

**STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY**

Re: Truth-in-Billing and Billing Format, CC Docket No. 98-170; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing, CG Docket No. 04-208, Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking (adopted March 10, 2005).

Today's decision reflects the Commission's important and ongoing role in ensuring that consumers are provided with clear and non-misleading information in their telephone bills. I have frequently argued that the robustly competitive nature of the wireless industry obviates the need for many forms of regulation. So I approach the prospect of imposing new truth-in-billing requirements with some skepticism. I support this item, however, because it strikes an appropriate balance by avoiding burdensome regulation, while recognizing the strong governmental interest in ensuring that consumers fully understand their options. Indeed, consumers can only benefit from the varied and innovative services a competitive market offers if they can make informed choices. While this Order increases carriers' regulatory oversight somewhat at the federal level, it will produce a more streamlined regime overall by preempting state regulations that impede the delivery of pro-competitive benefits to consumers.

Consistent with the practices of most CMRS carriers, this order mandates that billing practices, including line items, be truthful and non-misleading. The phenomenal growth in consumer use of wireless phones reflects the success of the market in delivering a valuable product. At the same time, however, over the past few years, we have seen an increase in the number of complaints received with respect to wireless carriers. By removing any ambiguity regarding CMRS providers' responsibility to provide clear and non-misleading billing information to their customers, we are strengthening the ability of consumers to shop around and compare prices.

With regard to the preemption aspect of today's decision, it is important to remember that the amazing success of the wireless industry is due in large part to the foresight of Congress in establishing a comprehensive and consistent national regulatory framework for wireless providers. Congress mandated a uniform national regulatory policy for CMRS, not a policy balkanized by individual state decisions. Under this structure, not only is the FCC given the exclusive authority to regulate rates and entry of wireless carriers, but it also is vested with the flexibility, through the exercise of its forbearance authority, to promote competitive market conditions. This framework for CMRS has provided significant benefits to consumers by creating effective competition among wireless providers and spurring innovations such as regional and national calling plans. The Commission must continue to ensure that state regulations do not undermine congressional intent by imposing unnecessary regulatory burdens that would dampen the benefits of wireless competition to consumers.

Even given this clear congressional mandate, I do not approach preemption of state regulatory authority lightly. In this case, we appropriately conclude that the state

regulations in question amount to impermissible rate regulation. We also narrowly define our preemption to address only those state regulations that either *require or prohibit* the use of line items. The item makes clear that nothing in our action today limits states' ability to assess taxes or create, for example, a state-specific universal service fund to which carriers must contribute.

The NASUCA petition, which brought these issues before us, proposes sweeping and overbroad regulation that not only would frustrate Congress's and the Commission's important federal goals with respect to the wireless industry, but also would threaten to harm consumer welfare. This would be a step backwards and would frustrate carriers' ability to communicate clearly with their customers. If we did not preempt the type of regulations at issue, we could seriously hinder the wireless industry's ability to offer consumers flexible and innovative regional or national rate plans. Government should not impede the relationship between consumers and their providers.

I also want to make clear that nothing in this item diminishes the recognition that state governments play a critical role in protecting consumers, particularly through enforcement of generally applicable provisions that bar fraud and deceptive practices. Indeed, we specifically seek comment on additional truth-in-billing requirements and the proper role of states and the Commission in carrier billing practices. I look forward to creating a full record on these important issues and to working with my state colleagues to ensure American consumers have access to the information they need.