

US Wireless Industry Regulation 2002***Who gains, who loses?***

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The year 2002 will bring some big FCC-driven changes for the wireless industry in the US. The three big agenda items for wireless providers are number pooling, number portability and E911 Phase II. Hot on the heels of these initiatives comes the removal of spectrum caps in January 2003. This article reviews those changes and considers the implications for consumers, investors and wireless carriers themselves. The FCC has to make a difficult decision on the delay of number portability. The only sure thing is they cannot make everyone happy.

Wireless carriers have managed to escape many of the mandates imposed by the 1996 Telecommunications Act thus far. However, many of the FCC's policies are on the radar for implementation in 2002. The three big agenda items for wireless providers are number pooling, number portability and E911 Phase II. The industry is looking forward to these developments with varying degrees of enthusiasm.

There appears to be widespread active support for E911 Phase II, which provides the ability to identify the physical location of wireless users who make calls to the emergency services. The network upgrades not only support a real community need, but also advance the capability of introducing location-based services that will deliver new revenue streams. Wireless carriers and investors are therefore keen to push ahead, and customers will benefit from some attractive new services – if they are prepared to pay for them, or if they don't mind advertising being "pushed" to their handsets.

Number pooling is important for operators and for customers. There are already markets in the US where numbers are exhausted in the overall pool and growth has been restricted. All carriers, wireless and wireline, big and small, recognize the need for a more equitable number assignment procedure that fosters market growth. The FCC has been holding firm on their requirement for all carriers to implement number pooling in November 2002. Pooling will require carriers to return unused blocks of numbers to the common pool, and will introduce a faster number portability administration process for reissuing numbers in blocks of 1,000 instead of 10,000. Pooling is seen as an efficient means of avoiding telephone number exhaustion, and seems therefore to be beyond argument. CTIA members agreed that the deadline was achievable, despite the fact that the CTIA has been reporting delays in the overall program as recently as November 2001.

By comparison the number portability program is languishing. Number portability is a critical enabler for competition, as it allows customers to easily move between

carriers while retaining their previous phone numbers. For wireless operators, number portability provides the ability to win customers more easily from the wireline carriers, thus accelerating an already present trend. As CTIA President Tom Wheeler pointed out in his January 24, 2002 letter to the FCC: *"Despite the best efforts of regulators to intervene in the market to promote residential wireline competition, the only real residential competitors today are wireless carriers. A recent study reported that 10 million Americans had cut the cord and were using wireless instead of having any wireline connection."*

Despite this obvious gain for the wireless industry, there were few evident signs of enthusiasm at the CTIA conference in San Francisco in January 2002, where the topic was "Critical Issues Forum for Wireless Number Portability and Pooling". Participants indicated that being ready for number pooling by November 2002 is achievable, but few believed that number portability could be achieved in the same timeframe. As a result, the CTIA has petitioned the FCC to reconsider the due date for number portability, effectively requesting that porting be separated from pooling.

Many carriers claim that spending money on the required changes to systems, business processes, and networks will divert money from improving service quality - certainly a hot topic for many cellular users. Sprint PCS has submitted indicative costs of \$86M to implement porting above the \$58M to implement pooling.

If the FCC agrees to delay number portability for a further six months, who gains and who loses?

According to the CTIA, "the FCC's rule (requiring portability) will force wireless companies to spend less on consumers' number one desire - the continued improvement of service quality". So, with the delay, consumers can no doubt look forward to the results of specific quality improvement programs that will replace the number portability effort over the next few months.

On the other hand, some consumers might prefer to shop around wireless carriers and assess quality of service themselves. Lack of number portability impedes that consumer choice.

Smaller wireless carriers may welcome the breathing space, because for most of them the cost of implementation is relatively higher than for the big operators - economy of scale is still important. However, the competitive benefit to smaller operators of having portability implemented is very high - eliminating the hassle of a number change that deters potential customers from switching carriers. Also for small carriers, the timing is important: a few months extra delay means that the benefit of portability will not be available to them until *after* January 2003, when we will see the removal of spectrum limits on carriers. The government's approval to create monopolies in major markets, by lifting the spectrum cap, means that

larger players will then have the opportunity to acquire their smaller competitors while the smaller companies are still in a position of relative competitive weakness.

The big wireless carriers therefore seem to have the most to gain by delay. Although they will miss out on opportunities to win crossover wireline customers for a few months, most of those customers are with their sister wireline operators anyway, under the same corporate banner. The upside is that they will conceivably be able to selectively acquire smaller competitors before those companies gain the traction they expect from portability. How significant a difference a few months delay will make to the big carriers' acquisition program is debatable, although no doubt the company accountants have already made their own estimates.

For the investment community, therefore, the prognosis is mixed. Investors in small wireless competitors will probably, on balance, prefer the FCC to enforce the November 2002 time target. Investors in big companies will probably be happy if the FCC decides to delay.

The FCC itself has to manage the difficult and uncertain balancing act between stimulation of competition, and the reality that a large, complex, capital-intensive infrastructure industry benefits from economies of scale as well as from competition. Whatever the FCC decides, we can be sure that there will be the usual mixture of applause and complaints.

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