

adversely affect charges to consumers and that there is no evidence of complaints that such a practice has been a problem in the CMRS context. The Commission rejects PCIA's and AT&T's contention that flat toll pricing has eliminated all possible adverse effects of call splashing. Even today, there are many wireless calling plans that do not include free long distance service and therefore providers will charge distance sensitive rates in some instances. Moreover, the Commission believes that any costs of CMRS OSPs meeting these requirements are minimal.

E. OSP Publication of Changes in Services

16. *Background.* Pursuant to the relevant provision of TOCSIA, the Commission has required OSPs to regularly publish and make available at no cost to inquiring consumers written materials that describe any recent changes in operator services and in the choices available to consumers in that market.

17. *Discussion.* The Commission forbears from applying the OSP publication provision of TOCSIA against CMRS OSPs. In this instance, the Commission finds that enforcement of these TOCSIA requirements is not necessary to ensure that charges and practices are just and reasonable or to protect consumers. The Commission also finds that forbearance from applying these requirements is in the public interest.

18. As service providers not bound by rate regulation or publication requirements, CMRS carriers are generally not required to publish their rates and contract terms even though many of them do in order to remain competitive. Singling out particular CMRS services—such as CMRS OSPs—for disparate treatment does not serve the public interest. Fluid and rapid price competition has long typified wireless services. This is especially true when the call branding and rate disclosure requirements of TOCSIA ensure that consumers of CMRS OSP services are given the CMRS OSP identification, terms and rate information they need to make an informed decision on whether to place a call on a CMRS aggregator phone. The Commission concludes that these call branding and rate disclosure requirements, which require CMRS OSPs to provide their identity, and rate or charge information, is sufficient to ensure just and reasonable charges and practices from CMRS OSPs. In that regard, the Commission also finds that enforcement of the OSP publication provision is not necessary for the

protection of consumers precisely because of the unique incentives CMRS OSPs have to advertise their services and make information important to consumers available as a matter of sound business practice. In addition, the Commission finds that there are important public interest benefits associated with reducing regulatory compliance costs (*i.e.*, those costs associated with the creation of the required reports, databases, personnel training, mailing, *etc.*), in light of the fact that those cost reductions can be translated into lower prices to consumers. Finally, however, the Commission encourages CMRS OSPs to provide voluntarily to inquiring consumers information that describes recent changes in operator services and in the choices available to consumers in the CMRS OSP market. The Commission notes that CMRS OSPs may make this information available to consumers by, for example, updating information on their websites.

F. Routing of Emergency Calls

19. *Background.* TOCSIA requires that the Commission “establish minimum standards for providers of operator services and aggregators to use in the routing and handling of emergency telephone calls.” Under our rules implementing this provision, OSPs and aggregators are required to ensure immediate connection of emergency telephone calls to the appropriate emergency service of the reported location of the emergency, if known, and if not known, of the originating location of the call.

20. Under the Commission's rules, certain mobile wireless licensees are required to implement basic 911 and enhanced 911 (E911) services. Cellular licensees, broadband Personal Communications Service (PCS) licensees, and certain Specialized Mobile Radio (SMR) licensees, collectively “covered carriers,” are required to meet basic and enhanced 911 service requirements for completing emergency calls, including forwarding all 911 calls without delay and relaying a caller's Automatic Number Identification (ANI) and Automatic Location Information (ALI) to the appropriate Public Safety Answering Point (PSAP).

21. *Discussion.* The Commission forbears from applying the emergency call routing provision of TOCSIA to CMRS aggregators and OSPs because the current E911 regulatory regime, which applies to the vast majority of CMRS OSPs, is clearer and more comprehensive than the TOCSIA requirements to protect consumers. The

E911 rules make more comprehensive emergency service requirements applicable to “covered CMRS” carriers and the Commission sees no reason to also apply the duplicative and potentially confusing and conflicting emergency call routing requirements that are a part of TOCSIA. In applying the forbearance standard, the Commission first finds that enforcement of the emergency call routing provision is not necessary to ensure just and reasonable charges and practices. Due to the potential for conflicting requirements and confusion, the Commission believes its current E911 rules better define a standard for reasonable practices as they relate to call routing. Second, the Commission finds that enforcement of the TOCSIA emergency call routing provision is not necessary for the protection of consumers, because the more stringent E911 requirements will continue to be applicable to “covered CMRS” carriers. Finally, the Commission finds that forbearance from applying TOCSIA's emergency call routing provision is consistent with the public interest because the Commission is eliminating redundant obligations.

G. Other Issues

22. Finally, in the *Notice*, the Commission sought comment on TOCSIA's provision prohibiting OSPs from billing for unanswered telephone calls. *See PCIA Forbearance Order and Notice*, 13 FCC Rcd at 16907–8, ¶ 105. The Commission finds, pursuant to 47 U.S.C. 226(b)(1)(F–G) and 47 U.S.C. 332(c)(8), that the billing for unanswered calls provision of TOCSIA does not apply to CMRS carriers, and this issue is, therefore, moot in the CMRS context.

23. Also, the Commission notes that GTE has requested, as in earlier proceedings, that its Airfone and Railfone services be treated differently than other CMRS providers and that the Commission take action that reflects “the unique character” of its services. The Commission finds no compelling reason to reverse its decision in *PCIA Forbearance Order* where it affirmed the decisions in the GTE Declaratory Ruling, 8 FCCR 6171 (Comm. Carr. Bur. 1993) (*GTE Declaratory Ruling*), in which TOCSIA applies to the actions of certain GTE affiliates. Consequently, the Commission concludes that GTE's Airfone and Railfone services must comply with TOCSIA provisions fully.

24. Omnipoint argues that TOCSIA should not apply to customer notification processes associated with a CMRS calling party pays (CPP) service or, in the alternative, the Commission