

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
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The Amendment of the Commission's)
Rules to Establish New Personal)
Communications Services)
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GEN Docket No. 90-314
ET Docket No. 92-100
RM-7140, RM-7175, RM-7617
RM-7618, RM-7760, RM-7782
RM-7860, RM-7977, RM-7978
RM-7979, RM-7980

To: The Commission

**REPLY COMMENTS OF METROCALL OF DELAWARE, INC.
A PRIVATELY HELD RADIO COMMON CARRIER**

I. INTRODUCTION

Metrocall of Delaware, Inc. (Metrocall) is a Radio Common Carrier holding licenses under Part 22 and Part 90 of the Commission's Rules in forty (40) states. Metrocall was first licensed as a Common Carrier in 1966, and is still owned and operated by the company's founder and President, Harry Brock. Metrocall currently provides radio paging services throughout the nation to over 200,000 subscribers. Metrocall and its owners have participated in maritime and land mobile two-way communications sales and service, Specialized Mobile Radio (SMR), and as a general partner in the first non-wireline cellular system license, which was granted to the Washington-Baltimore Cellular Telephone Co. (Cellular 1). Metrocall's officers also have been active participants in several developmental communications technologies as well as AM, FM, and television broadcasting, MMDS, Military and Amateur Radio Communications. As a developer and marketer of new radio communications technologies for nearly thirty years, Metrocall offers these reply comments to the Commission's Notice of Proposed Rule Making to help foster the development and deployment of innovative PCS technology in the United States.

II. SUMMARY

The FCC has received a great many constructive comments regarding the development of PCS services at 1850-1990 MHz. On many topics a written consensus has been achieved regarding such issues as the allocation of the entire 1850-1990 MHz band to PCS services, the desire for industry-led standards development, and the need for an unlicensed services band. After reading a great number of comments on market structure and frequency utilization, Metrocall focuses its reply comments on issues surrounding the optimal market structure from a licensing perspective and from a consideration of concentration of interest in a given market. Specifically, we comment that:

1. **The optimal size of a PCS Operation will change over time.** What works best for the public to commence development of an infrastructure may not be optimal in the long run.
2. **The development of a Modified MSA (MMSA) structure to reduce the size of the largest urban areas, would increase competition, and speed the rate of construction and delivery to the public.** [Metrocall prepares a simple plan to subdivide the largest 20 MSAs that facilitates administration, and allows for more entrants at PCSs start-up and a more even sized marketing unit in urban areas].
3. **The auction process is not in the public interest.** Although an efficient means of attaining the highest value to the government, auctions represent a transfer tax that increases the costs of delivering PCS to the public. Auctions greatly uneven the cost of services between unregulated (unlicensed) spectrum and the licensed spectrum.
4. **Firms should not be permitted to hold PCS licenses in the same markets as Cellular or Local Exchange Carrier Services.** The principles that apply to radio broadcast and television licensing to prevent market concentration and domination should now be applied in wireline and wireless communications services, to provide fair and ample competition, and to benefit the public.
5. **Licenses should be transferable only after three years, and then only after obtaining a minimum subscriber base of 1% of the population of a license**

area. PCS licenses should be transferable to allow gradual consolidation in the industry, but should deter speculators and insincere applicants from quick, high return investments.

III. THE OPTIMAL SIZE OF A PCS OPERATION WILL CHANGE OVER TIME

We support the Department of Justice's observation that

"The 'efficient size' of a PCS firm may vary over time, by area, by service provided, or by technologies used to provide those services."

[Comments of Department of Justice at 21]. The appropriate number of firms and the size of service areas at the start will very likely, and probably should be, substantially different than the number of firms and the system sizes over the long term. It is important that the FCC adopt a strategy of granting and transferring licenses that gives the PCS industry the greatest likelihood of quickly achieving the optimum size and geographic configuration that the marketplace, and therefore the public, desires over the long term.

The many comments about the ideal size of service areas have led to an industry consensus that national licensing, while encouraging uniformity of technical design, suffers from a lack of diversity of competition, and may severely limit the number of initial participants as service providers. National licensing discourages implementation speed and innovation of new and different service features. As importantly, the time-frame for construction on so massive a scale virtually assures that certain cities will be constructed and built-out long before others are even started, while many less populated areas languish without service for years.

Another proposed alternative, licensing by LATAs, while reducing the size of license areas to a more rapidly developable scale, suffers from a serious flaw in that LATAs were not designed to serve the need for mobile service boundaries and they are not suited to do so. In fact, LATAs were crafted primarily by AT&T to be used as a regulatory tool to break apart calling areas, thereby creating opportunities for competition for inter-exchange carriage. LATAs were designed to promote an evenness of the break-up of the Bell system. As AT&T noted in 1982:

"The technology, economics, customer requirements, and competitive implications of mobile radio services are so different from those of landline services that it would be irrational and contrary to any reasonable

interpretation of the Decree or antitrust policies to confine the BOCs' mobile radio systems to the precise LATAs established for landline service".

[AT&T Response to Comments and Objections Relating to the Proposed LATA Boundaries at 26-27 (November 23, 1982)].

PCS licenses should be issued around commerce or trading areas other than LATAs that are more efficient to mobile PCS services. Instead, Metrocall offers the following proposal:

IV. METROCALL PROPOSES A "MODIFIED" METROPOLITAN STATISTICAL AREA (MMSA) FOR LICENSING PCS SERVICE AREAS THAT WOULD BENEFIT THE PUBLIC, WITHOUT BURDENING THE INDUSTRY

The MMSA plan would make use of all existing MSA and Consolidated Metropolitan Area (CMSA) boundaries up to a population of 2 million. The largest CMSA/MSA areas exceeding 2 million population (of which based on 1990 census estimates there are 20) would be subdivided into smaller license areas. An illustration of such MMSAs is suggested in Appendix A hereto. This market would divide the 20 largest markets into commercially attractive, relatively equal, one-two million population trading areas. Any applicant would be lucky to be awarded such an area and could participate in many different areas if desired.

Borders would be drawn primarily by county, city, or burrough limits, or waterway shorelines. Every effort would be reasonably made to accommodate the license boundaries to an easily definable area. For example, the largest MSA, New York-Northern New Jersey-Long Island, NY-NJ-CT could be subdivided into the following license MMSA:

1. The Bronx
2. Brooklyn (Kings County)
3. Manhattan (New York County)
4. Queens
5. Staten Island (Richmond County)
Hudson - NJ
6. Nassau County
7. Suffolk County
8. Westchester County
Rockland County
9. Bergen
Passaic
10. Essex - NJ
Morris - NJ

11. Union - NJ
Somerset - NJ
12. Monmouth - NJ
Middlesex - NJ
13. Fairfield County, CT

Appendix A lists those CMSA/MSA that might be considered for subdivision and approximately how many license areas might be created in each. (Note that the number of licenses issued would be a multiple of areas times licensees per area).

Many economically, attractive, commercially viable, similar sized markets will attract all sizes of service providers. Large companies will most likely desire to build and operate a greater number of relatively equal sized urban markets, in different market areas. Smaller companies will participate in fewer markets. Such a plan allows the broadest possible number of companies to participate on a fair basis, while providing sufficient competition which is sound public policy. We expect that many large companies will comment that only companies like themselves will rise to the task. When carefully studied, these pleadings become self-serving and have less merit than the proposals herein.

MMSA licensing offers a benefit over CMSA/MSA option. By taking the largest metropolitan areas of the country, and reducing the initial scale, PCS carriers will:

1. Focus more intently on developing the highly localized services such as wireless local loop and wireless LAN, where they have a distinct difference from existing carrier services.
2. Deliver a greater share of the population an equivalent grade of service at an earlier date.
3. Increase the pool of available participants in PCS by providing more total licensing areas.

By licensing PCS using a Modified MSA (MMSA) plan, the public would receive a more rapid implementation of service than with national or regional licensing. With MMSAs, the public would also be offered a more geographically even implementation between city and rural areas, than with LATA based licensing. Once the PCS system were built out, more frequent intra PCS system call processing would result in a lower average cost to provide service to the public by eliminating the need to enter and leave the landline carrier's network for the sole purpose of being switched and taxed financially

and returned to the PCS environment to complete the connection. Metrocall urges the commission to give consideration to a simple modification to a CMSA/MSA license plan that will offer substantially increased benefits to the public.

V. AUCTIONING LICENSES IS NOT IN THE PUBLIC INTEREST.

Metrocall takes issue with the comments made by several companies that auctions should be the preferred form of license selection. The public, as consumers, bear the cost in an auction of frequencies. However, an auction of licenses maximizes value to the government, not the buyer. As the price paid by auction winner increases, so does the capital recovery burden fall to the buyers of the winners' services (in this case, the PCS subscriber). The funds that are recovered through the auction process do not directly benefit the users of PCS only, thus the result is a transfer tax on the users of PCS, increasing the cost of PCS, and thereby slowing the growth of demand for such services.

An auction will also put PCS licensees at a disadvantage to Cellular Carriers, who did not have to overcome a similar capital cost to obtain previously un-allocated frequencies. Thus, auctions handicap PCS licensees from competing as vigorously with substitute services.

Unlicensed, (and therefore untaxed) PCS services as contemplated in this docket, by their very nature, will also have a cost advantage and further amplify the cost burden that a licensed PCS provider will bear. Auctions will also increase the minimum cost to develop a PCS system. The effect will be to reduce the number of businesses able to enter PCS, and restrict future competition in the consolidation phase of the business.

In summary, auctions are not in the public interest because they:

1. Increase the capital costs necessary to implement service to the public.
2. Reduce competition by handicapping regulated (licensed) PCS providers with additional costs versus substitutable services.
3. Reduce the pool of eligible companies to invest in PCS by allowing only those who have the deepest pockets at start-up to develop the technology.

VI. FIRMS SHOULD NOT BE PERMITTED TO HOLD PCS LICENSES IN THE SAME MARKETS AS CELLULAR OR LOCAL WIRELINE SERVICES

Metrocall encourages open licensing without preference or discrimination.

Awarding a PCS license to the same entity that already holds a Cellular or Local Exchange Carrier (LEC) operation in the market is providing a preference by

reducing the number of firms available to provide competitive or substitute services in a given market. Licensing a LEC or cellular carrier with a PCS grant also insures an un-level playing field, by assuring that one PCS provider has a substantial initial share advantage in the communications services market over the others, and a full complement of substitute service offerings not available to other licensees. As the California P.U.C. stated regarding Cellular/PCS cross ownership:

"It is imperative that the FCC use this opportunity to intensify competition in the mobile market. Cross-ownership of cellular and PCS licenses will clearly compromise this effort".

[Comments of the People of the State of California and the Public Utilities Commission of the State of California at 2].

As PCS may provide meaningful competition to the local wireline network as well as Cellular, it is imperative that the same arguments apply to LECs as apply to Cellular Carriers. Where they do not already have a wireline or cellular business, LECs and Cellular carriers should be permitted to enter the market in any one capacity, LEC, Cellular or PCS provider. Likewise, nothing should preclude a cellular operator or LEC from divesting of its respective cellular or wireline exchange holding in a specific market in order to enter PCS in that same market. Ample precedent for this limitation of concentration of mass media market presence has already established radio broadcasting and television licensing. The FCC needs to establish the same limitation of concentration to wired and wireless communications. A two year transition period should be allowed for the divestiture of a cellular or LEC holding should a cellular or wireline carrier obtain a PCS license in the same area as its existing service.

By the same argument, to avoid concentration and reduction of competition in a market, PCS licensees should be prohibited from acquiring additional PCS licenses in the same area (vertical consolidation). However, acquisition of adjacent area licenses or other markets entirely (horizontal consolidation) should be permitted.

VII. TRANSFER OF LICENSES IN PCS SHOULD BE ALLOWED ONLY AFTER THREE YEARS, AND AFTER ATTAINING A SUBSCRIBER BASE OF 1% OF THE POPULATION

During the initial construction and build-out phase, the most desirable market structure is one that will insure vigorous competition, reasonable entry costs, and smaller license areas. By having substantial local competition devoted to the task of prompt,

reliable satisfaction of consumer demand, implementation will proceed more quickly in a given area. Likewise, by limiting the initial licenses to smaller geographic areas, development will focus on satisfaction of local service needs.

However, after completion of system build-outs sufficient to meet demand, operational advantages may favor larger, more integrated PCS facilities, where economies of scale for management, overhead, and internal call processing will lower costs, and provide opportunities for profitable consolidation without injury to the public interest.

To insure that licenses are held by those who intend to develop and market PCS, license transferability should be restricted for a minimum of 3 years after issuance, and then only be transferable after achieving a subscription rate of 1% of the population in the licensed area. This will substantially increase the risk and lower the value to a speculator. If 3 years after receiving the license a speculator were not to develop a subscriber base of 1/2% of the population of the licensed area, the license would be forfeited back to the FCC for reassignment. Additionally, competition by legitimate PCS operators would assure that a limited construction effort by the speculator or insincere licensee would render the speculator's system uncompetitive.

Delayed transferability of licenses will allow the market to construct quickly, and consolidate naturally, while delaying and diminishing the financial rewards of speculators and insincere applicants.

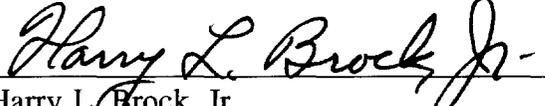
VIII. CONCLUSION

The topics previously reviewed are important to fostering a vigorous and competitive marketplace for Personal Communications Services. To institute the rapid development of PCS as efficiently and cost effectively as possible for the public, the Commission should:

1. Prohibit the concentration of Cellular, PCS, and LEC holdings in a given market.
2. Consider adopting licensing by MMSA.
3. Allow the transfer of PCS licenses only after a 3 year period, and after attaining a subscriber base of not less than 1% of the population.

Respectfully submitted,

METROCALL OF DELAWARE, INC.



Harry L. Brock, Jr.
President & Chief Executive Officer

APPENDIX A
The Top Twenty Metropolitan Statistical Areas
(1990 Census Figures)
Subdivided into MMSA's
(all figures are approximate)

<u>MSA</u>	<u>MSA Population</u>	<u>Proposed MMSA Population</u>	<u>Number of Proposed MMSAs</u>
New York-Northern New Jersey-Long Island, NY-NJ-CT CMSA	18,087,251		13
1. Bronks 1,203,789			
2. Brooklyn (Kings Co) 2,300,664			
3. Manhattan (NY Co) 1,487,536			
4. Queens 1,951,598			
5. Staten Island (Richmond Co) 378,977 Hudson - NJ 553,099		932,076	
6. Nassau County 1,287,348			
7. Suffolk County 1,321,864			
8. Westchester County 874,866 Rockland County 265,475		1,140,341	
9. Bergen County - NJ 825,380 Passaic County - NJ 453,060		1,278,440	
10. Essex County - NJ 778,206 Morris - NJ 421,353		1,199,559	
11. Union County - NJ 493,819 Somerset - NJ 240,279		734,098	
12. Monmouth - NJ 553,124 Middlesex - NJ 671,780		1,224,904	
13. Fairfield County, CT 827,645			
Los Angeles-Anaheim-Riverside, CA CMSA	14,531,529		8
1. San Bernadino County 1,418,380			
2. Riverside County 1,041,219			
3. Orange County 2,410,668			
4. Ventura County 669,016 LA County 8,863,052			
5. NW LA County (N of San Gabriel Mt.)			
6. SE LA County (E of San Gabriel waterway)			
7. SW LA County (S of Bollana waterway)			
8. NE LA County (N of Bollana waterway)			

Chicago-Gary-Lake County,
IL-IN-WI CMSA

8,065,633

6

1.	Lake County, IA 516,418	644,599
	Kenosha 128,181	
2.	Kane 317,471	1,282,378
	McHenry 183,241	
	DuPage 781,666	
3.	Porten County, IA 128,932	1,033,589
	Lake County, IA 475,594	
	Will County, IL 357,313	
	Kendall 39,413	
	Grundy 32,337	
	Cook County 5,105,067	
4.	SE Chicago (S of Sanitary & Ship Canal)	
5.	NE Chicago (N of Sanitary & Ship Canal) (E of Fox River)	
6.	W Chicago (W of Fox River)	

Washington-Baltimore, DC-MD-VA
CMSA

6,305,746

5

1.	Loudon County, VA 86,129	1,169,131
	Fauquier County, VA 48,741	
	Prince William County, VA 215,677	
	Fairfax County, VA 818,584	
2.	Alexandria, VA 111,183	898,547
	Arlington County, VA 170,886	
	Falls Church, VA 9,578	
	Washington, DC 606,900	
3.	Charles County, MD 101,154	957,768
	St. Marys County, MD 75,974	
	Calvert County, MD 51,372	
	Prince Georges County, MD 729,268	
4.	Montgomery County, MD 757,027	1,366,594
	Anne Arundel County 422,239	
	Howard County, MD 187,328	
5.	Baltimore County, MD 692,134	1,733,652
	Hartford County, MD 182,132	
	Carroll County, MD 123,372	
	Baltimore City, MD 736,014	

San Francisco-Oakland-San Jose, CA CMSA	6,253,311	6
1. Alameda 1,276,702		
2. Santa Clara 1,497,577		
3. San Francisco County 723,959		
4. San Mateo 649,623		
5. Marin 230,096	1,069,504	
Sonoma 388,222		
Napa 110,765		
Solano 340,421		
6. Contra Costa 803,732		
Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD CMSA	5,899,345	4
1. New Castle County, DE 441,946	1,365,993	
Delaware County, PA 547,651		
Chester County, PA 376,396		
2. Philadelphia County, PA 1,585,577		
3. Montgomery County, PA 678,111	1,219,285	
Bicks County, PA 541,174		
4. Burlington County, NJ 395,066	1,519,090	
Camden County, NJ 502,824		
Mercer County, NJ 325,824		
Glouster County, NJ 230,082		
Salem County, NJ 65,294		
Detroit-Ann Arbor, MI CMSA	4,665,236	3
1. Wayne 2,111,687		
2. Lapeer 74,768	937,982	
St. Claire 145,607		
Macomb 717,607		
3. Oakland 1,083,592	1,615,774	
Livingston 115,645		
Washtenaw 282,937		
Monroe 133,600		
Boston-Lawrence-Salem, MA-NH CMSA	4,171,643	4
1. Suffolk County, MA 663,906		
2. Middlesex County, MA 1,398,468		
3. Essex County, MA 670,080	915,925	
Rockingham County, NH 245,845		
4. Plymouth County, MA 435,276	1,051,363	
Norfolk County, MA 616,087		

Dallas-Fort Worth, TX CMSA	3,885,415		3
1. Tarrant 1,170,103			
2. Dallas 1,852,810			
3. Wise 34,679		926,162	
Denton 273,525			
Collin 264,036			
Parker 64,785			
Hood 28,981			
Johnson 97,165			
Ellis 85,167			
Kaufman 52,220			
Rockwall 25,604			
Houston-Galveston-Brazoria, TX CMSA	3,711,043		2
1. Southern Harris County 2,818,199 (divided by Sims Bayou)			
Galveston County 217,399			
Fort Bend County 225,421			
Brazoria County 191,707			
2. Hardin 41,320			
Montgomery County 182,201			
Liberty County 52,726			
Northern Harris County (divided by Sims Bayou)			
Miami-Fort Lauderdale, FL CMSA	3,192,582		3
1. Dade County 1,937,094			
2. Broward County 1,255,488			
3. Palm Beach County 863,518			
Atlanta, GA	2,833,511		2
1. De Kalb County 545,837		1,528,544	
Cobb County 447,745			
Gwinett County 352,910			
Clayton County 182,052			
2. Fulton County 648,951		1,041,725	
Fayette County 62,415			
Henry County 58,741			
Newton County 41,808			
Walton County 38,586			
Forsyth County 44,083			
Paulding County 41,611			
Cherokee County 90,204			
Butts County 15,326			

Cleveland-Akron-Lorain, OH CMSA	2,759,823		2
1. Cuyahoga 1,412,140		1,493,269	
Geauga 81,129			
2. Medina 122,354		988,878	
Stark 367,585			
Trumbull 227,813			
Lorain 271,126			
Seattle-Tacoma, WA CMSA	2,559,164		3
1. King 1,509,319			
2. Snohomish 465,642			
3. Pierce 586,203			
San Diego, CA	2,498,016		2
1. San Diego County 2,498,016			
N San Diego			
(Encinitas, Solana Beach, Del Mar)			
S San Diego			
(San Diego, Chula Vista)			
(separated by El Capitan Res.)			
Minneapolis-St. Paul, MN-WI	2,464,124		2
1. Hennepin, MN 1,032,431			
2. Anoka County, MN 243,641		1,952,438	
Wright County, MN 68,710			
Carver County, MN 47,915			
Scott County, MN 57,846			
Dakota County, MN 275,227			
Chisago County, MN 30,521			
Washington County 145,896			
St. Croix, WI 50,251			
St. Louis, MO-IL	2,444,099		2
1. St. Louis, MO 993,529		1,074,132	
Franklin, MO 80,603			
2. St. Charles, MO 212,907		952,743	
Madison, IL 249,238			
Jefferson, MO 171,380			
Clinton, IL 33,944			
St. Claire, IL 262,852			
Monroe, IL 22,422			

Pittsburgh-Beaver Valley, PA CMSA	2,242,798		2
1. Beaver County 186,093		760,998	
Washington 204,584			
Westmoreland 370,321			
2. Allegheny 1,336,449			
Phoenix, AZ	2,122,101		2
Maricopa County 2,122,101			
1. Phoenix N (Phoenix-Scottsdale)			
2. Phoenix S. (Tempe-Mesa)			
(separated by Salt River)			
Tampa-St Petersburg-Clearwater, FL	2,067,959		2
1. Pasco County 281,131		1,132,790	
Pinallas County 851,659			
2. Hillsborough County 834,054			