



TURN

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California On the Front Lines

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Early Warning



- In the late 1990's the CPUC realized that:
 - There was an increasing trend in customer complaints about the wireless industry
 - The CPUC complaints would only be the tip of the iceberg
 - Wireless service was growing increasingly popular and important to residential consumers
 - Wireless service was beginning to compete with wireline incumbents
- So it opened several dockets relating to wireless carriers
 - 2000 Bill of Rights Docket (R.00-02-004)
 - 2002 Service Quality Docket (R.02-12-004)
 - 2002 Cingular Complaint₂ (I.02-06-003)

Bill of Rights



- Goal was to develop a set of principles and enforceable rules to apply equally to wireline and wireless carriers
- Focused on issues such as:
 - Early termination fees; unilateral contract changes; form of contracts; point-of-sale disclosures; billing clarity; privacy; website information
 - Sound familiar???
- Not a huge win for consumers BUT the CPUC did not back down on preemption and the threat of enforcement influenced industry practices

Cingular Complaint



- Cingular fined and paid (after 5 years of litigation) \$12M for selling services with poor coverage and then imposing ETFs when customers tried to cancel
- Big win for consumers
- CPUC did not back down despite claims of preemption and outcome helped move industry in consumer friendly direction to create disclosure requirements, grace-periods, and ETF waivers

Service Quality



- No decision yet in this docket
- Service quality standards for wireless are big consumer protection issue
- Customers have a right to get what they pay for; must have information to make informed choice
- Public safety/911 issues
- Continues to face preemption argument

The Work Continues



- 2007 docket to protect limited English proficiency (LEP) customers through in-language disclosures at point of sale and confirmations (R.07-01-021)
- Docket to require reporting of cramming complaints-ongoing (R.00-02-004)
- UCAN v. AT&T Mobility (2007)-cramming int'l calling charges on bills from lost phones (C.07-08-033)

At the Legislature



- The CA Legislature is attempting to address cell phone issues- defines a “telephone corporation” to include wireless carriers
- Heavy lobbying and threat of preemption more effective in this forum
- Nothing has gotten through the Legislature despite numerous attempts:
 - Limit ETFs, Mandate 30-day grace period, require in-language disclosures, disclosures of rights, limit liability for lost or stolen phone charges, limit pre-texting, protect CPNI, limit third party agent contracts

In the Courts



Court cases don't just focus on general laws of applicability, they are enforcing wireless or statutes covering telephone corporations

- Ayyad v. Sprint Spectrum (CA Superior Ct, Alameda County, 2008) ETF practices
- UCAN v. Sprint (USDC, SoCalDist, 2007) Cramming onto data services plan bill
- Shroyer v. New Cingular (9th Cir, 2007) Limits on class action arbitrations declared unconscionable
- People v. AT&T Mobility (CA Superior Ct, San Francisco Cnty, 2007) Settlement on charges imposed after phone lost or stolen

Conclusion



National Standards may be helpful, but . . .

- States must have authority to protect their consumers with wireless-specific regulations that go beyond the national standards
- National standards must bring wireless business practices up to current expectations of fair dealing, not drag everything to a lowest common denominator