Resolution Regarding the Suspension or Waiver of the December 31, 2005 Deadline for 95 Percent Penetration of Location-Capable Handsets

WHEREAS, On June 30 2005, the Rural Cellular Association (RCA) and CTIA petitioned the Federal Communications Commission (FCC) to suspend the December 31, 2005 deadline for 95 percent penetration of location-capable handsets used by a wireless carrier’s customers until the carrier can reach that penetration through handset replacement and churn; and

WHEREAS, Alternatively, the petition asks the FCC to establish a waiver framework that accounts for why carriers may not be able to comply by the current deadline and identifies several reasons, including (i) Phase II E911 service is not available in most communities; customers are understandably reluctant to upgrade to location-capable handsets until the PSAP can use the data the handset generates; (ii) customers in rural areas are reluctant to give up three watt analog phones for digital phones that will offer less coverage; and (iii) customer churn, which the FCC relied upon in setting the deadline, has not occurred at the levels originally projected; and

WHEREAS, One reason the FCC required carriers to continue to provide analog services until 2008 was to allow sufficient time for carriers to enhance coverage in areas where digital coverage is currently insufficient; and

WHEREAS, Customers in rural areas continue to need higher-powered analog phones to complete calls, and for many, the change to a digital location-capable handset will decrease, not increase, customer safety due to weak signal coverage in some rural areas; and

WHEREAS, The 95 percent penetration deadline of December 31, 2005 affects the ability of customers who prefer to use analog phones to continue to use them up until the 2008 deadline and beyond for the provisioning of analog services; and

WHEREAS, Customers should be allowed to choose which type of cellular phone provides them with the best safety features and accessibility to cellular phone service; and

WHEREAS, The FCC should take into consideration the many wireless customers in rural America who will not immediately benefit by strictly adhering to the current E911 rules, which will require many to involuntarily surrender their otherwise safe, reliable, and usable wireless handsets; and

WHEREAS, Requiring customers to have location-capable handsets in areas of the country that do not yet have wireless E911 service available does not benefit the customer and does not warrant the cost of involuntarily replacing customers’ handsets; and

WHEREAS, The FCC should take into consideration that strictly adhering to the current E911 rules might in fact decrease the level and availability of wireless E911 service to certain wireless customers in rural America; and

WHEREAS, Carriers should be required to continue to ensure that 100 percent of all new digital handset activations be equipped with location-capable technology, thus ensuring the continued increase of location-capable handsets; now therefore be it
RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its July 2005 Summer Meetings in Austin, Texas, urges the FCC to carefully consider the Joint Petition filed by the RCA and the CTIA; and be it further

RESOLVED, That NARUC agrees that the FCC should suspend the December 31, 2005 deadline for 95 percent penetration of location-capable handsets until the 2008 termination of the requirement to provide analog services; and be it further

RESOLVED, That alternatively, NARUC supports establishing a waiver framework that reflects the reasons why a carrier may not be able to reach the 95 percent penetration requirements by the current deadline based upon carrier-specific justifications for granting of the waiver; and be it further

RESOLVED, That the NARUC General Counsel shall file comments and take appropriate actions to further the intent of this resolution.

Sponsored by the Telecommunications Committee and Consumer Affairs Committee
Adopted by the NARUC Board of Directors July 27, 2005