

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of
Empowering Consumers to Avoid Bill Shock
Consumer Information and Disclosure

CG Docket No. 10-207

CG Docket No. 09-158

COMMENTS OF NEXUS COMMUNICATIONS, INC.

Nexus Communications, Inc. (“Nexus”) supports the Commission’s efforts to eliminate Bill Shock and to empower consumers to keep their wireless bills within their budgets.

I. UNEXPECTED FEES AND OVERAGE CHARGES HARM CONSUMERS

The Commission’s Notice of Proposed Rulemaking¹ highlights the frustration many consumers feel when their efforts to manage their wireless phone budgets are hampered by unexpected fees, overage charges, and a lack of awareness about the tools available to control usage of postpaid wireless services. The NPRM offers common-sense proposals to help postpaid subscribers, such as usage alerts and the ability to easily monitor and cap usage as each billing cycle progresses. Nexus is pleased that in the NPRM the Commission has also recognized that prepaid services offer a simple and most importantly, effective means of keeping the cost of wireless telecommunications services within the family budget.

¹ *In Re Empowering Consumers to Avoid Bill Shock; Consumer Information and Disclosure*, Notice of Proposed Rulemaking, FCC 10-180, (FCC rel. Oct. 14, 2010).

II. PREPAID ARRANGEMENTS ELIMINATE BILL SHOCK

Nexus' prepaid wireless service provides customers with a simple pay-as-you-go service that has no credit checks, long-term contracts, or deposits. If a potential subscriber is unwilling or unable to pay the fees, they can simply decline the service. There is no possibility of bill shock. Combined with the ability to purchase only as much or as little airtime as needed, this makes prepaid wireless particularly attractive for low income and budget-conscious consumers.

By its very nature, the prepaid business model offers a simple yet very effective solution to bill shock. Because customers pay beforehand for only as many minutes as they require, they are not charged at the end of the month, and no overage charges are possible. And unlike with other carriers, there are no early termination fees. All costs are upfront. Customers have controllable, predictable, and consistent service for as long as they want, and at the price they determine. The growth of the prepaid industry in recent years is evidence that this model is the right one for many Americans.²

III. USAGE ALERTS ARE UNNECESSARY FOR PREPAID CUSTOMERS

Nexus applauds the Commission's efforts to expand consumer control over their wireless bills, but also urges it to recognize the important distinction between prepaid and postpaid billing arrangements as it drafts new rules. The usage alert proposal for which the Commission seeks comment is designed to prevent customers from inadvertently running over their allotted minutes and being incurring significant overage charges without warning. Nexus agrees that postpaid consumers should have adequate tools to avoid such charges. Similarly, so long as consumers are locked into multi-year contracts under which they may incur variable bills and unexpected

² Janice A. Hauge, et al., *Whose call is it? Targeting universal service programs to low-income households' telecommunications preferences*, 33 *Telecomm. Pol'y* 129, 138 (2009), available at http://warrington.ufl.edu/purc/purcdocs/papers/0805_Hauge_Whose_Call_is.pdf.

fees, it is important that they have the ability to monitor their usage and the carrier's fees. Such tools are already present in a prepaid billing arrangement, however. Customers have already purchased the full service up front, and are often able to monitor their balance without risking overage charges when they do not. Nexus has worked hard to develop effective monitoring and notification tools for its customers. Nexus subscribers have multiple ways of monitoring their balance before a usage alert system is initiated.

Nexus' service allows subscribers to check the balance of available airtime in real time directly through their handset. At the beginning of every call, customers are provided with the monetary balance of their account. They can add value to this at any time using Nexus' prepaid replenishment cards. These cards are printed with a telephone number that allows the customer to connect, toll-free, to a Nexus service representative who can help the customer add the card's value to their account. The representative can also load the card on behalf of the subscriber.

When a customer has a low balance of time remaining, he or she will hear "whisper tones" at the 5, 3, and 1 minute marks reminding them that their minutes are about to be depleted. This alert system provides the subscriber with ample warning before running out of available minutes. The customer will be able to immediately make additional calls once any free monthly minutes are automatically loaded into the account. Nexus' subscriber notification tools are integrated into the prepaid customer experience and are designed to work differently, but just as effectively, as the alert system proposed for postpaid services.

IV. ADDITIONAL REGULATORY BURDENS WOULD BE INAPPROPRIATE FOR PRICE SENSITIVE PREPAID CUSTOMERS

Nexus and other prepaid providers serve large numbers of low income customers for whom the low, controllable cost of prepaid wireless may be the determining factor between

having phone service or going without, precisely due to the fear of being on the receiving end of bill shock. Wireless phone service is essential for low income Americans, who use it not only to communicate with friends and family, but also as a tool to obtain jobs and social services.³ Prepaid service allows this segment of the population to control costs while avoiding the flat fees attached to most contractual postpaid plans, which are regressive and disproportionately onerous on low income customers.⁴ Being able to decide how much or how little to spend on phone service from month to month allows low income families to manage their costs and phone usage in accordance with other financial obligations. By pre-paying, they can control the expense of critical wireless service on a highly granular level, down to the dollar and the minute.⁵

Because prepaid wireless customers are so price sensitive, the additional costs imposed by unnecessary regulations would make prepaid wireless service unaffordable for some. Nexus' initial research indicates that implementing the additional alert system proposed by the FCC would require substantial additions to existing infrastructure and would create an added expense that would most likely have to be passed on to customers or be absorbed by the carriers. Nexus urges the Commission to avoid such an unnecessary and harmful consequence by carefully drafting its rules to account for the nature of prepaid service and the needs of its customers. Prepaid wireless offerings, by their very nature, have already been designed to fundamentally

³ *Id.* at 130.

⁴ Reply Comments of the Minority Media and Telecommunications Council on *In Re Fostering Innovation and Investment in the Wireless Communications Market; A National Broadband Plan for Our Future*, Notice of Inquiry, 24 FCC Rcd 11322 (rel. Aug., 27, 2009).

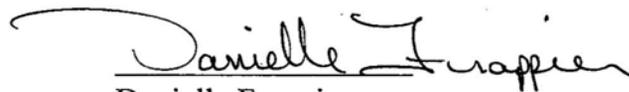
⁵ As the National Consumers League has written, “[p]repaid wireless service is a good option for low-income consumers because there are no long-term contracts, no credit checks, and no early termination penalties or late payment fees. With prepaid service, people pay only for the service that they can afford.” Comments from the National Consumers League on *TracFone Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45 (filed Aug. 16, 2004); *TracFone Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida*, CC Docket No. 96-45 (filed Aug. 16, 2004).

prevent any of the negative aspects of bill shock and to protect the subscriber from incurring unwanted and unaccounted charges.

V. CONCLUSION

In Nexus' view, any regulation should recognize the fundamental difference between plans that permit unexpected costs and those that do not. It should impose alert requirements only on the former. This is particularly true when the costs associated with such regulation threaten to take wireless service out of reach for many low income Americans.

Respectfully submitted,



Danielle Frappier

Adam Shoemaker

Davis Wright Tremaine LLP

1919 Pennsylvania Avenue, NW Suite 800

Washington, D.C. 20006-3401

Phone: (202) 973-4242

Counsel for Nexus Communications, Inc.

January 10, 2011