# TELECOMMUNICATIONS
# SNAP^UP^date℠

July 30, 2008

## FollowUPdate℠ On Early Termination Fees

**Background**

On June 19 we reported on the FCC's Public Hearing on Early Termination Fees ("ETFs"). At the Hearing called by the FCC, executives from major telecom companies, like Verizon and AT&T, argued that ETFs are consistent with the public interest because they lower the barrier to entry for consumers, thereby allowing consumers who would not normally be able to participate in the wireless markets, to gain entry. On this basis, they urged that the FCC should pre-empt state-laws that currently allow consumers to seek civil remedies against telecom companies based on state consumer protection laws.

In contrast, consumer advocates argued that the FCC should not pre-empt state laws or courts. Instead, these advocates asked the FCC to consider setting minimum standards for cell phone companies, in order to protect consumers in states that choose not to regulate/enforce laws against carriers.

Many viewed the FCC's decision to take up the issue of early termination fees as reflecting an effort to shield large telecom companies from consumer fraud lawsuits based on applicable state laws. However, recent developments may hinder these efforts.

**FollowUPdate** On July 29, a California federal court ruled that Sprint Nextel Corp. is required to pay $73 million to its former customers for improperly charging early


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termination fees. Attorney Scott Bursor, representing the plaintiffs, said: “This ruling sounds the death toll for the industry’s petition seeking a preemption ruling from the FCC – a ruling the industry has never been able to win in court.”

However, despite a seemingly major win for the plaintiffs, Sprint is not backing down: “We’re reviewing the ruling. We will have an opportunity to respond [since this is only an initial ruling]” said Matthew Sullivan, Sprint spokesman.

It is very likely that this ruling will, as Plaintiffs’ counsel suggests, bring an end to the FCC’s efforts to shield carriers from lawsuits alleging that ETFs violate state consumer protection laws.

*Do you think that is was proper for the FCC to step in on behalf of large carriers to shield them from lawsuits brought under state consumer protection laws? Do you think that this action is consistent with the FCC’s general deregulation of cellular rates, terms and conditions? Please let us know what you think by commenting at our blog!*

*If you have questions about this issue, or if we may be of assistance to you, please feel free to contact us.*

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*Technology Law Group LLC, is a Washington-based law firm specializing in telecommunications, transactional, litigation and regulatory issues. The attorneys at Technology Law Group can be reached by phone at +1 202 895 1707 and by e-mail at mail@tlgdc.com.* TLG is dedicated to personal service and to providing high quality legal and consulting services that enable clients meet their business objectives.

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