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ARIZONA CORPORATION COMMISSION

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DOCKETED

The Honorable John McCain  
United States Senate

241 Russell Senate Office Building  
Washington, D.C. 20510-0303

JUN - 8 2004

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DOCKETED BY

Dear Senator McCain:

You may be aware of our Commission's efforts to impose the most minimal "regulation" of wireless carriers in our "slamming and cramming" rules for telecommunications carriers. Simply put, we do not believe telecom companies should change a customer's provider nor add additional services or charges without the customer's consent. Under current technology, "slamming" is not feasible with cell phones, but the "cramming" of unauthorized wireless charges is a major problem (and perhaps the most significant utilities' regulation issue) for Arizona consumers.

The wireless carriers challenged the Commission's slamming and cramming rules in court and before the Arizona Attorney General. The Attorney General's Office was persuaded by their argument the Arizona Commission lacked authority under Arizona law to regulate wireless to any degree, absent legislation.

Our efforts this past session to obtain regulatory authority from the Legislature met with failure, due to a massive lobbying campaign the likes of which I had seldom seen during my four terms in the Senate. For your information, I enclose a letter to President Bennett and Speaker Flake seeking to revive the issue next year or at Special Session. With all telecom competitors (copper wire, internet, cable, wireless) pursuing "bundling" or combined voice, data, video and wireless offerings, to exclude wireless from the basic and otherwise applicable consumer protections is wrong and unfair.

Hence my dismay over the enclosed article regarding California's watered down "wireless Bill of Rights". It is obvious the wireless industry enjoys the *status quo* of accountability to no one. The FCC forebears from rate regulation, and rightly so in a competitive market, and refers consumer complaints to the states. The wireless industry conducts "scorched earth" lobbying in the states, refuses to compromise and incessantly litigates.

With the enormous resources the wireless industry devotes to lobbying, why does an FCC Commissioner join the fray by lobbying on their behalf? If the FCC's position is to deflect consumer complaints to the states, why does an FCC Commissioner surreptitiously lobby on behalf of the wireless industry to undermine a state's ability to resolve those complaints? Why

June 7, 2004

Page 2

does an FCC Commissioner act to create an artificial advantage for wireless carriers *viz a vis* regulated wireline and cable telecom companies?

Senator, you know I support a competitive free market for telecommunications services as good for consumers and good for the telecom industry. But to create a grotesque advantage for one mode of communications is unfair. The current law, apparently condoned by at least one FCC Commissioner, is anarchy, and anarchic conditions are inconsistent with a free market.

The Arizona Commission will continue to work for appropriate rules for a competitive telecommunications marketplace. I recognize one FCC Commissioner does not necessarily speak for the agency but I would prefer the FCC be part of the solution rather than pressing for an unfair, anti-competitive and anti-consumer advantage for one segment of the industry.

Very truly yours,



Marc Spitzer  
Chairman

Enclosure:

cc: Commissioner William Mundell  
Commissioner Jeff Hatch-Miller  
Commissioner Mike Gleason  
Commissioner Kristin Mayes  
Arizona Senate President Ken Bennett  
Arizona Speaker Jake Flake