

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- Competing services should be regulated similarly, or competition will be diminished. (13)
- All paging services should be under the same classification and subject to the same regulations. (15)
- CMS providers should be allowed to provide dispatch services. (16)

V. REGULATORY CLASSIFICATION OF PCS

- Although more than one classification may be necessary, services which consumers view as alternative market choices should be put in the same category and be subject to the same regulations. (17)

VI. APPLICATION OF TITLE II TO CMS

- The significant competition in the mobile services market makes Title II regulation unnecessary, including tariffs and tariff-related regulations. (19)
- TOCSIA should not be enforced against CMS providers since there is no problem to correct and enforcement would have significant costs. (21)
- Paging companies should not have to contribute to TRS since paging services are already accessible to those with hearing and speech disabilities. (22)
- Supports conclusion that CMS providers should continue to have interconnection rights now established for Part 22 licensees. Functionally equivalent services should be given the same rights. (23)
- Mobile service providers should not be subject to equal access requirements because competition renders rules unnecessary. (24)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- States should face high hurdles in seeking to rate regulate mobile radio services and procedures for resolving promptly state petitions for initiating or continuing regulation should be established. (25)

TIME WARNER TELECOMMUNICATIONS**I. IDENTITY AND INTEREST OF THE COMMENTER**

- World leader in media, information, entertainment, magazine publishing, television series productions, records, books and cable television. (1)
- Cable affiliate has conducted PCS trials pursuant to experimental licenses. (2)

II. DEFINITIONS**C. Private Mobile Services**

- Recommends that "functional equivalent" be interpreted to support a broad definition of private mobile services. Even if a service meets literal definition of CMS, it should be classified as private if it is not functionally equivalent to CMS so as not to handicap new service providers. (6)
- By presuming that most PCS providers are private, the Commission will not have continual requests by such providers to evaluate their regulatory status. (7)

V. REGULATORY CLASSIFICATION OF PCS

- Supports conclusion that no single regulatory classification should be applied to all PCS services because diversity of applications could be restricted. (3)
- Recommends that PCS carriers be presumed a private mobile service unless a specific determination is made to the contrary by either: 1) the licensee or 2) the Commission. This allows PCS to develop and allows Commission to assure equal regulatory treatment of applications which evolve into commercial services. (5)

VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS (STATE AND FEDERAL)

- Supports giving PCS providers a federally protected right to interconnection with LEC facilities regardless of whether they are commercial or private mobile service providers. (7)

- LECs should not be permitted to discriminate in making interconnection services available. (9)
- The FCC should make clear that LECs should be required to compensate PCS operators for calls made by LEC customers terminating on PCS networks, in addition to requiring that PCS operators compensate LECs for access to the public switched network in order to terminate connections. (9-10)
- Inconsistent state regulation of interconnection should be preempted. (10)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- States should bear a strong burden to show that state regulation of PCS is necessary, and any such regulation should be limited to matters within state's jurisdiction and should not interfere with federal PCS goals and policies. (10)

I. IDENTITY AND INTEREST OF THE COMMENTER

- TRW filed an application for authority to construct a non-geostationary telecommunications satellite system for the provision of service in the MSS/RDSS bands. In its application, TRW sought non-common carrier status. (2)

II. DEFINITIONS

B. Commercial Mobile Service

- Provision by MSS/RDSS systems of space segment capacity to service providers does not meet the definition of CMS because it is neither an "interconnected service" nor provided to "the public." (17)
- Public availability requires that a common carrier "undertakes to carry for all people indifferently." Because MSS/RDSS systems engage in individualized negotiations, they do not qualify as a CMS. (18-20)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- Commission should employ its existing procedure for determining whether provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage. Common carrier regulation is unnecessary and burdensome, and would disadvantage domestic satellite services vis-a-vis foreign competitors. (7)
- The Commission's use of the term "end users" in proposing to treat satellite service provided to "end users" as CMS should be clarified to mean "the public" or such classes of eligible users as to be "effectively available to a substantial portion of the public." (21)
- Commission should recognize that in some cases MSS provided directly to "end users" may constitute PMS. (24)

V. REGULATORY CLASSIFICATION OF PCS

- TRW supports the flexible regulatory scheme suggested for PCS and requests that this same approach be used in classifying services such as MSS/RDSS. (27)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Commission should forbear from Title II regulation to the fullest extent permissible. (28)
- Safeguard requirements on CMS providers that are affiliated with dominant common carriers are not necessary. (32)

VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS (STATE AND FEDERAL)

- PCS providers should have a federally-protected right to interconnect with LEC facilities. TRW requests the same rights for providers of MSS/RDSS space segment capacity. (35)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- TRW supports preemption of state regulation of interconnection rates. (36)
- If Commission determines not to preempt state regulation, TRW requests preemption of state regulation with respect to CMS that may be provided via MSS/RDSS systems. (37)

UNITED STATES TELEPHONE ASSOCIATION**I. IDENTITY AND INTEREST OF THE COMMENTER**

- The United States Telephone Association is a trade association of the exchange carrier industry. Its members provide over 98 percent of the exchange carrier-provided access lines. (1)

II. DEFINITIONS**B. Commercial Mobile Service**

- The Commission's interpretation of commercial mobile service should be expanded. The term "for profit" should be interpreted to mean any service which is provided to an unaffiliated entity for which compensation is received. (3)
- Systems licensed to multiple entities should not be considered "for profit," because each licensee is considered to be an equal owner of the system. (4)
- The key factor the Commission should utilize in determining whether a system is interconnected is end user accessibility. Under this definition, "store and forward" services, such as paging, would be considered interconnected. (4-5)
- Congress intended to expand the definition of commercial mobile services. Specialized mobile radio and private carrier paging should be considered to provide service to a substantial portion of the public. Some "limited eligibility" private land mobile licensees also provide substantial service to the public. (5)
- Existing services which meet the three pronged test or that are functionally equivalent to a commercial service should be defined as commercial. All other services should be defined as private. (7)

C. Private Mobile Service

- The Commission's first proposal that a service meeting the statutory definition of commercial could still be classified as private, if it is

not the functional equivalent of a commercial service, is incorrect. (6)

- The Commission's second proposal that no service shall be deemed private if it meets the statutory definition or is the functional equivalent of a commercial service best reflects Congress' intent. (6-7)

V. REGULATORY CLASSIFICATION OF PCS

- Licensed PCS may develop as a substitute for cellular or exchange telephone services, and should be classified as a commercial mobile service and treated as a common carrier. (9)
- Unlicensed PCS should be classified as commercial or private based on how services are offered. (9)
- Narrowband and broadband PCS should be treated in the same manner. (9)
- The majority of licensed PCS offerings will serve a substantial portion of the public and should therefore be regulated as commercial mobile services. (9)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- The Commission should minimize regulation. If regulation is deemed necessary, all substitutable services should be treated in an equivalent manner so that the marketplace will be the ultimate arbiter among providers. (10-11)

VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS (STATE AND FEDERAL)

- Customers will benefit from the interconnection of mobile service with a public network. All other network providers should also be required to provide non-discriminatory interconnection to exchange carriers. (11)

US WEST**I. IDENTITY AND INTEREST OF COMMENTER**

- Local exchange carrier and cellular carrier.

II. DEFINITIONS**B. Commercial Mobile Service**

- Supports expansive definition of CMS to include commercial private carriers. (2)
- Distinguishes between services provided on a commercial basis and those provided for internal use only. (14)
- Actual profit is irrelevant, intention to profit is all that is required. (14)
- Test is not applied solely to the interconnected portion of a service. (14)
- Test excludes only government and non-profit safety services, and businesses that operate mobile systems solely for private, internal use. (15)
- "Interconnected" to services allow customers to receive and send telecommunications to members of public; real-time basis not required. (16)
- Provision of service to "broad" class of users is not required. (18)
- System capacity, service area limitations and limited eligibility are not relevant to this analysis. (18)

C. Private Mobile Service

- Service cannot satisfy literal CMS definition and still be classified as private. (5)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- Providers of mixed services should be classified as CMS's. (21)
- Dispatch prohibition should be removed. (24)

IV. REGULATORY PARITY

- Proposed categories of CMS do not match marketplace realities; Title II regulation should not vary based on classifications. (29)
- Substantial differences in regulatory treatment of CMS and PMS require that broadest range of services be classified as CMS. (23)

V. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Commission should forbear from rate, entry and accounting regulation. (26-29)

VI. INTERCONNECTION RIGHTS

- Commission should apply Part 22 interconnection practices to all CMS providers. (30)
- Commission should address interconnection rights of PMS providers on a case-by-case basis through complaint process. (33)
- CMS providers must honor reasonable requests for interconnection made by other common carriers. (33)
- Equal access issues should be determined in RM-8012. (35)

VII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- FCC should preempt state jurisdiction over availability of physical interconnection; no preemption for state regulation of rates of interconnection. (30)

UTILITIES TELECOMMUNICATIONS COUNCIL**I. IDENTITY AND INTEREST OF COMMENTER**

- National representative on communications matters for electric, gas, water and steam utilities, and natural gas pipelines.

II. DEFINITIONS**A. Mobile Service**

- Supports proposal to include all private land mobile, public mobile, mobile satellite, mobile marine and aviation, personal radio services and PCS in definition of "mobile service." (4)

B. Commercial Mobile Service

- "For-profit" element calls for exemption of traditional private land mobile services in which licensees operate systems solely for their own, internal use, such as utilities, pipelines, state and local government and public safety entities. (5)
- Commission should allow non-commercial private radio licensees to lease reserve capacity without being deemed for-profit, provided that at least 51 percent of the system is used (measured by loading, erlangs, etc.) to meet the licensee's internal needs and that none of the leased facilities are used to meet basic loading requirements. (5)
- Suggestion regarding leasing of excess capacity is not support for direct licensing of third-party entrepreneurs to provide commercial services to eligible end-users in the Power Radio Service or the Industrial Radio Service Pool generally. The Commission should limit eligibility for private carrier systems to eligible entities in the service, and should adopt minimum operation and construction requirements that must be met by internal-use private land mobile licensees prior to leasing of excess capacity. (6-7)
- Shared systems and non-profit, cost-shared systems with a for-profit manager should continue to be treated as private. (7-8)

- "Interconnected service" must be offered to end-user in a manner that permits the end-user to directly control access to the PSN. (8)
- Should maintain definition in 47 C.F.R. § 90.7 under which licensees that use public switched facilities strictly for internal control purposes are not considered to be interconnected. (9)
- Supports application of traditional definition of PSTN in defining PSN. (10)
- PSN should not include private line services that are interconnected to and use facilities of the PSTN but that limit the scope of communications to specific points in the network so that the user does not have access to the entire PSTN. (10)
- In determining public availability, the Commission should distinguish between "limited eligibility" services that are available to a substantial portion of the public, such as SMRs and PCPs, and services that have eligibility requirements that restrict service to small or specialized users groups such as Power, Petroleum and Public Safety services. (11)
- System capacity and service area should not be considered in determining availability. (11-12)

C. Private Mobile Service

- Statute was adopted to address competition among cellular-like carriers, not in response to need to increase the general level of regulation of truly private systems. Thus, to the extent that a service meets the literal definition of a CMS but is not competitive with cellular or other large scale mobile providers, Congress added "functional equivalence" language to allow classification as private. (13-14)
- Functional equivalence should be resolved on a case-by-case basis or through the use of presumptions that may be rebutted by competitors. (14-15)

- System capacity and service area size may be relevant in functional equivalence context. (11-12 n. 7-8)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- All existing private non-commercial services, including Industrial Radio Services and non-commercial systems engaged in leasing of excess capacity that is less than overall internal usage, should be classified as private. (15)
- Supports proposal to permit licensees on existing private frequencies the flexibility to provide either commercial or private service, but not both under a single license. Also, such choice should not apply to licensees on bands set aside for non-commercial limited eligibility purposes, e.g., Industrial Radio Service frequencies. (16)
- Removal of dispatch prohibition as applied to CMS providers that would use their existing spectrum would likely serve the public interest. (16-17)

IV. REGULATORY PARITY

- Language is aimed at creating regulatory parity between common carrier cellular providers and emerging providers such as PCS and ESMRs. (3)

V. REGULATORY CLASSIFICATION OF PCS

- PCS should not be uniformly treated as CMS. There should be allocations for PCS that are specifically available for commercial mobile service and other available for private. In addition, within their individual service blocks, PCS licensees should be able to choose whether to provide some portion less than 50 percent of their internal usage requirements on either a commercial or private basis. (17-18)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- FCC should impose as few Title II provisions on CMS providers as possible. (18-19)

X. OTHER

- Detailed plan for reorganizing the Private Radio Bureau into a Wireless Services Bureau. (19-22)

VANGUARD CELLULAR SYSTEMS, INC.I. IDENTITY AND INTEREST OF THE COMMENTER

- Cellular service provider.

II. DEFINITIONSB. Commercial Mobile Service

- The FCC must broadly define and strictly apply the statutory elements of commercial mobile service. (2)
- In defining for-profit service, the FCC should scrutinize ostensibly non-profit systems. Private carrier licensees that profit from the sale of excess capacity to third parties should be subject to the same regulatory requirements as CMS providers. (3)
- Unless the FCC specifies that shared-use/system manager arrangements are for-profit, carriers could unfairly avoid common carrier regulation through "non-profit" cooperatives. (4)
- The interconnected service requirement of CMS is satisfied when subscribers have the ability to directly control access to the public switched network. Direct subscriber access to the PSTN should not be necessary to satisfy this definition. (4-5)
- Niche services that restrict user eligibility to broad classes, such as SMR and private carrier paging, are effectively available to a substantial portion of the public. (6)
- System capacity or geographical coverage area should not be determinant in deciding whether the system is available to a substantial portion of the public. (7)

C. Private Mobile Service

- The reference to functional equivalence was intended to expand the types of services subject to common carrier regulation. (8)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- A number of services now classified as private will become CMS including wide area ESMR. (11)
- RAM's mobile data service is the functional equivalent of CMS and should be similarly regulated. (12)
- Concurs with continuing the existing regulatory treatment of mobile satellite services. (12)

V. REGULATORY CLASSIFICATION OF PCS

- PCS should be regulated like cellular. Initially, all PCS should be regulated as CMS. If future flexibility is needed, a separate proceeding should be initiated. (12-14)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Competition justifies forbearance from tariffing and other Title II requirements to the fullest extent provided by the Act. (14)

VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS (STATE AND FEDERAL)

- While allowing other mobile carriers to interconnect with CMS facilities, such interconnection should be permitted only for permitting the termination of messages on the existing carrier's network. (17)
- All CMS should be afforded existing Part 22 interconnection rights. (18)
- LEC provision of inter- and intrastate interconnection of CMS should be found inseparable and thus preemption of state regulation is appropriate. (18)

IX. OTHER

- The FCC should not impose equal access obligations upon CMS. (20)

WATERWAY COMMUNICATIONS SYSTEM, INC.**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Watercom operates maritime common carrier services in the VHF, MF, and HF frequency bands. (1)

II. DEFINITIONS**B. Commercial Mobile Service**

- Definitional criteria should not be applied to services which have historically been deemed common carriage. (3)
- Although NPRM did not address provision of service by a common carrier to an affiliate, the Commission should avoid drawing distinctions that may modify existing policy. (4)
- Automatic interconnection is not practical or feasible in the maritime VHF or MF/HF services. (4)
- Whether system capacity should be relevant to public availability relates to Part 90 services and not to long-recognized common carriage. Nonetheless, system capacity has no place in determining whether a service is commercial. (6)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- Dispatch prohibition has been applied only to land mobile services. Maritime common carriers should be able to continue to provide dispatch service. (7)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Commission should forbear from the application of Sections 203-205, 211, and 214. If a carrier wishes to maintain tariffs on file, the Commission should permit it to do so. (8)
- Commission should forbear from the operational provisions of Title II which are outlined at ¶ 67 (206, 207, 209, 216, 217). (9)
- Maritime services should be exempt from Section 225. (10)

- **Watercom requests exemption from Section 226 (Includes Petition for Reconsideration from GTE Declaratory Ruling Proceeding which details the inappropriateness of applying TOCSIA to its AMTS service. See Attachment A). (10)**