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Honorable Herbert H. Kohl
Chairman, Subcommittee on Antitrust, Competition Policy,
and Consumer Rights
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Kohl:

I am responding to your letter to Randall Stephenson, Chairman and Chief Executive Officer of AT&T Inc., dated September 9, 2008, regarding rates for wireless text messaging services.

We respectfully disagree with the twin premises of your letter, that “text messaging rates have dramatically increased in recent years” and that there appears to be “an increase in market power” by the national wireless providers. Your letter focuses on the pricing trend of a single text messaging product – pay-per-use – when the vast majority of AT&T’s customers do not utilize that product. In fact, less than 2% of AT&T’s text messaging volume is pay-per-use. Most of our customers take advantage of AT&T’s dozens of text messaging products, including those that provide a package of messages for a flat monthly rate. These plans include: 200 messages per month for \$5.00, *for an effective rate of 2.5 cents per message*; 1500 messages per month for \$15.00, *for an effective rate of 1 penny per message*; and *unlimited* messages for \$20.00.¹ With these plans, AT&T provides its customers – from the casual to the heavy user – with a number of low cost options to meet their text messaging needs. Equally important, these plans provide our customers with predictability in terms of the total text messaging charges they will face in any given month.²

At the same time that providers have been offering customers increasingly attractive messaging plans and prices, there has been massive increase in the number of text messages carried over wireless networks. In the 4th Quarter of 2005, AT&T processed approximately 5.5 billion text messages. One year later, that number stood at 11.9 billion messages, and in the 4th Quarter of 2007, AT&T processed over 32 billion text messages – almost a six-fold increase in two years. The Cellular Telecommunications Industry

¹ While our competitors will certainly speak for themselves, AT&T is aware that the other national wireless carriers offer distinct pricing plans. Just by way of example, based on publicly available information, we understand that Verizon Wireless offers 500 messages plus unlimited messages to other Verizon customers for \$10; and Sprint offers 300 text messages for \$5, but does not offer a \$10 plan.

² By contrast, the pay-per-use product is designed for the infrequent users of text messaging. With this product, our customer pays a rate of 20 cents for each text message that is sent. This rate has been in effect since March of 2008. Prior to March, a rate of 15 cents per message had been in effect since January 2007, and prior to that, it stood at 10 cents per message.

Association (“CTIA”) recently estimated that the wireless industry as a whole in the United States carries 75 billion text messages *every month*.³ Meeting this exponentially growing demand requires real investment and innovation by the wireless service providers. This segment of the wireless industry is therefore animated by increasing investment, increasing value and increasing popularity. Rather than showing price increases for text messaging, the objective data demonstrate that the effective rates that the majority of customers pay for text messaging actually are declining.

Your letter asks why the [pay-per-use] text messaging rates have increased in recent years. The simple answer is that our pricing structure emphasizes the pricing plans that deliver maximum value to our customers. In our experience, the pay-per-use product often results in large and unpredictable swings in a customer’s total bill; this volatility results in customer dissatisfaction with the product. However, if a customer is placed on the appropriate plan, she can be assured of a predictable monthly charge and a low effective per-message rate. Indeed, if the customer chooses the pay-per-use plan and thereafter incurs a large bill as a result of sending more text messages than anticipated, AT&T will typically, at the customer’s request, move her to a more appropriate package plan and issue a credit to the customer for the large text messaging bill.

Of course, it should be no surprise that AT&T would offer such high-value products and favorable pricing. By any measure, the wireless marketplace in the United States today is among one of the most competitive marketplaces in the world. Consumers today can generally choose from among four national wireless carriers, one or two regional carriers, and a wide variety of mobile virtual network operators that resell service together with unique content and devices. More than 95% of the U.S. population lives in areas with three or more wireless operators, and at least five operators compete to offer service to more than half the population. Over 59% of Americans enjoy competition among five or more providers in their county – an increase of 16% in just one year – and 20% enjoy competition among six or more providers. This level of competition is the very antithesis of the market power to which your letter alludes.

Consumers are the direct beneficiaries of this robust competition. Minutes of use among the leading national wireless providers climbed 20-fold between 1999 and 2006, with more recent years showing especially steep increases. Moreover, the United States leads the world in average minutes of use per subscriber, and wireless calls are significantly less expensive in the United States than in Western Europe or Japan. Indeed, wireless rates have been steadily falling. Between 1994 and 2005, wireless revenue-per-minute fell a staggering 86%, including a 22% plunge in 2005 alone.

Competition in the wireless industry also has yielded remarkable innovation. The deployment of digital networks – and, in particular, of competing digital standards to run

³ See, <http://www.rcrwireless.com/article/20080915/WIRELESS/809159985/Class-action-targets-text-message-charges>.

on those networks – has enabled carriers to compete not just on price and service quality, but also on the basis of services. The competing digital standards used in the industry – GSM, CDMA, UMTS – result in greater product variety, greater differentiation of services, and more robust networks. For instance, a JD Power and Associates 2007 Wireless Call Quality Performance Study (released September 2007) found that the number of reported wireless call quality problems declined for a third consecutive reporting period, reaching the lowest levels in the five-year history of the study. In short, by any conceivable metric, the wireless industry exhibits the expanding output, increasing quality, and declining prices that are the hallmark of a robustly competitive industry. And, consumers can fully expect wireless providers to continue to do battle in the competitive arena for the growing number of subscribers and the some 5 million customers who switch carriers every year.

We welcome the opportunity to further discuss these issues with you and your staff, address any remaining concerns you might have, and dispel any suggestion that AT&T has engaged in illegal behavior. As you probably know, since your letter was made public, 20 class action lawsuits have been filed around the country against AT&T and the other national wireless carriers, specifically alleging price-fixing for text messaging services. All but one of these cases cite your inquiry as one of the bases of alleged collusion.⁴ We are therefore eager to clear up any misunderstanding.

Sincerely,



⁴ In addition, in just the two weeks following your letter, there were over 160 different news items – ranging from television broadcasts to newspaper articles to blogs and online forums – covering the issue and the allegation that the carriers conspired to fix text-messaging prices.