



Federal Communications Commission
Washington, D.C.
December 13, 2010

The Honorable Sue Myrick
U.S. House of Representatives
230 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Myrick:

Thank you for your letter expressing concern about the possible adoption of roaming obligations in the wireless data roaming proceeding, and expressing special interest in the Commission's statutory authority to adopt such obligations. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

Earlier this year, the Commission sought comment on data roaming and the extent of its authority to impose data roaming obligations on wireless service providers. In the *Notice*, the Commission stated its belief that regardless of whether the services a subscriber would access through roaming arrangements are telecommunications services or information services, the Commission has statutory authority to require automatic roaming for them. The *Notice* stated that if these services are telecommunications services, they could be subject to roaming obligations pursuant to Commission authority under Title II and Title III, and if they are information services, the Commission has the authority to promulgate roaming requirements under Title III and other provisions.

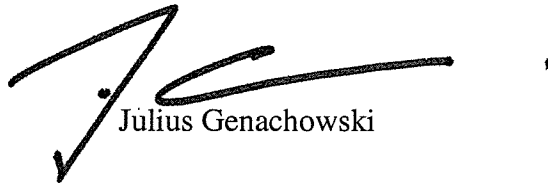
The Commission received a substantial record with respect to its statutory authority. Proponents of data roaming, such as Clearwire, SouthernLINC, T-Mobile USA, and U.S. Cellular, assert that the Commission's legal authority under Title III of the Communications Act to manage radio spectrum provides the Commission with a sufficient legal basis to require any entity utilizing radio spectrum to make available data roaming to other wireless service providers. Some proponents, including Cellular South, Leap Wireless, and MetroPCS, argue that the Commission also has authority under Title I and II of the Act. In contrast, AT&T and Verizon Wireless argue that the Commission lacks the legal authority to require data roaming under any provision of the Communications Act. There is also a dispute over the application of Section 332 of the Communications Act to data roaming.

The data roaming proceeding remains pending, and the staff is still in the process of reviewing the record and analyzing the arguments and options. I want to assure you that the

Page 2—The Honorable Sue Myrick

Commission will weigh carefully the legal and policy issues raised in the record before issuing a decision. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a small dot at the end.

Julius Genachowski