

**Statement of
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**before the
Senate Committee on Commerce, Science & Transportation
March 14, 2006**

Good morning, Mr. Chairman, Co-Chairman Inouye, and members of the Committee. My name is Tom Sugrue and I am the Vice President of Government Affairs for T-Mobile USA, Inc. Thank you for the opportunity to appear before the Committee to discuss spectrum and other wireless issues critical to T-Mobile and the wireless industry as a whole. T-Mobile is an independent national provider of wireless voice, messaging and data services. In addition, T-Mobile operates the nation's largest commercial Wi-Fi wireless broadband network with service in more than 6,700 public locations across the country under the name T-Mobile HotSpot.

While T-Mobile is the smallest of the four nationwide wireless carriers in the United States, its growth during the past several years has been remarkable. When I joined the company in 2003, it had just passed the 10-million subscriber mark. We now have more than 22 million subscribers, an increase of 120 percent in just three years. This makes T-Mobile the country's fastest growing national carrier in terms of rate of growth. We believe this growth is attributable in large part to T-Mobile's focus on excellent customer service and its efforts to improve coverage, including the addition of 3,500 new cell sites in 2005 alone. These pro-consumer measures are paying off. For two years running, T-Mobile has finished first in overall customer satisfaction among all wireless carriers in the J.D. Power and Associates rankings.

I would like to focus this morning on two main points.

First, it is essential that more spectrum be introduced into the marketplace at the earliest possible date in order for existing and new providers to deploy the advanced and increasingly innovative wireless services that consumers demand. We respectfully request that the Committee do everything within its power to ensure that the advanced wireless services (AWS)

auction stays on track for June 29, 2006.

Second, Congress' policy of regulating wireless services with a light touch at the federal level has been a tremendous success. The extraordinary growth and dynamism in wireless services in the last 10 years are due in no small part to decisions Congress made to adopt a pro-competitive, deregulatory model for the industry. However, there have been recent attempts by state legislatures and regulatory commissions to become entangled in the details of the customer-carrier relationship, including specifying the size of fonts used on bills and advertisements, establishing the length and nature of contracts, and prohibiting a variety of charges. These types of regulations all limit customer choice, add to confusion -- not clarity -- and raise the cost of providing services, ultimately harming the consumers the states are trying to protect.

More Spectrum Is Necessary

I think I can speak on behalf of the entire wireless industry in saying that we sincerely appreciate the Committee's efforts to ensure that more spectrum is swiftly put into circulation. In particular, I want to applaud the Chairman, Senator Inouye and the Committee for taking the lead in successfully pushing for passage of the Commercial Spectrum Enhancement Act in December 2004. That Act established a trust fund to relocate government users in certain bands and has allowed the auction for AWS licenses to take place this summer. Similarly, through this Committee's leadership, Congress just last month set a date certain for the transition to digital television broadcasting, thereby accelerating the auction of 700 MHz spectrum for new broadband communications services.

These two pieces of legislation will result in 150 megahertz of spectrum being auctioned and licensed for wireless broadband, and put into service during the next three years. These infusions of spectrum are especially important for the overall competitiveness of the industry.

For example, as the fourth largest nationwide wireless carrier in the United States, T-Mobile has significantly less spectrum in most markets than the three largest national carriers. Indeed, in part as a result of recent mergers and acquisitions, the three largest carriers hold an average of between 42 and almost 60 megahertz in the top 50 markets, while T-Mobile holds only about 25 megahertz on average in those areas. To continue to be an aggressive competitor, as well as to satisfy consumer demand for an increasing range of affordable, next generation wireless services, T-Mobile needs access to additional spectrum in the very near future. Many other mid-size and smaller carriers are in the same position.

For this reason, it is essential that the AWS auction proceed on schedule. The licenses on the auction block are the most desirable and readily usable frequencies that have been made available for wireless services in 10 years. They encompass 90 megahertz of spectrum and provide a footprint across the entire country. The AWS auction is likely to be one of the most successful ever held, in terms of the number and variety of participants, as well as dollars generated for the public benefit. The substantial spectrum advantage enjoyed by the three largest wireless carriers, and the increasing demand for mobile wireless offerings, underscore the need to put valuable AWS spectrum into the marketplace as soon as possible to promote continued competition and product choice for advanced services.

The FCC has announced an auction start date of June 29, 2004. Chairman Martin and the other Commissioners have indicated their intent to keep this date, and we applaud them for that. At the same time, the Commission is considering proposals to alter the auction structure, eliminate transparency in bidding, and amend rules for participation by small business entities. We look to the Committee to support and to encourage the Commission to resolve these issues promptly so that they do not have the unfortunate consequence of delaying the June 29 start date.

The FCC is working hard to keep the auction on track, but some pending proposals are controversial and we are concerned that they not be allowed to sidetrack the most important auction fueling competition in more than a decade.

Too many entrants depend on its successful outcome, including the Department of Defense and government agencies awaiting relocation, and companies like T-Mobile and the public safety community that are waiting to rollout new, third-generation wireless services to benefit consumers and competition.

In addition to ensuring the swift release of spectrum to market, Congress should continue to recognize the innovative and competitive services that the wireless industry has been able to offer since 1993. Congress had a unique vision to create a deregulatory environment for wireless communications when it passed the Omnibus Budget Reconciliation Act of 1993. In doing so, it also created a vibrant and competitive communications marketplace that empowered customers, not the government, to pick “winners and losers.” Just look at the results. Since 1993, the number of wireless subscribers has shot up from 13 million subscribers to more than 200 million today. The average minutes of use per subscriber has increased more than 500 percent, while prices per minute have dropped more than 80 percent. Wireless customers sent 32.5 billion SMS messages in the first half of 2005. And every day, customers rely on their wireless devices to place 224,000 E-911 calls to police and emergency workers. More than 95 percent of Americans live in counties with a choice of at least three or more wireless carriers. All of this is a result of Congress’ vision in the 1993 Act. But now, certain legislative and regulatory actions threaten to limit the innovation and growth that have become hallmarks of the wireless industry. I would like to focus on one particular barrier—the increasing propensity of states to try to force wireless providers to modify their business procedures.

State Regulation of Wireless Services Is Harmful to Consumers and Competition

One of the primary means by which wireless providers compete to secure and retain subscribers is through the provision of excellent customer service. T-Mobile considers an informative pre-purchase experience, customer-friendly bills, and responsive customer service to be critical parts of its overall offerings and is proud to be a market leader in this regard. Another notable way in which T-Mobile has differentiated itself is by introducing the interactive “Personal Coverage Check” feature to our Web site, which enables customers to check the quality of network coverage where they live, work and travel before they purchase service. These branding efforts are the direct result of a competitive market that Congress encouraged by adopting a light-touch approach to the wireless industry.

In light of Congress’ decision to rely on market-based competition whenever possible to ensure the interests of wireless consumers are served, there is no justification for new, extensive regulatory intervention at this point in the industry’s development. While all industries encounter some growing pains – especially one that is growing as fast as wireless – we believe there is simply no evidence of any systemic wireless market failure. In this environment, new and intrusive regulation would inevitably create confusion in the marketplace, narrow competition among carriers, and drive up costs to consumers. The likely result would be *less* consumer satisfaction.

This is particularly the case when micromanagement is occurring on a state-by-state level. As Congress recognized when it enacted Section 332 of the Communications Act, wireless service is provided on a nationwide basis without regard to state boundaries. Notwithstanding the national nature of the wireless industry, some state commissions believe that they should each have the opportunity to dictate what a wireless bill should look like, how

charges should be explained, and the precise language carriers must use when marketing their services. While the states contend that this intrusive oversight is necessary to protect consumers, it is not clear how 10, 20, or 50 different rules on a contract's font size or disclosure language could possibly benefit anyone. To the contrary, divergent state requirements will result either in information overload to the consumer or permit the state with the most burdensome regime to effectively set policy for the entire country. It also would prevent companies like T-Mobile from distinguishing themselves in the marketplace through high-quality customer service and differentiated products.

For these reasons, we believe state-by-state regulation of wireless is not in the public interest, regardless of whether such regulation is aimed at rates and entry or the other terms and conditions of wireless offerings. We encourage Congress as it considers reforms to the Communications Act and exercises its oversight authority over the FCC to affirm that, in light of the highly competitive and nationwide nature of the wireless industry, a federal regulatory framework should apply to wireless services.

Conclusion

For the reasons stated above, T-Mobile respectfully urges the Committee and Congress to ensure that the FCC hold to its June 29, 2006, auction date so that valuable spectrum reaches the marketplace for the continued deployment of advanced wireless services. In addition, in order to ensure that the wireless industry continues to be a competitive success story, we urge Congress to confirm that wireless carriers are to be regulated with a light touch and solely at the national level.

Thank you again for inviting me here today. I am happy to answer any questions.