

December 29, 2010

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, WT Docket No. 05-265; State of Mobile Wireless Competition, WT Docket No. 10-133.

Dear Secretary Dortch:

Cox Communications, Inc. (“Cox”) has been an active participant on voice and data roaming issues^{1/} and, through its undersigned counsel, is pleased to provide the Commission with an update on its wireless deployment and to reaffirm its interest in a timely and successful resolution of the data roaming proceeding. As the Commission is aware, Cox has made a significant financial and human resources commitment over the past several years to develop a wireless component to its bundle of voice, Internet and video services. Cox took another major step in that direction last month when it officially launched commercial mobile phone and high speed Internet services in three key markets.^{2/} Cox’s innovative wireless plans validate the Commission’s efforts to enhance wireless competition in order to better serve consumer interests.^{3/} Cox’s retail service plans offer customers cash back for unused minutes, free text message usage alerts to avoid “bill shock” and an array of smartphones embedded with applications that enable customers to integrate and manage Cox’s various bundled services.

^{1/} See, e.g., Reply Comments of Cox Communications, WT Docket No. 09-104 (filed Aug. 6, 2009); Reply Comments of Cox Communications, WT Docket 05-265 (filed July 12, 2010).

^{2/} *Cox Unveils Unprecedented ‘Unbelievably Fair’ Wireless Plans, Bringing More Value to the Bundle*, Press Release, November 19, 2010, available at <http://cox.mediaroom.com/index.php?s=43&item=516>.

^{3/} Annual Report of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, 25 FCC Rcd 11407 (2010) (14th Annual Competition Report) at ¶ 1 (“Promoting competition is a fundamental goal of the Commission’s policymaking. Competition has played and must continue to play an essential role in mobile – leading to lower prices and higher quality for American consumers, and producing new waves of innovation and investment in wireless networks, devices, and services.”).

Initially, Cox is providing wireless service as a Mobile Virtual Network Operator (“MVNO”). Unlike typical MVNOs, Cox also has made a substantial investment in spectrum. Cox has invested more than \$500 million to acquire spectrum in the AWS and 700 MHz (lower A and B Block) bands in order to eventually provide broadband wireless services over its own wireless network. As the Commission well recognizes, however, the acquisition of spectrum is but one of numerous steep barriers that affect if and when competitive entry will occur.^{4/} The Commission has described a number of entry barriers, including “network coverage costs such as site acquisition and preparation costs, site construction and leasing costs, network equipment costs, backhaul transport costs, and other potential interconnection and roaming costs . . . the costs of offering customers a portfolio of attractive wireless devices . . . and the costs of marketing and distributing wireless services and devices.”^{5/} Cox is experiencing first-hand the daunting obstacles and delay that some of these entry costs can create, such as data roaming negotiations and the time and commitment that has been necessary to develop standards for the development of equipment in the lower A and B block spectrum (Band Class 12).^{6/}

The Commission’s data roaming proceeding presents an important opportunity to help lower one entry barrier for new wireless providers. In its reply comments in this proceeding, Cox urged the Commission to establish a “shot clock” or time limit for negotiation of roaming agreements, backstopped by the possibility of Commission mediation or arbitration.^{7/} Cox also recommended that the Commission require transparency of the terms and conditions of roaming contracts. Cox specifically proposed that the Commission model such a requirement on its existing rules requiring non-dominant interexchange carriers to make information regarding their service offerings publicly available, for example on a website.^{8/}

Robust data service coverage will be a key component of a successful wireless offering, particularly for a new regional entrant like Cox.^{9/} Consumers want and expect near ubiquitous access to data services, and a competitive mobile wireless marketplace depends on a meaningful data roaming obligation. The growth in demand for data service is indisputable with the number of mobile wireless service subscribers with data plans for full Internet access increasing by 40

^{4/} 14th Competition Report at ¶¶ 56-67.

^{5/} 14th Competition Report at ¶ 60.

^{6/} *3GPP TS 36.101 v8.8.0 (2009-12): 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Evolved Universal Terrestrial Radio Access (E-UTRA); User Equipment (UE) radio transmission and reception (Release 8)*, Technical Specification, 3GPP (2009), available at <http://www.quintillion.co.jp/3GPP/Specs/36101-880.pdf> (defines band class 12 as 698-716 MHz for uplink transmissions and 728-746 MHz for downlink transmissions). *See also* ATIS - North American Organizational Partner: 3GPP, available at <http://www.atis.org/3gpp/index.asp> (Cox Wireless is a member of 3GPP).

^{7/} Reply Comments of Cox Communications, WT Docket No. 05-265 at 2-8 (filed July 12, 2010).

^{8/} *Id.*

^{9/} See also 14th Competition Report at ¶¶ 181-184 (The Commission providing a number of estimates from sources indicating that mobile data usage is growing significantly both in the United States and globally.).

percent in just the first six months of 2009.^{10/} Indeed, it was recently reported by comScore that the number of mobile wireless Internet subscribers has more than doubled since June 2009, increasing to more than 71 million.^{11/}

The two primary opponents of a data roaming requirement, Verizon and AT&T, wrongly contend that the record in the data roaming proceeding is devoid of any evidence of market failure. Verizon claims that parties advocating for a data roaming requirement have “failed to prove that market forces are not working to ensure that data roaming agreements are negotiated among carriers that desire such agreements.”^{12/} AT&T goes so far as to claim that “*no party* to this proceeding has credibly asserted that it actively sought and was unable to negotiate a data roaming agreement on a private carriage basis.”^{13/} These claims have been belied by filings documenting the difficulties that various entities, including Cox, have encountered, and are still encountering, in attempting to negotiate reasonable data roaming agreements.^{14/}

If adopted, the shot clock and transparency initiatives described above will go a long way to promoting the efficient and timely negotiation of data roaming agreements, which, as Cox can confirm, is not currently the norm in market negotiations. Such steps also will advance the negotiation of *reasonable* rates as it has been Cox’s experience that the roaming rates being offered by the major carriers, who are also Cox’s primary competitors, are unreasonably high and hinder the ability of new entrants to devise and implement economically viable entry plans.

Cox urges the Commission to take prompt and effective action in the roaming docket.

Respectfully submitted,

/s/ *Michael H. Pryor*

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^{10/} Reply Comments of CTIA-The Wireless Association at 7, GN Docket No. 09-191 (filed Nov. 4, 2010) (citing News Release, Federal Communications Commission, FCC Releases New Data on Internet Access Services (Sept. 2, 2010)) (“CTIA Reply Comments”).

^{11/} CTIA Reply Comments at 7 (citing comScore, “MobiLens Trend” (last accessed Nov. 4, 2010)).

^{12/} Letter from Tamara Preiss, Verizon, to Marlene Dortch, Secretary, FCC, WT Docket No. 05-265 (dated Nov. 5, 2010). See also Letter from Tamara Preiss, Verizon, to Marlene Dortch, Secretary, FCC, WT Docket No. 05-265 (dated Nov. 23, 2010).

^{13/} Letter from Michael Goggin, AT&T, to Marlene Dortch, Secretary, FCC, WT Docket No. 05-265 (dated Nov. 23, 2010) (emphasis in original).

^{14/} See, e.g., Letter from Rural Cellular Association (“RCA”) and Rural Telecommunications (“RTG”), to Marlene Dortch, FCC, WT Docket No. 05-265 (dated Nov. 12, 2010) at 1 (“Joint RCA/RTG Letter”) (describing Cox Communications’ unsuccessful efforts to negotiate a voice and data roaming agreement with Verizon); Letter from Caressa D. Bennett, Counsel for RTG, to Marlene Dortch, Secretary, FCC, WT Docket No. 05-265 (dated Nov. 22, 2010).