



March 25, 2014

Via electronic mail: Melanie_Kartzmer@judiciary-dem.senate.gov

Senator Patrick Leahy, Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510-6275

Attn: Ms. Melanie Kartzmer, Hearing Clerk
Senate Judiciary Committee

Re: Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights hearing entitled
"An Examination of Competition in the Wireless Market"
Response of Jonathan Spalter, Chair, Mobile Future, to Committee Member Question

Dear Senator Leahy:

It was an honor to testify before the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights at its hearing entitled "An Examination of Competition in the Wireless Market" on February 26, 2014. Thank you for the opportunity to provide additional information in response to the question posed by Senator Klobuchar.

Senator Klobuchar noted that "At the hearing T-Mobile and C Spire expressed concerns about their ability to offer competing service due to challenges posed by special access and data roaming, two fixed costs for which they pay to their competitors" and asked whether Mobile Future thinks "the FCC has a role to play in preserving competition by addressing special access and data roaming concerns." Mobile Future does not believe that additional FCC regulation is needed in the context of special access or data roaming arrangements.

With respect to special access, the FCC can best preserve competition by ensuring that its regime continues to promote facilities-based competition by incumbents, competitive fiber providers, cable companies, fixed wireless providers, and others. Mobile Future is focused on special access insofar as it relates to the backhaul of mobile wireless traffic. We see a marketplace in

which the legacy services over which incumbent local exchange carriers were once dominant have become less and less relevant. As 4G LTE replaces 2G and 3G mobile services, data consumption is growing dramatically, and the DS1- and DS3-capacity backhaul facilities that incumbent LECs used to provision for mobile backhaul are being replaced by fiber-optic cables and high-capacity wireless links. Indeed, Ethernet now accounts for at least half of total high-capacity bandwidth, and is expected to account for more than 75% of total global business bandwidth by 2017.¹ In this environment, the former “incumbents” have no special advantages over their competitors, and it would be misguided for the FCC to impose new restrictions that constrain one set of providers but not their equally well-placed competitors.

With respect to roaming, the FCC has established a provisioning requirement and a set of standards for the negotiation of data roaming arrangements. To our knowledge, a number of parties have successfully negotiated acceptable data roaming agreements. Moreover, the FCC is available to aggrieved parties to resolve data roaming disputes, either informally or formally. In light of this, Mobile Future does not believe any additional FCC action at this time is needed. The FCC’s Wireless Telecommunications Bureau, which has the first-line role in addressing carrier disputes, clearly agrees with this assessment. In its March 13, 2014, Order approving AT&T, Inc.’s acquisition of Leap Wireless International, Inc., the FCC rejected requests that it impose new, roaming-related requirements on AT&T, finding that “the Commission’s general roaming policies and rules should ensure that entities can obtain roaming arrangements on reasonable terms and conditions.”²

Thank you again for allowing Mobile Future to have a role in this hearing. Please do not hesitate to contact me if we may offer any additional assistance as the Subcommittee and the Committee consider these important issues.

Sincerely,



Jonathan Spalter, Chairman
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¹ Sean Buckley, “Ethernet will contribute over 75% of business bandwidth by 2017, VSG says,” FIERCE WIRELESS, Oct. 24, 2013, <http://www.fiercetelecom.com/story/ethernet-will-contribute-over-75-business-bandwidth-2017-vsg-says/2013-10-24>.

² *Applications of Cricket License Company, LLC, et al., Leap Wireless International, Inc., and AT&T Inc. for Consent to Transfer Control of Authorizations*, WT Docket No. 13-193 (WTB, IB March 13, 2014), ¶ 107.