



# NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.  
See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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## **PRESS STATEMENT OF COMMISSIONER KEVIN J. MARTIN ON THE COMMISSION'S DECISION ON VERIZON'S PETITION FOR PERMANENT FORBEARANCE FROM WIRELESS LOCAL NUMBER PORTABILITY RULES**

I support the Commission's decision to deny, in part, Verizon's petition for permanent forbearance from the Commission's wireless number local portability (LNP) rules, although I disagree with the legal standard the Commission uses to assess Verizon's forbearance petition.

I believe that competition is preferable to regulation. Market forces are the best method of delivering choice, innovation, and affordability to consumers across our nation. But that does not mean that the Commission has no role to play. The Commission has an important role to play in creating an environment in which competition can flourish. And where there are market failures, the Commission may need to step in and take action.

The inability of consumers to keep their phone numbers when they switch carriers can be an impediment to competition. It imposes a cost to switching carriers, which, for many consumers, could be significant. In order to make a switch, consumers must contact the full range of people from whom they expect to receive calls, and many must also change business cards, letterhead, advertisements, and professional directories. These costs not only provide a disincentive for consumers that may want to switch providers, they also disadvantage new entrants to the market.

Thus, LNP can be important for competition. It allows consumers to choose a cheaper or more innovative wireless service without incurring some of these not insignificant switching costs. Moreover, it allows consumers more easily to replace their wireline phones with wireless phones, providing direct competition to the incumbent wireline telephone providers. A recent poll found that 18 % of wireless phone owners use their wireless phones as their primary phones. LNP may be an important part of ensuring that competition with wireline phones continues to grow.

The ability of new entrants to compete with established providers may become an even more important issue as additional deregulatory steps that the Commission has already taken go into effect. For example, the spectrum cap regulations, which limit the amount of spectrum any carrier can hold and thus ensure that there can be at least four competitors in any given market, will sunset January 1, 2003. In the post-spectrum-cap environment, in which some further

consolidation may occur, the ability of smaller, new entrants to compete with even larger wireless carriers may be critical to maintaining a vibrant competitive market and thereby ensure that consumers continue to receive the most innovative and affordable services.

For all of these reasons, I support the Commission's conclusion that our LNP rules are important and not to forbear permanently from applying them. I also support a one-year delay in implementing those rules to ensure successful implementation of our E911 rules, respond to carriers' concerns about the difficulty of simultaneously implementing LNP and pooling, and protect the interests of consumers.

I disagree, however, with the item's implementation of the standard for assessing forbearance petitions. In particular, I am concerned with the Commission's failure to give sufficient content to the term "necessary" in section 10 of the Communications Act. That provision requires, among other things, that forbearance be granted if enforcement of the challenged regulation is not "necessary" to ensure that charges, practices, etc., are just and reasonable, and enforcement of the regulation is not "necessary" for the protection of consumers. 47 U.S.C. § 160(a). I am also troubled by the item's failure to clarify that the burden of rejecting a forbearance petition rests with the Commission.