

Statement of Commissioner Deborah Taylor Tate
Public Hearing on Early Termination Fees
Washington, DC
June 12, 2008

I would like to join my colleagues in welcoming our distinguished panelists and thanking them for their participation in today's hearing regarding early termination fees (ETFs) across a number of telecommunications markets. I also would like to recognize and thank Senator Klobuchar for her comments.

As a former official at the State level, I understand the importance of consumer protection. On a daily basis and across a number of industries – including but not limited to telecommunications – the States do a good job addressing a host of consumer issues. I therefore wish to recognize two panelists in particular, my colleagues Ann Boyle of the Nebraska Public Service Commission and Larry Landis of the Indiana Utility Regulatory Commission.

In approaching this or any public policy question, my regulatory philosophy is straightforward and, ultimately, pro-consumer. It calls for, first and foremost, regulatory humility – something I have tried to practice both as a State regulator and now as a Federal one. I look to and especially encourage industry to put forward creative, market-based solutions whenever possible, and to work with government on many other issues of importance to American families and consumers. For example, I am especially pleased that a number of providers recently committed to purge from their servers all child porn websites identified by the National Center for Missing & Exploited Children, and I encourage all of you to provide leadership and more tools to ensure improved child online safety.

To be clear, I understand the need for regulation if and when there is a clear market failure. To the extent panelists see a market failure in any of the markets we are discussing today, I urge you to articulate it as specifically and clearly as possible.

But no matter the market in question, I expect we can all agree that transparency is paramount for consumer protection. It is important for consumers to know and understand what they are getting, and that they in fact get what they pay for. That is, consumers benefit greatly from full disclosure of a provider's base prices, included services, extra charges for additional services, length of contract, and other terms and conditions. As Justice Brandeis observed, sunshine is the best disinfectant.

With regard to the wireless industry, the list of pro-consumer offerings is truly impressive:

- All major providers offer customers the ability to cancel service at the end of a trial period, which varies from 14 to 30 days. Many smaller providers do the same.
- Pricing options include pre-paid plans that allow the consumer to buy service by the month, the day, or even the minute, and post-paid plans,

both month-to-month as well as long-term plans like the familiar two-year deals. These long-term plans often have lower prices, subsidized handsets and, yes, ETFs.

- Most carriers offer customers a choice between these long-term plans and shorter arrangements. For those who choose the long-term plans, a couple of the largest wireless providers already pro-rate their ETFs, while others are poised to do so very soon.
- Other carriers specialize in plans with no ETFs and no contracts.
- And, the market has allowed the establishment of niche markets. These carriers serve the young and highly mobile, low-income consumers, or others with particular needs.

This differentiation often contributes to a richer, more diverse, more competitive market. I therefore encourage all panelists to address this issue of choice. What are the choices available to consumers in any given industry today? To what extent do service providers compete against each other by offering a different set of choices? If we limit those choices, how does the consumer benefit?

Commissioner Boyle first started talking about these issues several years ago, when I was a Commissioner at the State level. Look how far we've come. The market has responded, and in the end, no matter the impetus, the consumer has benefited. I look forward to a healthy discussion regarding many industries and platforms, as well as the role of the Commission and the States.