

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Empowering Consumers to Avoid Bill Shock)	CG Docket No. 10-207
)	
Consumer Information and Disclosure)	CG Docket No. 09-158

REPLY COMMENTS OF USA MOBILITY, INC.

USA Mobility, Inc. respectfully replies to the comments filed in response to the Commission’s Notice of Proposed Rulemaking adopted in the above-referenced proceeding on October 14, 2010.¹ As USA Mobility demonstrated in its initial comments, there is no basis to conclude that paging subscribers experience bill shock, and, in any event, the paging-specific costs associated with the proposed alerting requirements would vastly outweigh any purported benefits. The opening comments further confirm that the Commission should categorically exempt all paging carriers from any new rules it might adopt in this proceeding.

The comments overwhelmingly support the proposition that a one-size-fits-all approach to addressing bill shock concerns would be inappropriate and potentially unlawful.² Rather, any new rules should be carefully tailored to ameliorate real-world problems and should account for the relevant characteristics of different services.³ As other commenters recognize, overly broad or excessively burdensome notification requirements would run afoul of the Administrative

¹ *Empowering Consumers to Avoid Bill Shock; Consumer Information and Disclosure*, Notice of Proposed Rulemaking, CG Docket Nos. 10-207, 09-158 (rel. Oct. 14, 2010) (“*NPRM*”).

² *See, e.g.*, Comments of T-Mobile USA, Inc. at 18; Comments of the Rural Cellular Association at 5; Comments of Wireless Communications Association International (“WCAI”) at 1-2, 10; Comments of MetroPCS Communications, Inc. at 4, 9; Comments of Cricket Communications at 3, n. 8; Comments of Nexus Communications, Inc. at 2-5; Comments of CTIA at 31, 41-43.

³ *See, e.g.*, Comments of WCAI at 1-2; Comments of T-Mobile at ii, 18; Comments of NTCH, Inc. at 2.

Procedure Act (“APA”) and ultimately frustrate the Commission’s goals of maximizing consumer welfare, innovation, and investment.⁴ Notably, the only commenters to address the specific attributes of paging services agree with USA Mobility that bill shock is simply not an issue in the paging context and that the costs of imposing new regulations on paging carriers would vastly outweigh any purported benefits to consumers.⁵ The absence of any record evidence identifying concerns with respect to paging services would make any mandate for paging carriers arbitrary and capricious.⁶

Notwithstanding the crucial distinctions between paging and other wireless services, a handful of commenters suggest that the proposed rules should be applied uniformly to *all* providers, without regard for their size or the type of services they provide.⁷ Such blanket assertions provide no basis for imposing new mandates on paging carriers, however. To the contrary, subjecting paging carriers to rules designed to address problems that relate exclusively to *other* types of wireless services cannot be squared with sound public policy or the APA.⁸

⁴ See, e.g., Comments of T-Mobile USA at 8-11; Comments of Verizon Wireless at 15-20; Comments of the Rural Cellular Association at 16; Comments of WCAI at 1-2, 8-11.

⁵ See Comments of American Association of Paging Carriers (AAPC) at 3-4; Comments of American Messaging Services, LLC at 2-5.

⁶ See, e.g., *National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831, 843 (D.C. Cir. 2006) (“Professing that an order ameliorates a real industry problem but then citing no evidence demonstrating that there is in fact an industry problem is not reasoned decisionmaking.”).

⁷ See Comments of the New England Conference of Public Utility Commissioners (“NECPUC”) at 3, 10-12; Comments of the New Jersey Division of Rate Counsel at 17; Comments of the Center for Media Justice et al. at 3, 6-7; Comments of the California State Public Utilities Commission et al. at 5; Comments of the Massachusetts Office of Attorney General at 3, 10, 12.

⁸ See, e.g., *Petroleum Commc’ns, Inc. v. FCC*, 22 F.3d 1164, 1172 (D.C. Cir. 1994) (just as “an agency must provide adequate explanation before it treats similarly situated parties differently,” it also must “justify its failure to take account of circumstances that appear to warrant different treatment for different parties”); see also *Cal. Dep’t of Water Res. v. FERC*, 341 F.3d 906, 910 (9th Cir. 2003).

CONCLUSION

For the foregoing reasons, and for the reasons set forth in USA Mobility's opening comments, the Commission should refrain from imposing any mandates on paging carriers relating to bill shock concerns that apply only to other services.

Respectfully submitted,

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