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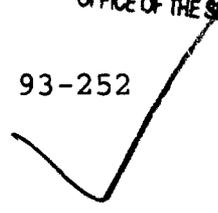
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter Of)
)
Implementation Of Section)
3(n) and 332 Of The)
Communications Act)
)
Regulatory Treatment Of)
Mobile Services)

GN Docket No. 93-252



To: The Commission

COMMENTS OF
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

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SUMMARY

The American Mobile Telecommunications Association, Inc. ("AMTA") supports the Commission's proposed framework for the regulation of mobile services. AMTA recommends that the FCC effectuate the clear Congressional intent by including within the commercial mobile service category only those services which are functionally equivalent to cellular and broadband PCS. It also urges the FCC to forbear from imposing any Title II regulation which is not absolutely necessary to preserve the public interest. Further, AMTA endorses a transition path which will permit the development of a healthy, competitive wireless marketplace.

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding.¹ AMTA is pleased to support generally the Commission's proposed framework for the regulation of mobile radio services, consistent with the comments detailed below.

I. INTRODUCTION.

AMTA is a nationwide, non-profit trade association dedicated to the interests of the private carrier industry. The Association represents a variety of private land mobile licensees engaged in the provision of a broad range of primarily mobile, voice and data services to eligible customers. AMTA's members include trunked and conventional 800 MHz and 900 MHz analog SMR operators, wide-area SMR licensees, and 220 MHz commercial licensees.

All of AMTA's members are currently categorized by the FCC as private land mobile licensees. As such, they are not subject to Title II of the Communications Act. 47 U.S.C. § § 201 et seq. They operate in an environment traditionally characterized by intense competition and concomitantly minimal regulation. The customers on these systems have typically enjoyed the high service quality and reduced cost which are expected to flow from a competitive marketplace. They have also been the beneficiaries of the rapid response to evolving marketplace conditions which can be

¹ Notice of Proposed Rule Making, GN Docket No. 93-252, 58 Fed. Reg. 53169 (October 14, 1993). ("Notice")

achieved most easily in a deregulatory environment.

AMTA's support and the support of its members for the proposed mobile services framework outlined in the instant Notice assumes that these characteristics will not be sacrificed in the new regulatory structure. The public served on mobile radio systems and the American economy generally will benefit if genuine marketplace competition, rather than government fiat, remains the motivating force in the maturation of the wireless industry.

II. BACKGROUND.

There can be little doubt that the wireless revolution which began in the 1980s is continuing at an accelerated pace into the 1990s and will likely dominate the telecommunications marketplace into the next century. The public taste for untethered communications capability appears to grow geometrically as new products and services are introduced. The mobile radio industry will undoubtedly be one of, or the growth industry of this nation in the years to come.

This explosion in wireless communications demand has occurred in all segments of the mobile radio business and across all radio services authorized by the FCC. Common carrier and private carrier paging, mobile satellite, interconnected two-way, mobile data and traditional two-way dispatch services have all been expanding at an enviable pace. This growth has been fostered by the FCC's recognition that increased wireless capability requires reasonable spectrum resources and an appropriately flexible regulatory structure. While the Commission has not always been able to

balance these factors evenly across radio services, the agency has been largely successful in tailoring various regulatory schemes to foster across-the-board industry growth.

The maturation generally of a variety of mobile radio services, the development of the wide-area SMR industry specifically, and the incipient arrival of broadband PCS services prompted first Congress and now the Commission to re-evaluate the regulatory framework within which this multiplicity of mobile services should operate. Title VI, Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 ("Budget Act")² amends Sections 3(n) and 332 of the Communications Act of 1934³ creating a new and comprehensive statutory framework for the regulation of existing and prospective mobile services, and directs the FCC to adopt rules which will implement Congress' intention. The Budget Act also specifically requires the FCC to adopt a rule making which defines the regulatory status and treatment of PCS licensees.

The regulatory framework outlined in the Budget Act was formulated only after extended discussion among Congress, its staff, and representatives of a broad variety of mobile radio communications interests, including AMTA. The amendments reflect a consensus opinion accepted by those parties that genuine competition in the marketplace demanded comparable parity in the regulatory arena: services that are "functionally equivalent" in

² Pub. L. No. 103-66, Title VI, § 6002(b), 107 STAT. 312, 392 (1993).

³ 47 U.S.C. § 153(n), 332.

terms of capacity, service capabilities, and geographic scope should be regulated in like fashion. This industry consensus was focused largely, although not exclusively, on ensuring that the wide-area SMR industry would migrate toward a more cellular-like regulatory environment over a reasonable transition period, and that PCS providers would be subject to comparable regulations if they were providing functionally equivalent services. The interests represented also agreed, however, that not all interconnected providers of commercial mobile service would necessarily fall within the same regulatory classification. It was anticipated that the specific delineations among services would be addressed by the FCC, the expert agency in such matters, in the rule making proceeding mandated in the legislation.

AMTA is pleased to see that the Notice incorporates many of the concepts endorsed by the industry groups that participated in the legislative process. While the number and complexity of issues requiring resolution in this proceeding and the abbreviated timeframe in which resolution is hoped to be accomplished are daunting, the framework of the FCC's proposal will facilitate the process.

III. DISCUSSION.

The Notice presents five general areas which must be considered in promulgating regulations to effectuate Congress' intent in amending Sections 3(n) and 332 of the Act: (a) the correct interpretations of "commercial mobile service" and "private mobile service"; (2) the proper classification of existing

private and common carrier services within those two categories; (3) the appropriate categorization of PCS and other future services; (4) the degree of Title II regulation appropriate to specific classes of licensees; and (5) appropriate transitional measures.

As detailed more specifically below, it is AMTA's opinion that Congress intended the commercial mobile service definition to be construed narrowly enough so as not to include certain capacity-limited and geographically circumscribed providers of mobile radio services, yet broadly enough to encompass a variety of truly competitive, if not entirely fungible, service offerings. The Association also recommends that the FCC forbear from imposing on an increasingly competitive marketplace any Title II regulation that is not specifically mandated by the legislation or unequivocally demanded by the public interest. Finally, AMTA endorses a transition path which will foster the development of healthy, viable competitors in the burgeoning wireless marketplace.

A. Mobile Services Definitions.

The Notice correctly notes that the recently revised Section 3(n) of the Act includes a definition of "mobile service" substantially similar to the previous version. Mobile service is defined as "a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves." The amendment does clarify that both private land mobile and PCS are included in that definition. Consistent with the legislation, the Commission proposes to include

in the definition all Part 22 public mobile services, Part 25 mobile satellite services, Part 90 private land mobile services, Parts 80 and 87 mobile marine and aviation services, Part 95 personal radio services, and Part 99 personal communications services. While AMTA defers to those with more specific expertise in certain of those services as to the appropriateness of the FCC's approach, it supports the FCC's proposal for the Part 90, Part 22, and Part 99 mobile services.

The legislation then establishes two sub-categories of mobile service: commercial mobile service ("CMS") and private mobile service ("private"). It directs the Commission to promulgate rules for each, consistent with the Congressional mandate which can be divined from the legislation itself and the accompanying Conference Report⁴, and, in conjunction therewith, to define certain terms contained in the definitions of those sub-categories.

1. Commercial Mobile Service.

Section 332(d)(1) defines CMS as a service which is both provided for profit and which makes interconnected service available to the public or such broad classes of eligible users as to be effectively available to a substantial portion of the public. The legislation then defines "interconnected service" as "service that is interconnected with the public switched network or for which such a service request is pending under Section 332(c)(1)(B)." The FCC, however, is expressly directed to define

⁴ H.R. Rep. No. 102-213, 103rd Cong., 1st Sess. (1993). ("Conference Report")

certain key terms in that definition; specifically, "effectively available to a substantial portion of the public," "interconnect" and "public switched network."

As an initial matter, AMTA would note that its comments on the specific questions in this Notice regarding CMS versus private are guided generally by its understanding that Congress intended to reclassify from the private to CMS category only those services which were in the process of becoming or had the potential to become functionally equivalent to cellular and broadband PCS. A private two-way system which aspires to achieve functional equivalency with those more generously spectrum-endowed services must compensate for its more limited spectrum resources by employing frequency reuse (or, prospectively, some equally capacity-enhancing technology) to create sufficient capacity to attract and retain with an acceptable level of service quality the broad subscriber base needed to support advanced technologies. Additionally, the subscriber marketplace will not view the private system as functionally equivalent, that is as an essentially fungible competitor, unless the system provides seamless, transparent hand-off. In AMTA's opinion, those two factors, frequency reuse to expand capacity and hand-off, are integral to the reclassification of any private system as CMS.

The Association is confident that its understanding is consistent with the legislative objective. Thus, AMTA's general approach is that a limited interpretation of services to be included in CMS, one consistent with the description above, most

accurately reflects Congress' intention.

For that reason, AMTA would include under the "for-profit" provisions of the CMS definition, only those systems which provide service on a for-profit basis either exclusively or as an adjunct to their internal use of the system. Services in which system costs are shared on a pro-rata basis, or in which no licensee derives a profit should continue to be classified as private.

The Association also supports a straight-forward approach to the definitions of "interconnected service" and "public switched network," at least in the context of two-way services.⁵ A system which enables a subscriber to access and be accessed by positions in the public switched telephone network, whether through a local exchange, interexchange, or other specialized carrier offering, has made available the type of service which Congress likely contemplated as interconnected.

AMTA agrees with the Notice that Congress intended to include certain existing private services within the CMS category even if they were not offered on an unrestricted basis to the public at large. Consistent with its obligations to broaden communications opportunities available to the public, the FCC has steadily expanded the boundaries of customer eligibility⁶ for certain

⁵ The Association expresses no opinion on the interpretation of those terms in the context of one-way paging operations.

⁶ Private carrier services, other than private carrier paging and SMR, continue to be subject to more limited subscriber eligibility. While that factor alone might not be determinative under the Act, it should be considered in evaluating the breadth of the service being provided. Additionally, two-way private carrier services are provided almost exclusively on shared frequencies

private carrier services. The eligibility criteria applicable to the SMR and private carrier paging services are particularly expansive, although not limitless. While narrow restrictions may still exist, that factor should not preclude such services from being classified as CMS.

The more reasonable interpretation of Congress' directive regarding a definition of services which are effectively available to a substantial portion of the public is, as the Notice posits, the issue of capacity. To the extent that the legislative intent was focused on levelling the playing field for cellular, wide area SMR, and broadband PCS services⁷, it would not likely be productive to classify specific systems within those services based on the categories of subscribers to which they were marketed. The investment required to fuel implementation of those systems will presumably drive system operators to serve as broad a class of customers as can be attracted to the service.

By contrast, a significant number of private and even common carrier two-way systems are limited by spectrum availability in the number of customers they may serve. While capacity constraints may ultimately be a limitation for even a 40 MHz PCS operator, by the time it might become an issue the system is likely to be serving

which are not subject to loading limitations. AMTA does not believe Congress intended to include such services in the CMS category.

⁷ In this context, AMTA is assuming that the majority of PCS systems will offer interconnected, for-profit service over a broad geographic area. If certain PCS systems provide non-interconnected service, or cover a very small area, the Commission may be able to satisfy itself that they should be classified as private.

tens, perhaps even hundreds, of thousands of customers. The traditional rural SMR or IMTS licensee must evaluate capacity from day one. They must consider what customer base to target, knowing that service quality will deteriorate rapidly once the number of subscriber units exceeds anywhere from thirty to one hundred units per channel, depending on the degree of interconnected usage. Because these services do not routinely permit the aggregation of sufficient spectrum to serve the broad population generally, but are characterized by greater numbers of competitive, frequency and coverage limited operators, AMTA believes they do not fit the definition adopted by Congress.

2. Private Mobile Services.

Section 332(d)(3) establishes the definition for a private mobile service as "any mobile service that is not a commercial mobile service" (as defined in Section 332(d)(1)) or the "functional equivalent of a commercial mobile service."⁸ The reference to functional equivalency was added at conference and had not been included in either the House or Senate versions of the legislation. According to the Conference Report, it was added to clarify that the private definition was intended to include services that are not CMS or the functional equivalent of CMS.⁹

The Notice seeks comment on whether the FCC's regulations should treat the legislative language as expansive or narrowing. Specifically, the FCC suggests that the Act could be read to mean

⁸ 47 U.S.C. § 332(d)(3).

⁹ Conference Report at 496.

that even private services which appear to meet the CMS definition should remain classified as private unless the service provided could reasonably be considered as functionally equivalent to cellular or broadband PCS. Alternatively, the language could be interpreted to exclude from the private category those services which do not meet the CMS definition, but which are nonetheless functionally equivalent to CMS. While AMTA agrees that multiple interpretations could be derived from the language of the Act, the Association is confident that Congress intended to clarify that functional equivalency was the key element in the CMS versus private delineation and that the private definition was intended to be expansive.

The concept of regulatory parity, which resulted in the CMS/private legislative distinction, had its genesis in two different, but confluent, issues. The cellular industry had expressed its concerns to Congress about likely competition from an emerging wide-area SMR industry that was governed by a private radio regulatory scheme.¹⁰ At the same time, Congress wished to ensure that, to the extent PCS provided a cellular or possibly even local loop-type service, it would be classified as a common carrier offering by the FCC and thereby be subject to Title II regulation. Under a rational regulatory scheme, services providing like-kind

¹⁰ Despite the cellular industry's cries of inequitable regulatory treatment, certain aspects of the FCC's regulatory structure have distinctly favored cellular service. In particular, each of the two cellular operators in each market has been awarded an amount of spectrum that exceeds the entire amount allocated to the 800 MHz SMR service.

communications capability, that are perceived by the marketplace as comparable, should be regulated similarly.

At the same time, certain two-way services, including traditional analog SMR service, may have the indicia of CMS without being "functional equivalent" by any reasonable standard. For example, a three-channel SMR operator in rural Idaho may be offering a for-profit, interconnected service which is theoretically available to virtually all potential subscribers. However, the limited number of customers which could be accommodated on those frequencies, as well as the limited geographic area which could be covered from that single site, should not, by any definition, be considered to permit functional equivalency with cellular, broadband PCS, or wide-area SMR service.

This distinction is recognized explicitly in the Conference Report. The Congress has made clear its intention that the FCC rules treat functional equivalency as the key element in differentiating CMS from private services:

The Commission may determine, for instance, that a mobile service offered to the public and interconnected with the public switched network is not the functional equivalent of a commercial mobile service if it is provided over a system that, either individually or as part of a network of systems or licensees, does not employ frequency or channel reuse or its equivalent (or any other techniques for augmenting the number of channels of communication made available for such mobile service) and does not make service available throughout a standard metropolitan statistical area or other similar wide geographic area.¹¹

¹¹ Conference Report at 496.

The only reasonable reading of Congress' example supports the FCC's interpretation that the statutory definition of private mobile service should be expansive. This example also supports AMTA's position that only those SMR systems which employ frequency reuse and hand-off over a broad geographic area were intended by Congress to be reclassified as CMS.

B. Regulatory Classification Of Existing Services.

In its Notice, the FCC requests comments on the appropriate regulatory classification for all existing mobile services in light of the legislative amendments. It also seeks guidance on how to address the possibility that licensees using the same frequencies may be subject to different regulatory schemes should certain private land mobile and common carrier services be reclassified.

Consistent with its position on the appropriate definitions of CMS and private, AMTA recommends that the FCC's analysis focus on the legislative intent that like services be regulated comparably, and that services functionally equivalent to cellular, including, although not necessarily limited to, wide-area SMR and broadband PCS, be classified as CMS. This approach should facilitate adoption of an even-handed and appropriately flexible regulatory structure for all mobile services.

Under AMTA's definition, the only two-way¹² service that would automatically be reclassified from private to CMS would be

¹² The Association expresses no opinion regarding the appropriate classification of private carrier paging services.

the wide-area SMR service.¹³ That service is for-profit, interconnected, serves a broad segment of the public, and is expected to be functionally equivalent to cellular and broadband PCS, as it employs frequency reuse and handoff techniques. Any other heretofore private, two-way service that has these same characteristics should be similarly reclassified.

Conversely, services that lack any of those essential indicia should continue to be classified as private. This category is expected to retain traditional analog SMR systems and other two-way private carrier systems, even if interconnected, as well as all cost-shared and purely internal systems.

There may also be certain non-cellular, common carrier two-way services that would appropriately be reclassified as private. While the Association believes that the number of systems providing such service is relatively limited, they do not have the essential characteristics of CMS or functional equivalency in terms of marketplace power and presence. Only adherence to tradition would warrant their classification as CMS.

In addition to classifying correctly the services it regulates, the Commission must determine how to manage the business of regulating them. The FCC has traditionally segregated discrete services on specific groups of frequencies and applied a common regulatory approval to that service/spectrum. The reclassification of certain services from private to CMS, with the attendant overlay

¹³ This reclassification would occur after a three-year transition period, as discussed below.

of whatever Title II requirements are deemed appropriate, will necessitate a dual regulatory scheme for licensees on a common frequency. This will certainly be the case for private 800 MHz frequencies, some of which are already available for public safety, internal business and for-profit commercial licensees, if certain of the latter group is relabelled as CMS.

A bifurcated regulatory approach will undoubtedly prove somewhat complicated, particularly to licensees, and will require a high degree of intra-agency coordination and cooperation.¹⁴ Should that approach prove extraordinarily cumbersome so that it somehow impedes natural industry growth or uniquely disadvantages certain classes of services, another structure will have to be adopted. AMTA would note, however, that there is precedent for spectrum being shared by licensees operating under different regulatory schemes. For example, the 928/952 MHz multiple address allocation is shared by private and common carrier licensees. Although frequencies are designated primarily for one service or the other, either class of licensee may employ any of the frequencies if its primary allocation has been depleted.¹⁵ AMTA is not aware that this arrangement has proven unusually difficult to administer, and would recommend adoption of similar procedures

¹⁴ The Notice does not request comments on an internal FCC reorganization reflective of the changes that will result from the legislation. Nonetheless, the concept of a Mobile Services or Wireless Bureau is believed to be under active consideration within the agency. It is also under discussion and has generated significant support within the mobile services industry.

¹⁵ See, 47 C.F.R. §§22.501(g)(1)-(2) and 94.65(a).

herein.

The Association requests further clarification of the FCC's expressed preference to permit existing private land mobile licensees the option to provide both CMS and private service under a single license, applying the appropriate regulations to each. The legislation to be promulgated in these Commission rules requires classification by service rather than by frequency or licensee. In one sense, this reflects the current environment in which entities effectively select their regulatory status when they select the service they wish to provide and the spectrum on which they wish to operate. It is different, however, in that some of those previous selections will now be reclassified, based on newly enacted definitions.

For example, in the case of trunked SMR licensees, an operator may have a traditional analog, non-interconnected license and hold a wide-area authorization employing the same channels in a frequency reuse pattern with hand-off encompassing that same geographic area. The first would be classified as private and the second as CMS, although they are held by the same licensee using the same frequencies in the same locale. Under those circumstances, the licensee would be providing both private and CMS services, if not necessarily under the same license.¹⁶

If that is the Commission's intention, AMTA supports it.

¹⁶ In this situation, there will presumably be a transition period while users migrate from the analog private to the wide-area CMS service. The analog authorization will be needed only until that transition is completed.

However, the Association continues to oppose, in effect, self-selection of regulatory classification by a licensee authorized by the FCC to provide a specific service or spectrum allocated for that service such as cellular.¹⁷ Spectrum which is determined to be unnecessary for the designated service should be reallocated, perhaps under the new legislative approach to a broader classification, and made available to eligible providers under whatever assignment procedures the FCC considers applicable.

C. Regulatory Classification Of PCS.

There can be little doubt that Congress intended the FCC to classify PCS as CMS. As discussed above, one impetus for the regulatory parity initiative was Congressional concern that PCS might escape common carrier obligations by securing private carrier regulatory status at the FCC. The Commission would be ill-advised to ignore that clear directive.

It is reasonable to assume that Congress expected to subject PCS to Title II regulation because it anticipated that the service would have all of the CMS indicia and be a formidable competitor in the wireless marketplace, and even perhaps in the provision of local exchange service. Under those circumstances, CMS classification is appropriate.

The FCC correctly notes, however, that unlike cellular or numerous other mobile categories with precise service definitions and technical specifications, PCS is a broad concept which may

¹⁷ See, Telocator Petition, filed September 4, 1991, FCC Public Notice Report No. 1864 (October 9, 1991).

encompass a variety of types of offerings. Most will presumably fit the CMS-type definition anticipated by Congress. However, it is premature to assume that all PCS will have common characteristics. Licensees may respond to specific marketplace demands with uniquely tailored services that bear little resemblance to cellular or wide-area SMR or local exchange service. Consistent with its position on private and common carrier land mobile services, while AMTA presumes that PCS operations will fit within the CMS definition, individual showings might be made that would support a different conclusion.

D. Application of Title II To CMS.

AMTA has already urged the Commission to apply to CMS only those Title II regulations that are mandated by the legislation or by a clearly evidenced public interest. That approach is fully consistent with the premise underlying the establishment of a CMS classification: multiple operators are or will be providing functionally equivalent services to the public. To the extent that common carrier-type regulations has traditionally acted as a substitute for the controls inherent in marketplace competition, there should be little or no need for them in the competitive CMS environment.

The proposal outlined in the Notice is consistent with this interpretation. The FCC proposes to forebear from imposing virtually all Title II regulations on CMS licensees. The agency's tentative conclusion that it can do so without any adverse impact on the public as long as the marketplace remains competitive is

amply supported by the past twenty years of FCC deregulatory initiatives.

AMTA also supports the Commission's recognition that it may be appropriate to impose different degrees of Title II obligations on different types of CMS licensees. That possibility was clearly contemplated by Congress¹⁸, and may provide a useful mechanism for fine-tuning the regulatory process. That safety valve will be particularly important if the FCC adopts a narrow definition of private services despite the Association's recommendations to the contrary. In the unfortunate event that the FCC should interpret the legislation to include as CMS all for-profit, interconnected services, even those provided on a single, shared frequency serving a handful of customers from a single site, only the most limited Title II obligations should be imposed on them. Thus, while AMTA believes it is premature to sub-divide potential CMS eligibles based on the degree of appropriate Title II regulation, or to specify particular obligations, the Association encourages the FCC to retain the flexibility to do so.

An essential element of the CMS/private regulatory structure will be resolution of matters relating to parties' interconnection rights and obligations. In AMTA's opinion, the ability to offer a heretofore private service which could be considered functionally equivalent to cellular, or prospectively to PCS, is dependent upon securing non-discriminatory, flexible, efficient, cost-based interconnection. To the extent that processes at the federal, or

¹⁸ Conference Report at 491.

more likely the state, level impede access to necessary interconnection capabilities, genuine competition in the marketplace will be diminished and the public interest thwarted.

Because the Association considers this issue fundamental to the successful development of a competitive CMS marketplace, it enthusiastically endorses the FCC's tentative conclusion that it should preempt state regulation of the right to intrastate interconnection and the right to specify the type of interconnection. The Commission is correct in its assessment that permitting state regulation of these critical matters would undermine, and potentially negate, the vitally important national obligation of ensuring interconnection to the interstate network. This is unquestionably an area in which establishing federally defined and protected rights will greatly facilitate the exercise of those rights by parties which might otherwise be frustrated at the state level.

Although the focus herein is on the interconnection rights of CMS providers, the Notice also emphasizes that the FCC has ongoing authority to require common carriers to provide interconnection to private entities.¹⁹ AMTA supports the Commission's determination that the new legislation does not in any way limit that authority.

E. Transition Period.

The legislative amendments promulgated in the instant Notice constitute a fundamental reordering of a long-standing Commission

¹⁹ See, e.g., Public Utility Comm'n of Texas v. FCC, 886 F.2d at 1327-85.

regulatory scheme for mobile radio services. Because the restructuring mandated by the legislation is so far-reaching, Congress properly provided a three-year transition period for the conversion of heretofore private services which will in the future be designated as CMS. That transition period will enable existing and prospective CMS licensees to reorder their business plans, if necessary, and their regulatory strategies in anticipation of the reclassification. It is also likely to parallel closely the first stages of wide-area SMR system implementation and related customer migration. In that respect, the transition period reinforces the regulatory parity concept embodied in the legislation. It will permit the wide-area SMR industry to reach a level of development which will permit genuine marketplace competition as the service is required to assume more common carrier-type obligations.

For this same reason, AMTA recommends that the FCC establish an equivalent time period should it determine that the public interest supports removing the prohibition against common carrier dispatch. AMTA notes that the legislation does not mandate that result, and that there is no record supporting a conclusion that the public would be better served or the ongoing level of competition enhanced by eliminating that restriction. However, should the FCC at some point determine that the new CMS/private regulatory structure requires a re-evaluation of that prohibition, the Association urges that any relaxation of the rule be effective only after the transition period from private to CMS has been completed. That would enable all private land mobile licensees,

particularly those which are not expected to be classified as CMS, to prepare for the entrance of a spectrum and resource-rich competitor in the marketplace.

IV. CONCLUSION.

For the reasons described herein, AMTA supports the Commission's proposed regulatory structure for mobile radio services, as modified by the comments herein.