

Chairman Kevin J. Martin Remarks
Early Termination Fees
Public Hearing – June 12, 2008

Good morning. I am pleased that we are able to bring so many interested parties – both from industry and consumer perspectives – together today to discuss the issues relating to the use of early termination fees.

When a consumer ends a contract with wireless carrier, he is typically charged a fee ranging from \$150 to \$225. If you have multiple phones, you'll likely be charged multiple fees. That is a significant sum for a subscriber to pay who is dissatisfied with the quality of service. In practice, it can lock people into a service they really want to leave.

And consumers are concerned. In 2006 and 2007, we received over 3700 complaints about early termination fees. Too often consumers are surprised that the amount they owe on their first bill is not what they expected, only to then learn that their "trial" period already ended and cancellation will result in paying the early termination fee. It is essential that we examine ways to protect consumers and ensure that they understand the fees associated with the communications services.

I believe early termination fees can be a legitimate means of recovering legitimate costs. But they shouldn't be abused.

Our goal at the FCC must be to protect consumers. It is therefore essential that we examine how early termination fees are being used and discuss the best way to guarantee consumer protections.

If we take jurisdiction and therefore responsibility for this issue, then we must have clear rules that adequately protect consumers. Such rules should guarantee the following consumer protections:

1. The early termination fee should be reasonably related to the cost of the equipment the consumer receives. For example, a \$500 phone shouldn't have the same early termination fee as a \$50 phone.
2. The early termination fee should be prorated over the life of the contract.
3. Any contract for service should be for a reasonable length of time.
4. When a consumer renews his contract without receiving new equipment, the early termination fee should not be extended.
5. Finally, consumers should be able to take the phone home and receive their first bill to make sure the service and bill are consistent with what they expected, before an early termination fee kicks in.

I believe this set of rules is important to protecting consumers. I believe it is important for the Commission to examine what are reasonable practices as they relate to early termination fees. This issue is growing in importance as the practice of charging early termination fees spreads to other communications industries such as video and broadband.

I respect the important role states play in protecting consumers. I recognize that states play a critical consumer protection role and are particularly well-suited as they are frequently closer to consumers. However, I am skeptical that plaintiff class action lawsuits are the most effective way to guarantee these protections. First, not all consumers even benefit from such plaintiff lawsuits. And I do not believe a patchwork of 50 different sets of regulations with widely varying protections benefits consumers or the industry.

The hallmark of a free market is the ability of consumers to choose from a variety of services and service providers. I am concerned that early termination fees are being used not as a means of recovering legitimate costs but as a means of locking consumers into a service provider. Early termination fees shouldn't function as a hindrance to consumers' ability to choose, or switch to, the service or provider they want.

I am hopeful that today's hearing will help clarify the interrelated policy and legal implications associated with the practice of early termination fees and provide us with insight into how best to proceed.

I appreciate all our witnesses' willingness to join us here today. I look forward to hearing from all of you on these important issues.