.
    - *E.g.*, if any LEC's traffic – including access as well as local termination traffic – is in excess of a 3:1 ratio of terminating to originating traffic, it should be subject to a default bill-and-keep regime.

## Prompt FCC Action is Needed

- **Traffic pumping schemes are a significant and rapidly-growing problem.**
  - Litigation arising in states across the country;
  - Creating legal quagmire;
  - Likely to lead to balkanized set of rules;
  - Estimates indicate that traffic pumping costs the wireless industry more than \$190 million in annual long distance expenses alone. [Source: Connectiv Solutions, [www.connectiv-solutions.com](http://www.connectiv-solutions.com)]
- **The FCC should not wait for comprehensive ICC reform.**
  - National Broadband Plan recognized traffic stimulation as an area that requires interim action.
- **Proposed solutions will allow:**
  - Wireless providers to continue to operate under national framework;
  - Wireless providers to continue to make massive network investments necessary to achieve goals of the National Broadband Plan.