

May 19, 2004

Re: Conditioning proposal for merger of AT&T Wireless and Cingular Wireless

Introduction:

The purpose of this paper is to propose a condition that this office believes should be made part of the approval of the pending merger of Cingular Wireless and AT&T Wireless. The merger between Cingular Wireless and AT&T Wireless will create the largest wireless communications company in the United States. It is our intent in presenting this paper that complaint resolution mechanisms be adopted by the merged company that will require a greater degree of focus on customer care and root cause avoidance than either AT&T or Cingular have demonstrated to date.

Business History:

AT&T Wireless originated in the early 1980's as McCaw Cellular, a Washington corporation; it quickly grew into a leader in the newly emerging cellular industry. Purchased by AT&T Communications in the 1990s, AT&T Wireless became poised to usher in a new era in the cellular industry's transformation into the wireless industry. As a local company, our office has had the opportunity to monitor and review AT&T Wireless's growth and business practices. Based on our historical review of consumer complaints, compiled with a year and half of monthly meetings to address these complaints, we have come to the conclusion that there are customer service issues that

AT&T Wireless has not addressed. In an effort to resolve some of the problems discovered within the wireless industry, our office developed a Best Practices paper for the industry in 2003. After sharing this with the wireless industry, the industry lobby group, Cellular Telecommunications & Internet Association “CTIA”, shared with us their Best Practice paper. The purpose of these papers is to bring about changes in the wireless industry through self-regulation rather than formal regulation by the Commission. However, after the implementation of CTIA’s best practices we have continued to see high numbers of consumer complaints, especially with AT&T Wireless. These complaints have caused our office to review our position with regard to our Best Practice’s paper and explore options.

CTIA’s Consumer Code:

The CTIA consumer code was designed to help consumers gain the information available to make informed decisions when selecting and purchasing wireless service, as well as understanding their current wireless service. To do this, CTIA developed 10 talking points to describe their code.

1. Disclose rates and terms of service to consumers.
2. Make available maps showing where service is generally available.
3. Provide contract terms to customers and confirm changes in service.
4. Allow a trial period for new service.
5. Provide specific disclosures in advertising.
6. Separately identify carrier charges from taxes on billing statements.
7. Provide customers the right to terminate service for changes to contract terms.
8. Provide ready access to customer service.

9. Promptly respond to consumer inquiries and complaints received from government agencies.
10. Abide by policies for protection of customer privacy.

We believe these are minimum thresholds that are not particularly aspirational. Despite the implementation of the CTIA code, the number of complaints to this office filed by consumers against AT&T Wireless has increased dramatically. CTIA's code does not present any mechanisms that consumers can use to resolve their disputes with their wireless carrier. Consequently, consumers once again must rely on state or local regulatory and law enforcement agencies to resolve their disputes, which was their dispute resolution mechanism prior to the implementation of the CTIA code. It is our hope that as a condition for approval of the merger, the Federal Communications Commission will require the new merged company to resolve specific consumer complaints that we have observed to be the most common and problematic.

Issues Raised by Consumers and our Solutions:

After careful review, our office has identified five (5) primary areas of consumer disputes. They are as follows:

1. Billing Issues
2. Repeated contact with customer service fails to remedy problems.
3. Failure to Disclose or Notify of Changes in Terms in Advance.
4. Perceived misrepresentations of promotions and/or plans.
5. Call reception or Coverage Problems.

By far, billing issues are the largest area of consumer dispute issues filed with our office. Complicated billing issues cover a multitude of problems ranging from incorrect taxes being applied to the consumer's account to billing for services that are included in the monthly service amount. Complaint data shows us that billing issues can quickly spread

into other areas of the consumer's wireless service as well as their personal financial status. We believe that consumers are entitled to receive clear and concise monthly billing statements that reflect accurately their wireless usage. Our Best Practices paper reiterates this by suggesting that monthly bills be laid out in easily recognizable formats with their services listed individually.

When a consumer does have a billing dispute, we believe that the disputed amount should be placed on hold pending the outcome of the billing department's research into the consumer's dispute. Consumers should only be required to pay the undisputed portion of the monthly bill. Consumers should not be subjected to collection activity while the billing dispute is pending. All consumer billing disputes should be given a dispute identification number and automatically logged into the consumer's account notes. The consumer should then be notified that their dispute has been received, given their dispute ID number and informed that their dispute will be resolved within 20 business days. If the billing dispute is not resolved within 20 business days, the disputed portion of the bill will be credited to the consumer account and the consumer should be informed of the billing department's findings in writing within 10 business days after reaching their decision.

Although many, if not all, carriers in the wireless industry aspire to some form of a "One Call Resolution" philosophy for customer service, failure of customer service to resolve issues results in the second largest and the most complex area of consumer complaints to our office. AT&T Wireless advertises that it has superior customer service. The AT&T Wireless website states that AT&T has the "best overall customer service" (AT&T Wireless website advertisement March 30, 2004). This office regularly fields

complaints in which consumers allege they have been placed on hold for long periods of time; that their accounts were not properly documented or those notes acted upon and some complain that they were not given the service plan that they requested.

The customer service department is the “connection” between the carrier and the consumer, and as such, is an area that needs the closest attention. Consumers repeatedly tell us that had customer service handled their question or concern properly the first or even the second time; they would not be contacting our office for assistance. Our data clearly shows that AT&T Wireless’s customer service is severely lacking. Again, referring back to our Best Practices paper, customer service representatives must be given in depth training in the service plans being offered, the additional features available, and they must have the resources available to them to assist in difficult or complex situations. Call duration metrics should not be imposed on customer service representatives when fielding consumer calls, nor should consumers have to wait extended periods of time to speak with a customer service representative. Like billing issues, complaints to customer service should be given a dispute identification number and automatically logged into the consumer’s account notes. The customer service representative should make every attempt to resolve the issue for the consumer while they are on the phone and the carrier must ensure that their computer system will allow the customer service representative to make those changes or corrections to the consumer’s account. If the customer service representative cannot resolve the issue immediately or transfer the consumer to correct department, the consumer should be transferred to a supervisor who can resolve the issue. Finally we recognize customer service staff should be empowered to issue discretionary credits of up to \$150.00 dollars per account per year.

Failure of carriers to disclose in a timely manner the impact of a plan change is the third largest area of consumer complaint. Consumers should be notified of changes to their plan prior to the changes taking effect. A high number of consumers have filed complaints stating that they were not told that decreasing their monthly minutes would be retroactive to the beginning of their current billing cycle. Another situation encountered by consumers is that a calling plan the consumer had been using for several years is no longer offered, but the carrier presents a “new and better” plan without disclosing that by accepting the new plan consumers are committing to a new contract and will be losing all of the features of their current plan. This basic lack of information in the “negotiation process” is also present with the independent or authorized dealers of AT&T Wireless and the other carriers.

We feel that these issues can be greatly reduced by sending all new and existing consumers a detailed Welcome letter or Change-in-Service letter as explained in our Best Practices paper. These letters should be sent to the consumer within seven (7) business days of ordering the new service or the change in service. These letters should explain in simple and concise language what service plan and additional features the consumer has agreed to purchase, the length of the applicable contract, and the base price for the monthly service. Introductory rates for any special offers should be disclosed in either the Welcome or Change-in-Service letters along with the rate during the introductory period. Consumers should then be given a reasonable trial period in which to use their new or upgraded service. AT&T Wireless currently gives consumers 30 days to try their new service or cancel without early termination penalties. We suggest that this policy be extended to any changes in the consumer’s service and that the Welcome or Change-in-

Service letter fully explain what charges the consumer will be responsible for should they cancel service within the trial period.

Much like a failure to disclose fully any change in service, the fourth most frequent complaint brought to our attention is the misrepresentation of promotions or service plans. These complaints are largely from consumers that have spoken with telephone sales representatives, independent or authorized dealers, or carrier store employees. These consumer complaints are generally straightforward; the consumer made contact with the carrier, either directly or through their agent, and was told of specific plans, features, promotions, and rates. The consumer then receives their equipment and shortly thereafter, their first billing, only to find that the promotion is not available in their area or the service plan does not cover the area described to the consumer.

Again we strongly suggest that a welcome letter or change letter accompany the new equipment, or arrive within seven (7) business days of the equipment, so that consumers are able to fully understand what they have agreed to purchase. Carriers should also ensure that the consumer's first billing arrives prior to the end of their trial period. This is a key feature that we believe will reinforce to consumers the costs and benefits of the service plan or promotion that they have agreed to purchase.

The fifth issue derived from our complaint data deals with reception and coverage problems. Consumers describe having a high number of dropped calls, static calls, or dead zones. Our office realizes the inherent limitations in wireless technology and we realize that coverage can be adversely affected by such things as topography and meteorological conditions. However, we believe that all carriers, especially AT&T

Wireless and Cingular, must take steps to ensure that their customer service representatives, store employees and independent or authorized dealer personnel, are providing consumers accurate information and current coverage maps. Many of the consumer complaints suggest that consumers are not offered coverage maps when ordering service. Some complaints allege that they are shown maps in the stores that are for general service usage only. Consumers are referred to the carrier's website for current and specific coverage maps. Not all consumers have access to the Internet for these purposes and should, therefore, be given accurate information and maps at the time of their purchase.

Consumers must be told how to receive credit for poor reception or how to cancel their service if the coverage is not as represented to them by the sales staff. Again, we reiterate our concern for full, clear and complete disclosure to consumers at the time of purchase or upon receipt of their Welcome or Change-in-Service letters. Consumers should not be given the impression that wireless technology works like traditional landline service. Carriers should also be barred from telling consumers that there are new wireless towers being built in areas when construction has not begun or is in the preliminary steps of the process. Calls to customer service should be handled by the customer service representatives and it should be much easier for such company representatives to determine if the consumer is in a trouble spot or if their phone is malfunctioning. If the consumer's phone is malfunctioning, the carrier should immediately send out a replacement phone pursuant to available warranty on the phone and include Return Authorization labels with the replacement phone. These should be received by the consumer within seven (7) business days after the consumer reports a

problem. Consumers should be given service credit for the reception problems they encounter and report to their carrier. Those credits should appear on the next billing cycle and be clearly labeled on the monthly billing statement.

Conclusions:

It is our sincere desire that the Federal Communications Commission consider the points raised by our office and the solutions offered as it considers the merger between AT&T Wireless and Cingular Wireless. We would encourage the FCC to make approval of the merger contingent on the merged firm adopting our recommendations solutions for the five complaint areas that we have identified. The wireless industry has the potential be of great service to the consumers of Washington State and the nation, but carriers must remember that it is the consumer that makes their companies successful. This is an opportunity to set acceptable standards of customer service for the industry based on customer feedback and to ensure that the wireless market place embodies fairness, honesty and a sense that the customer matters. While we realize that not all of our suggestions can be immediately implemented, but it should be remembered that increasing consumer satisfaction through the vigorous adoption of these solutions will be good for both consumers and the merged company.

Sincerely,

Sharon Nelson
Senior Assistant Attorney General
Chief, Consumer Protection Division