



# Iowa General Assembly

## 2003 Legal Updates

Legislative Services Agency – Legal Services Division

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**Purpose.** Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.

### CELLULAR PHONES: LOCAL NUMBER PORTABILITY

Filed by the U.S. Court of Appeals for the District of Columbia  
June 6, 2003

Cellular Telecommunications & Internet Association and Celco Partnership, dba Verizon Wireless vs. Federal Communications Commission, No. 02-1264

<http://laws.lp.findlaw.com/dc/021264a.html>

**Background – Facts.** The Federal Communications Commission (FCC) had extended the wireless number portability deadline three times, first setting a 1999 deadline shortly after number portability for telephone landlines was enacted as part of the 1996 Telecommunications Act. Concerns for conservation of the existing pool of available numbers, wireline/wireless competition concerns, and various technological concerns had been cited in support of those previous delays.

**Issue.** Is a nationwide order requiring all wireless carriers to provide local number portability within the statutory authority of the FCC?

**Analysis.** The U.S. Court of Appeals for the District of Columbia rejected efforts by the cell phone industry to overturn a requirement by the FCC that wireless carriers provide number portability, i.e., allow consumers to keep their cell phone numbers when they switch cellular telephone providers, by November 24, 2003.

The court determined that the FCC's action was "permissible and reasonable," and consistent with statutory criteria requiring action consistent with the protection of consumers. The court agreed with the FCC that having to change phone numbers is one barrier to switching carriers, since a consumer cannot compare other plans as efficiently. The court further found that that the industry had waited too long to object, first filing for review in August 2002, after the original rules had been filed in July 1996, and dismissed this portion of the claim.

**Future Action.** Providers have estimated that the cost of number portability will be greater than \$1 billion for the industry in the first year, and \$500 million each year thereafter. However, Verizon recently announced that it would not charge consumers a fee for number portability, since it now believes that implementation costs will approximate 15 cents per customer. AT&T Wireless and Nextel have already been collecting monthly fees for number portability and other federal requirements, and Sprint PCS will begin charging a number portability fee in July.

The FCC still must issue final rules on the portability issue prior to the November implementation deadline.

*LSA Contact:* Jan Johnson, Legal Services, (515) 281-3798