

**Assembly Standing Committee on
Consumer Affairs and Protection**

**Assembly Standing Committee on Corporations,
Authorities and Commissions**

Testimony of the

New York State Consumer Protection Board

**Consumer Protections for Wireless Telephone
Customers in New York State**

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Good morning Assemblywoman Pheffer, Assemblyman Brodsky, and Committee members. I am Douglas Elfner, the Director of Utility Intervention at the New York State Consumer Protection Board. Teresa Santiago, the Chairperson and Executive Director of the CPB, could not be here today, but asked me to provide the Committees with the CPB's perspective on current consumer concerns with wireless telephone service and an overview of consumer complaints that the CPB receives on wireless telephone issues. On behalf of Chairperson Santiago, thank you for this opportunity to present our views.

Use of wireless communications continues to skyrocket. Nationally, the minutes of airtime used by U.S. wireless customers has increased by a factor of 10 in the last 5 years. Subscribership in New York is up by almost 50% in the past three years. The Federal Communications Commission reports that the percentage of New Yorkers subscribing to wireless telephone service has reached 69% in New York City and nearly 50% in most of upstate New York. This demand is being met in an industry that shows many signs of strong competition, as four large national, and several regional, providers continue to reduce the price of wireless service and introduce expanded new services including wireless e-mail, internet access and a host of multimedia applications. Competition has also resulted in simplified rate plans, high levels of investment and improved service quality, all of which benefit consumers.

In several important respects, however, the market does not yet adequately protect consumers. For example, too often, consumers are not given accurate information about the quality, terms and conditions of wireless service at the point of sale. Wireless telephone service is important for public health and

safety, and competition alone may not be sufficient to ensure that necessary protections are provided, such as proper notice of where wireless signals are strong and where they are not. There is also considerable evidence of consumer confusion and dissatisfaction with certain wireless practices. The industry has attempted to address these issues through voluntary action, including a Ten-Point Consumer Code adopted by the Cellular Telecommunications and Internet Association in 2003, but consumer concerns remain.

The Consumer Protection Board recognizes that unnecessary legislation and regulation would be counterproductive, and may increase the cost of service to consumers. Therefore, any legislative or regulatory action should focus on demonstrated areas of concern, particularly on matters that may have an impact on public health and safety.

OVERVIEW OF CONSUMER CONCERNS

Data from consumer complaints and surveys show that the service provided to wireless customers does not always meet customer expectations. For example, the Better Business Bureau reported that for 2004, the latest year for which data have been published, it received more complaints about wireless telephone service than any other industry. J.D. Power and Associates reports that customer satisfaction with wireless carriers dropped 10% in 2005 from 2004, which is the largest decline in the poll's history. It also reported that customer satisfaction with wireless has trended downward in the last ten years. Consumer Reports found similar results. Based on its 2005 survey, Consumer Reports concluded that "Cell-phone service isn't getting any better." It found essentially the same reader score as in 2004, placing wireless service below HMOs and

digital cable TV in terms of how well they please the customer. Only 47% of respondents told Consumer Reports that they were either completely or very satisfied with their cell-phone service. Similarly, a USA Today/CNN/Gallup Poll conducted in 2005 found that wireless telephone users continue to experience problems, with nearly half of the respondents citing dropped calls, and 42% complaining of confusing bills. The National Association of Attorneys General also reports that for the past 5 years, surveys of AG offices show that telecommunications-related issues have been consistently among the top 4 for most complaints, the majority of which were related to wireless service.

The large volume of consumer complaints regarding wireless service in recent years led the Federal Communications Commission to reverse a previous exemption for wireless telephone services from its rules requiring that billing descriptions for telecommunications services be brief, clear, non-misleading and in plain language. The FCC concluded in 2005 that the large number of consumer complaints, demonstrated customer confusion and dissatisfaction with current billing practices of wireless carriers.

At the Consumer Protection Board, the volume of complaints has remained steady in recent years, both in terms of absolute numbers and as a percentage of total complaints.

SPECIFIC ISSUES OF CONCERN TO CONSUMERS

There have been some important changes in the nature of consumer concerns about wireless service in recent years. Most notably, the percentage of complaints regarding the quality of wireless telephone connections has declined, reflecting considerable effort and investment on the part of the industry.

However, more can be done, especially in rural areas, to reduce dropped calls, static and delayed notification of voice mail.

Based on a review of the complaints received by the CPB, as well as the surveys identified earlier, more than two-thirds of consumer complaints concern billing or rate issues. The remaining complaints concern the quality of service and customer service issues.

Billing and Rate Issues

One of the most common complaints regarding billing is that rates and fees are higher than what consumers understood when they purchased the service. For example, consumers complain about charges for services that they understood would be free, such as accessing their account online, checking voice mail, instant messaging or downloading and playing games. Another common complaint concerns “add-on’s” that appear on the customer’s bill but weren’t in the advertised price. In addition, consumers sometimes end up with a calling plan that they claim is different from the one they intended to purchase. The relatively large volume of these complaints suggests that when purchasing wireless service, some consumers are not fully aware of the rates and fees that they will be charged.

Consumers also assert that wireless carriers have not provided them with the “free minutes,” rebates, billing adjustments or refunds they expected. They also dispute whether they should be assessed a contract termination fee, which can be up to \$300, particularly when they claim that the company did not abide by its obligations to provide quality service. They also claim that their contract term was extended without their consent.

Consumers also complain that they are improperly being assessed charges for calls made while roaming in another carrier's territory, although the volume of these complaints is declining. Some consumers contend that they were not informed of these charges when they initiated service. Others contend that their wireless telephone did not display the words "roaming" or "out of area" for particular telephone calls, yet they were charged significantly higher roaming rates for those calls.

Service Quality Issues

Turning to the quality of wireless service, consumers continue to be concerned about the inability to receive service in certain geographic areas, at their homes or at work. Consumers are also annoyed by the premature termination of calls and poor signal quality. Wireless service quality issues frustrate consumers because they interfere with their ability to make and receive telephone calls. They also have public health and safety implications because they indicate that important telephone calls are not being completed.

Customer Service

Consumers also report dissatisfaction with industry responses to inquiries and complaints. An increasingly common complaint concerns differences between information provided by the company and information provided at dealer stores. For example, customers complain that when they call company headquarters to question charges, the companies say that dealers should have informed the customer of the charges. In many situations, companies will not modify the bill and instead shut off the account, impose a cancellation fee and

turn the account over to collections. Consumers also complain about rebates offered by a local dealer that are not honored by the parent company when the dealer goes out of business.

Lack of Information About Where to File a Complaint

There is also a general lack of information about where to file a complaint about wireless service. An AARP study shows that about 50% of consumers don't know whom to contact for a wireless complaint. The New York Public Service Commission refers complaints it receives regarding wireless telephone service, to the New York Office of the Attorney General. The Attorney General reports that the percentage of complaints received about wireless continues to increase.

IMPORTANCE OF CONSUMER SAFEGUARDS

Accurate information is required for markets to work. Wireless telecommunications service is very unusual, in that consumers often do not know whether the product will work to meet their needs until after they use it. Similarly, they often do not know how much the product will cost until after they receive their first bill. Moreover, unlike most industries, once consumers select a wireless service provider, they are bound by contract until the end of the contract period unless they are willing to pay a \$150 to \$300 termination fee. Therefore, customers' ability to switch providers in response to a problem is limited.

High quality wireless service is also required for public health and safety reasons. Consumers rely on wireless services to complete all telephone calls, including those involving emergencies. In fact, a recent study by AARP found

that among respondents that are 65 years of age or older, the most common reason for purchasing wireless telephone service is for security in case of an emergency. For consumers attempting to make a wireless call in an emergency who find that a call cannot be made from their location, it is no comfort that they can choose another carrier. In addition, since an increasing number of consumers rely solely on wireless telephone service for voice communications, the importance of quality wireless service for public health and safety is growing.

CONCLUSION

Thank you for this opportunity to share the CPB's views on this important consumer issue. I am available to answer any questions you may have.