

Congress of the United States
Washington, DC 20515

November 22, 2010

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

1807

Dear Chairman Genachowski:

We are writing to urge the Commission to act swiftly to adopt its proposed wireless data roaming rule. By promoting competition and increased investment in the wireless industry, this rule will greatly benefit consumers.

As you know, the FCC has already adopted a voice roaming rule. The Commission must keep pace with changes in technology and the marketplace by simply extending this rule to data services. With the explosive growth of mobile broadband, the extension of the FCC's voice roaming rule to data services is both necessary and timely. Today Americans use their mobile devices for more than simply making phone calls, and people expect their mobile services to work when they travel away from home. Voice service itself is increasingly becoming a data application, so a roaming rule that does not include data will ultimately inhibit voice roaming.

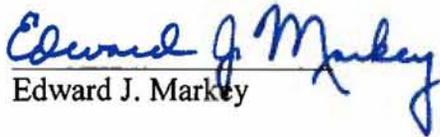
Without a data roaming rule, the large carriers have a clear economic incentive to deny data roaming to competitors. This unduly harms consumers by impeding competition and choice for consumers. Increased consolidation in the wireless industry has exacerbated this problem by reducing the total number of roaming partners and forcing smaller and rural carriers to become even more dependent on the two dominant wireless carriers.

The FCC's data roaming proposal will spur investment in new wireless infrastructure. With the certainty of data roaming on fair terms and conditions, carriers will be able to compete more effectively by enabling their customers to use their smartphones wherever they travel. That in turn will give carriers the resources and the confidence to continue to invest in their businesses. As the FCC has found, few if any carriers provide ubiquitous nationwide service entirely through their own facilities, particularly in the initial stages of construction and in rural areas. For wireless providers to compete, they must be able to offer seamless access to data services, just as they can now offer seamless access to voice services.

The FCC has clear authority to adopt its data roaming proposal under its Title I ancillary authority, under its Title II authority over telecommunications services or under its Title III plenary authority over radio communications. In the interests of consumers and competition, we respectfully request the Commission act this year to adopt this proposal.

Please associate this letter with the appropriate FCC docket.

Sincerely,


Edward J. Markey


Anna G. Eshoo



OFFICE OF
THE CHAIRMAN

Federal Communications Commission
Washington, D.C.

December 13, 2010

The Honorable Edward J. Markey
U.S. House of Representatives
2108 Rayburn House Office Building
Washington D.C. 20515

Dear Congressman Markey:

Thank you for your letter supporting the adoption of a data roaming rule. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

Earlier this year, the Commission sought comment on data roaming and the extent of its authority to impose data roaming obligations on wireless service providers. The Commission received a substantial record with respect to its statutory authority. Proponents of data roaming, such as Clearwire, SouthernLINC, T-Mobile USA, and U.S. Cellular, assert that the Commission's legal authority under Title III of the Communications Act to regulate radio spectrum provides the Commission with a sufficient legal basis to require any entity utilizing radio spectrum to make available data roaming to other wireless service providers. Some proponents, including Cellular South, Leap Wireless, and MetroPCS, argue that the Commission also has authority under Title I and II of the Act. In contrast, AT&T and Verizon Wireless argue that the Commission lacks the legal authority to require data roaming under any provision of the Communications Act. There is also a dispute over the application of Section 332 of the Communications Act to data roaming.

The data roaming proceeding remains pending, and the staff is still in the process of reviewing the record and analyzing the arguments and options. I appreciate your interest in this matter. Please do not hesitate to contact me if I can be of further assistance with this or any other matter.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a small dot at the end.

Julius Genachowski



Federal Communications Commission
Washington, D.C.

December 13, 2010

The Honorable Anna G. Eshoo
U.S. House of Representatives
205 Cannon House Office Building
Washington D.C. 20515

Dear Congresswoman Eshoo:

Thank you for your letter supporting the adoption of a data roaming rule. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

Earlier this year, the Commission sought comment on data roaming and the extent of its authority to impose data roaming obligations on wireless service providers. The Commission received a substantial record with respect to its statutory authority. Proponents of data roaming, such as Clearwire, SouthernLINC, T-Mobile USA, and U.S. Cellular, assert that the Commission's legal authority under Title III of the Communications Act to regulate radio spectrum provides the Commission with a sufficient legal basis to require any entity utilizing radio spectrum to make available data roaming to other wireless service providers. Some proponents, including Cellular South, Leap Wireless, and MetroPCS, argue that the Commission also has authority under Title I and II of the Act. In contrast, AT&T and Verizon Wireless argue that the Commission lacks the legal authority to require data roaming under any provision of the Communications Act. There is also a dispute over the application of Section 332 of the Communications Act to data roaming.

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Sincerely,

A handwritten signature in black ink, appearing to read "Julius Genachowski". The signature is stylized with a large, sweeping initial "J" and "G".

Julius Genachowski