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OFFICE OF SECRETARY

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# Report to the FCC PCS Task Force

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## A Proposed Plan of Actions, Specific Objectives and Measurable Results

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ENSURING OPPORTUNITIES FOR DESIGNATED ENTITIES IN PCS & EMERGING WIRELESS COMMUNICATIONS

March 30, 1994

Micheal Walker  
Executive Director, NPPCA

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## Report Overview

The Omnibus Budget Reconciliation Act of 1993 set in motion the most technological revolution in the history of the United States. Not since President Kennedy promised that America would be the first country to land on the moon, has there been such a mobilization of business & industry and resources for one single goal. That goal being to establish global leadership in wireless communications.

Because of the need to establish trade and communications networks worldwide, wireless communication offers the fastest and most adaptable option for rapid deployment of interactive global communications systems. The expected US market for wireless communication products and services is estimated to produce revenue of over \$50 billion from more than 150 million wireless subscribers in less than 10 years. The worldwide demand and forecast for subscribers will more than quadruple these figures.

With so much promise and expectation of the wireless communications industry and its impact on business and economic opportunities for America's diverse citizenry, the FCC was given the task of crafting rules and procedures which ensure that all American business interests have equal opportunity to share in the wealth. Hence, the evolution of the most divisive and hotly contested issue since the Civil War.

Humankind has sought to develop greater understanding and verbal communication since the dawn of man. Hieroglyphics depicting man's attempt to communicate early interactions with other cultures and animals have been carbon-dated to be millions of years old. Word of mouth led to the Pony Express which led to the Iron Horse which led to Morse's telegraph which gave way to Bell's telephone. The development of the physical infrastructure to rapidly transmit information and communication over great distances via wireline has been perfected to such an extent that the emergence of wireless communications offers competitive advantages which render wireline use cost inefficient and physically difficult in a growing number of applications/situations.

The scope of this report is threefold: (1) To expose the pattern of unfair competitive practices by corporations seeking to dominate existing wireless communications signals a strong likelihood of the unfair practices which would occur in PCS and the emerging wireless communications, (2) A proposed plan of actions, objections and expected results that ensure ownership opportunities for designated entities and provide access to wireless communications services in underserved markets will be presented and (3) The social and economic benefits and responsibilities of a wireless communications industry that provides opportunities for all Americans will be highlighted.

## Do Experiences of the Past Foretell the Future ?

NPPCA

Wireless communications enables communities/markets which have archaic or no physical wireline infrastructure to leapfrog their technical inability to now offer the latest in modern communications and participate in the global wireless communications market. The popularity of cellular communications in the US has led to annual revenue of more than \$10 billion. Many corporations which provide the cellular service (carriers) have enjoyed an unfair domination of the industry. In many instances nationwide, cellular companies have been fined for engaging in improper business practices. According to an article which appeared in the San Francisco Chronicle (see addendum) the PUC disclosed that, *"Most California cellular-telephone transmission facilities may have been built without proper permits."* Other issues such as bundling and interconnection also add to the anti-competitive sentiments of small business resellers trying to remain competitive with the cellular carriers.

It has been sufficiently documented with legal actions to support, that some cellular firms engage in illegal practices purposefully to gain unfair competitive advantage in the cellular industry. The gross abundance of violations appear to suggest that some carriers, motivated by profit and unjust enrichment, challenge the regulating bodies to "catch me if you can." *"After reviewing the permit process for 391 cellular sites, the CA PUC said that it was 'very disheartened to find that the apparent violations of PUC regulations are far more pervasive and extensive than suspected,' only 34 of the 391 sites did not appear to violate regulations."* (S.F. Chronicle)

If potential PCS and wireless communications license owners are the same Cellular license holders that have engaged in unfair cellular competitive practices, do their actions in the cellular industry foretell their actions in PCS and emerging wireless communications services industries? The answer, simply stated, is YES.

### **The NPPCA's 3-Step Plan for Action, Objectives and Results**

The NPPCA has developed a nationwide network of concerned **designated entities** who have expressed their interests with the proceedings and recommendations of the legislative actions that have been proposed for PCS and related wireless communications services. We have also sought to sensitize ourselves with the concerns of **dominant corporations**. Because of our unique position, we are working with dominant corporations in the wireless communications industry to **develop a plan of action with specific objectives and measurable results** that will bridge the burgeoning gap between designated entities and dominant corporations, allay fears of unfair competitive advantage, and ensure opportunities for all.

The **First** necessary step:

**Reserve PCS Broadband Spectrum for the Designated Entities**

The **Second** important element:

**Adopt Post-Auction Resale Restrictions (see Addendum)**

The **Third** critical component:

**Create Industry Programs and Actions Which Offer Socio-Economic Incentives and Opportunities (see Addendum)**

### PCS DE Reserve Spectrum

NPPCA

Broadband PCS Spectrum must be reserved for the designated entities in order to ensure the legislative intent of OBRA 1993. If there is to be equity and fairness in the competitive bidding process, it can only be achieved by matching the contestants with those of equal size and strength. Although the FCC has adopted generic rules outlining four preference options to create a level playing field for SWMRs, and they are commendable, PCS spectrum must be reserved or opportunities to establish ownership of PCS licenses by designated entities will be impeded.

### Post-Auction Resale Restriction

Post-auction resale restrictions must be established to ensure that any reserved license acquired by a designated entity, and the economic benefits that result from ownership, are never compromised. (see addendum)

### The Plan

The NPPCA realizes the critical need for industry sponsored programs and actions which offer economic, employment and business opportunities. The plan will meet several measurable objectives:

- 1) It will be inclusive as opposed to exclusive;
- 2) It will have career training and business incubator components,
- 3) There will be opportunities to establish business relationships with industry leaders, ( interconnection )
- 4) Rural markets that are seldom or under served will have access to wireless products and services,
- 5) Social benefits will be realized
  - a. Increase in jobs
  - b. Decrease in crime
  - c. Improved quality of life

## Report Epilogue

In summation, power concedes nothing without demand. The opportunities which the emerging wireless communications industry present are vital to the betterment and enrichment of too many to allow only a few to hoard for monopolistic and selfish aims. Too often the right thing to do gets lost in economic and political machinations. From a business standpoint, the profit and loss margin is the determining factor for success. Sometimes on the surface, what is desired to do from a moral or social standpoint is not feasible from a business standpoint.

Many communities all across America have been tainted by the harsh realities of crime. Many lives and dreams have been dashed due to employment layoffs, cutbacks and phaseouts. Where there once was hope and opportunity, there's now uncertainty and despair.

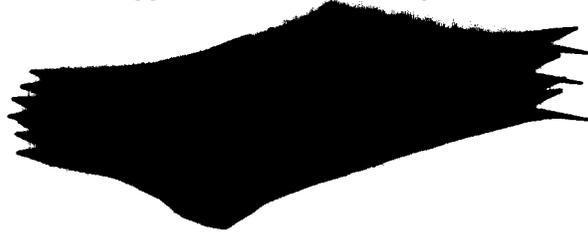
The recession of the eighties produced the failure of many American businesses and the loss of thousands of jobs. Not since Roosevelt's and Truman's New Deal and Great Society employment and social programs have there been such an abundance of opportunities. The excitement that the emerging wireless communications industry is generating must not be misconstrued. Many people all across America realize that this one opportunity can positively affect the social and economic ills that have gripped their communities and lives for too long.

Elected officials realize that business development and reemployment opportunities must be delivered to their constituents. Those who monitor the federal deficit and domestic educational and social programs realize that if jobs and retraining and opportunity are not promoted loudly for all Americans and especially to our youth, America will never be able to generate enough tax dollars to underwrite the financial outlay due to crime, social rehabilitation & welfare programs and business loss.

Designated entities must be ensured opportunities for ownership in PCS and emerging wireless communications services. Spectrum must be reserved, Post Auction Resale Restrictions must be adopted and the wireless communications industry must accept its social and economic responsibility. A plan of action detailing specific programs and opportunities for entrepreneurs and small business development must be crafted. The industry must police the industry before more timely and costly Congressional, judicial and/or regulatory agency actions have to be taken in order to achieve fairness and opportunity for all parties concerned.

The National Paging & Personal Communications Association is proud to contribute to the process in ensuring that PCS and emerging wireless communications services opportunities are extended to all Americans. We are fortunate to be able to work with Congress and the FCC on behalf of women, minorities and small businesses on this historic issue. We encourage those interested in working to ensure opportunities for dominant and non-dominant interests to join us in this tremendous effort.

President Clinton often refers to the emerging mobile telecommunications technologies as the Information Super Highway. Politicians and advocates who loudly and desperately voice their need of funding for strategies and programs which will lead to a decrease in crime and an increase in employment and economic opportunities must surely view the development of the Information



Super highway as a quasi panacea. The jobs and business opportunities that the new generation of wireless products and services spawns will provide new sources and avenues for job creation, tax revenue generation and economic empowerment.

As the chairman of the Federal Communications Commission, Reed Hundt says he intends to push for policies that will encourage competition among wireless communications companies and help fuel the US economy. As reported by Jeffrey Silva of the RCR, Mr. Hundt says, "We're going to get economic growth in the telecommunications and information sector..." The Congress of the United States wants to ensure that women, minorities and small businesses share in the benefits of America's big opportunity to take an international leadership role in the commercial mobile telecommunications industry.

If there is to be an effective strategy employed to curb crime and hopelessness which is fueled by joblessness and the lack of opportunity, it must be built upon job creation and economic empowerment. Congress and President Clinton have provided us with that important first step. Certain members of Corporate America are seeking to close the on-ramp to the Information Super Highway for Minorities, Women and Small Businesses. The call now goes out to minorities, women and small businesses to seize the opportunities for careers, jobs and entrepreneurship. Over 60% of Americans workers are employed by small businesses. Through wireless, mobile and interactive services and products, opportunities abound for us all.

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*Micheal Walker, Executive Director of the National Paging & Personal Communications Association, is a native of Chicago, IL. He has come to Washington, DC to safeguard the Congressional intent of the Personal Communications Services Project, Gen. Docket 90-314. The Legislative Intent is to ensure that minorities, women and small businesses have the opportunity to participate and establish ownership in PCS and the total spectrum of the wireless and mobile communications industry, a.k.a. the Information Super Highway.*

## **INFORMATION SUPER HIGHWAY: The Road To Success, Opportunity & Change**

### **Can The Creation of Jobs and Economic Opportunities Decrease Crime in American Cities**



The streets of neighborhoods in many cities across the United States are turning into battle zones. Random violence, drive-by shootings, illicit drug dealings and youth gang turf battles have all added greatly to the violence which has consumed thousands of communities and enclaves in rural, suburban and urban areas throughout the USA. Hate crimes fan the fires of racial inequality and injustice. Children are innocent victims of not only violence in their neighborhoods, but now even in their schools. The gross reality of life in many cities in the United States has become infested by the escalating acts of random violence. The perpetrators as well as the victims are getting younger and younger.

In the City of Chicago, IL the annual homicide total increases every year. Police, local politicians and church and community leaders often appeal to "warring" gang factions to stop the violence and agree to a cease-fire. Parents are losing their children to the streets. According to statistics reported in the USA Today, record numbers of weapons i.e., guns & knives, are being brought to school by America's youth. Some of the most talented and brightest children our country has produced have had their lives taken at an early age. An article appeared in a recent edition of the RCR publication, it described a Washington, DC elementary school girl who sadly talked about what she wanted her funeral to be like; what dress she wanted to wear.

The lack of jobs and economic opportunity/development is the leading factor which contributes to feelings of hopelessness. Where there's hopelessness and lack of opportunity, there's discontent and rage. The unemployment rate in some communities in the US is as high as 50%. American workers have experienced layoffs, cutbacks and job losses by the tens of thousands. Homelessness is at epidemic levels. Domestic violence continues to claim lives and destroy households. Politicians and activists have placed violence and solutions to the decrease thereof at the top of their agendas. America's chief priority must be to provide incentives for alternatives to crime and violence.

Mayors of cities across America along with other high profile politicians and advocates convene often to discuss the scourge of crime and violence and to target action steps which will offer positive and empowering alternatives to perpetrators of criminal acts. The focus now must be on the problem that creates an atmosphere of hopelessness and despair instead of the resulting actions of those affected. It is well documented that the ability to provide for a comfortable standard of living and a higher quality of life for self and family leads to high self-esteem and respect for the rights of others.

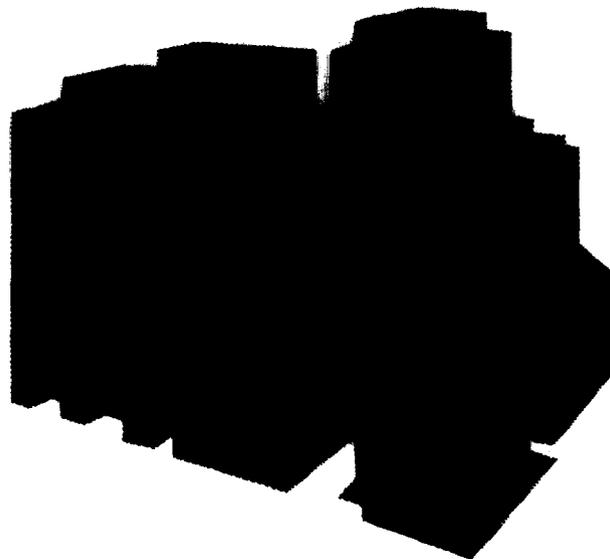
# **THE ADDENDUMS**

**San Francisco Chronicle Article**

**NPPCA Post-Auction Resale Restrictions Proposal**

**Information Super Highway Socio-Economic Benefits &  
Opportunities**

**Announcement of NPPCA/Wireless Industry Executives Planning  
Meeting**



# BUSINESS

PEOPLE IN BUSINESS  
STOCKS PAGES 1  
MUTUALS

## Cellular Firms May Face Big Fines

### PUC claims most facilities in state lack proper permits

By John Eckhouse  
Chronicle Staff Writer

Most California cellular-telephone transmission facilities may have been built without proper permits, an investigation by the California Public Utilities Commission has disclosed.

The PUC could order the removal of hundreds of antennas and switching offices, putting a major crimp in cellular-phone service, if it finds the cellular companies guilty during hearings that began this week.

But rather than anger the public and disrupt service, the PUC seems more likely to settle for cash. It probably will levy fines of millions of dollars. According to a PUC staff memo, cellular companies might be fined as much as \$500,000 per incident, plus \$2,000 for each day a violation continues.

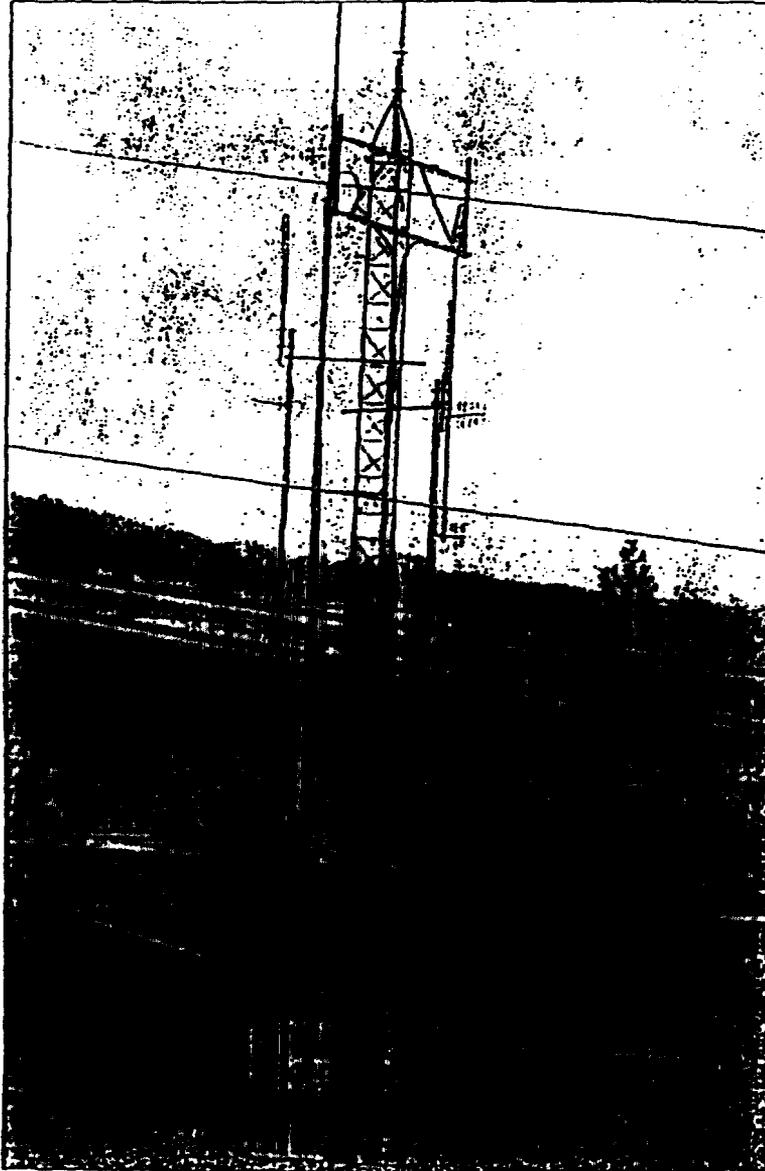
In a hint of the outcome, McCaw Cellular Communications reached a settlement with the PUC last Friday. McCaw, the country's largest cellular company, agreed to pay a \$145,000 fine for prematurely beginning construction on three cellular sites.

State investigators alleged that McCaw violated PUC regulations at 57 other sites, but the matter was dropped because of the settlement — which also includes a provision barring either party from talking to the press about the settlement without the other's approval.

"I think \$145,000 is a pretty big hit and will get everybody's attention," said Steve Carlson, executive director of the Cellular Carriers Association of California, a cellular-industry trade group.

After reviewing the permit process for 391 of the 632 cellular sites in California, the PUC staff said that it was "very disheartened to find that the apparent violations" of PUC regulations "are far more pervasive and extensive than suspected." Only 34 of the 391 sites did not appear to violate PUC regulations.

"We feel there has been some 'cutting of the corners' here, and we want to put an end to it," said James Quinn, PUC staff counsel. "We want to make sure the public knows what's being proposed and has the



The PUC says this GTE tower in Santa Rosa was built without a permit

right to protest before construction begins."

The PUC staff said that three companies — Bay Area Cellular Telephone, which operates under the name Cellular One; GTE Mobilnet; and Los Angeles Cellu-

lar Telephone Co. — had a pattern of beginning cellular site construction before obtaining PUC approval. Six test cases from the 357 alleged violations are being heard before a PUC administrative law CELLULAR: Page B4 Col. 1

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## Why VeriFone Likes Idea of

**VERIFONE INC.**  
**AT A GLANCE**  
 ■ Business: Credit-card verification systems

## Business Leaders On Clinton's He

## CELLULAR: Fines Loom

From Page B1

judge. In its filings, the PUC staff alleged that:

■ Cellular One improperly asked for and obtained PUC approval to begin building a major switching office at 9th and Howard streets in San Francisco before getting all the necessary city construction permits.

■ LA Cellular built a 60-foot tower adjacent to a high-school playground, but failed to get the required approval from the Office of the State Architect. Also, that LA Cellular failed to build a perimeter fence around the tower, 60 feet from its base, which the state requires so that no students would be hurt if the tower collapsed.

■ GTE Mobilnet built a tower in Santa Rosa without any permit, and misrepresented the height of the structure.

The cellular companies contend that most of the alleged violations of the PUC's General Order 159 are minor and technical in nature.

"We think the PUC has taken a very literal reading of 159 without taking into account either standard construction practices or the prior practices of the cellular industry," said Adam Andersen, Cel-

lular One's senior counsel. Contractors generally do not obtain permits for things like electrical or sprinkler work until just before that particular part of the job begins, he said. Yet the PUC will not grant approval for any work unless all permits have been obtained.

Regarding the tower in Santa Rosa, GTE Mobilnet said that it was misled by its landlord, who erroneously told the company that a permit was not required because he had obtained one when an existing tower was built on the property.

"We're contesting the PUC's view, because we think we acted reasonably and prudently," said Jim Squeri, the company's outside legal counsel. "We think the PUC needs to clarify the responsibility of a tenant and the scope of obligation a carrier has to investigate and determine whether a landlord's representations are accurate."

The landlord, William H. Colclough, could not be reached for comment.

"We got all necessary approvals and abided by the terms of those approvals," said David Wilson, outside attorney for LA Cellular.

## CARD: VeriFone Likes Idea

From Page B1

cards, Hubbs said that medical applications could contribute as much as 10 percent of VeriFone's revenues by 1995.

The 12-year-old company earned a profit of \$24 million on sales of \$226.1 million last year.

Medicaid is a federally financed program, administered by

can send back a patient's recent medical history and either approve or deny a claim. Doctors receive Medicaid payments in about 10 days, compared with six weeks to eight weeks previously.

The Arkansas system has dramatically cut the time and paperwork involved in processing Medicaid claims. Previously, about 30

Federal Communications Commission  
1919 M Street N.W.  
Washington, D.C. 20554

February 7, 1994

RE: **Post-Auction Resale Restrictions**  
**PCS General Docket 90-314**

As the final bricks are placed which complete the road of the information super highway, it is becoming quite evident that the architects of the massive structure had a magnificent, innovative and comprehensive vision for the expansive and expensive project. The Federal Communications Commission (FCC) is to be commended for its efforts in creating policies, rules and guidelines for entities seeking to provide Personal Communications Services (PCS) products and services both privately and publicly.

Charged by Congress from the outset to regulate a technology which would thereby create an industry that had no bounds, that had no form, that had no structure, the FCC's task was epic. Many complex and technical issues had to be dealt with. The allocation of spectrum, the concept for auction licensing, the classifications for narrowband and wideband services, the regulatory process which resulted in the MTA/BTA license mechanism and the desire for diversity in ownership and participation all were sensitive topics which the Commission sought public opinion and recommendation for proposed rule makings.

The paramount objective of the FCC for this PCS project is to regulate an industry and technology which will provide business and career opportunities for all Americans well into the twenty-first century and beyond. It is because of this preponderant responsibility of the FCC that the National Paging & Personal Communications Association (NPPCA) addresses the Commission at this time.

The scope of this correspondence centers totally on the subject of Post-Auction Resale Restrictions. The US Congress mandated that women, minorities, small businesses and rural telephone companies have opportunities to participate and secure ownership of PCS licenses and businesses. It is the NPPCA's position that this right be irrevocable and not privy to barter. Although it is reasonable to assume that there will be those who either choose to relinquish their preference license or due to circumstances beyond their control are forced to relinquish their license(s), it should not, however, foster the detriment of opportunity and ownership by designated non-dominant entities at any time in the present or future.

The NPPCA, on behalf of its membership and designated entities in general, proposes two acceptable means by which a designated entity's PCS preference license can be sold or acquired once a license has been secured:

- 1) Preferred license must be sold or transferred to a non-dominant entity or non-dominant consortium, or returned to the FCC for re-auctioning to a non-dominant entity or non-dominant consortium, or <sup>designated</sup>
- 2) If a preferred license is sold or transferred to a dominant entity, that entity must comply with the following conditions:
  - a.) Establish in-region programs for participation and/or ownership for non-dominant businesses,
  - b.) Provide technical support and training programs for business and career opportunities,
  - c.) Demonstrate a realistic and operable program, and
  - d.) Before the completion of the acquisition/resale, the preferred license must be reviewed by the FCC.

The NPPCA feels if preference licenses can be simply exchanged and acquired by whomever, the very essence of the issue of parity and diversity for non-dominant ownership in PCS, as mandated by Congress and so diligently crafted by the rules established for auctioning, is compromised and eventually becomes...NON-EXISTENT.

The Constitution of the United States speaks of inalienable rights. The guarantee of the opportunity to establish ownership, to know that your future is secured and not subject to mortgage by anyone for any reason is the primary message that must be sent to all Americans. But, it must be more than a message, it must be an iron-clad promise. A promise which ensures that the American dream will be reality for all Americans. The American dream which allows for the evolution from despair and hopelessness to the reality of opportunity and success.

**The information super highway is the most unique technological advancement ever recorded in the history of the United States. If America is to live up to its true creed, all individuals who desire to participate, develop, establish ownership and prosper economically by providing products and services for the information super highway must be allowed to participate at all levels. This Nation can ill-afford to allow roadblocks which impede any designated non-dominant entity which seeks to use innovation or small application in this revolutionary undertaking.**

**The National Paging & Personal Communications Association appeals to the Commissioners of the FCC to safeguard the future for all Americans by adopting the aforementioned Post-Auction Resale Restrictions.**

**National Paging & Personal Communications Association**  
**Micheal Walker, Executive Director**

**cc: Commissioner Hundt**  
**Commissioner Barrett**  
**Commissioner Quello**

**N P C A**NATIONAL PAGING &  
PERSONAL COMMUNICATIONS ASSOCIATION

1718 M Street, NW -- Washington, DC 20036 -- (202) 529-7853

March 28, 1994

**NPPCA to Convene Meetings with Industry Executives at the IWCE in Las Vegas**

**Personal Communications Services (PCS) and the new generation of wireless and interactive telecommunication products and services has stirred emotions and expectations among entrepreneurs, small business owners and corporations alike. President Clinton predicts new businesses and jobs will be created as a result of American business and technical leadership in the global wireless communications community. PCS and other wireless communication services and products will produce gross annual revenues of hundreds of billions of dollars. Many different people view this emerging commercial use of telecommunications technology as the most comprehensive development that can improve America's social and economic climate. Mergers and consortium partnerships between companies positioning themselves for market share and domination have conjoined as a result of this unprecedented opportunity. Because so much is to be gained--and so much can be lost, fear fueled by passion has sharply divided designated entities\* and dominant corporations.**

**Large carriers and manufacturers that presently provide cellular, paging and cable services and products are positioned to reap the most immediate benefits of PCS and Interactive Multi-Media. You may be aware that small business and minority entities intent on ensuring that there be opportunities to participate and own licenses in PCS have attacked the perceived disadvantages that exist between themselves and large corporations.**

**Insecurities have lead to lawsuits and grievance petitions against carriers and corporations operating telecommunications businesses. Nationally, various trade associations and small businesses have started to initiate and be awarded multimillion dollar settlements as a result of documented unfair competition infractions exercised by some Carriers, Telcos and Corporations. In California, the PUC has been successfully petitioned by small business groups who have brought legal actions against certain cellular carriers and corporations. In Miami, FL various minority and ethnic groups are organizing boycotts and refusing to patronize certain businesses as a result of inequality and disparity in economic opportunities. There is a rising tide of fear and resentment against those wireless telecommunications interests who seek to monopolize spectrum ownership in new and emerging technologies.**

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\* Designated Entities - according to the OSBA and OBRA of 1993, the group consisting of minorities, women, small businesses and rural telephone companies.

3-30-94

NPPCA/IWCE Planning Meeting

Pg 2 of 2

The National Paging & Personal Communications Association (NPPCA) has been very instrumental and involved in PCS and telecommunications issues. Interacting with members of the FCC and the Congress, we are in the position to address the crafters of US Telecommunications Industry plans and policies on issues that effect minorities, women and small businesses. The NPPCA also is one of the leading trade associations that represents the interests of minorities, women and small businesses seeking fairness and opportunities in wireless communications. We have established relations nationwide with small, minority and women's business groups, dominant corporations, and their respective legal representatives.

Our purpose is to amplify and highlight the economic and social benefits that PCS and the emerging telecommunications products and services offers. It is important that the industry leaders display their social and economic responsibility to add to the betterment of American business & industry and quality of life. Specifically, we will seek pledges to begin to develop programs and opportunities for small businesses, minorities and women in the wireless telecommunications industry. We will also link these new benefits and opportunities to their impact on the decrease in crime and the increase in employment and business possibilities. We, in effect, will generate tremendous positive public relations about the upcoming products and services opportunities brought by the emerging wireless communications industry. As a result of our actions, public sentiment and opinion will influence Congressional and Federal Regulations positively in the best interests of all parties interested.

We are now inviting you to join us for an initial planning and interest meeting. Subsequent sessions will include key trade, legal, and small business executives. Our goal is to start now to develop counter measures and strategies that will mediate the burgeoning rift and misunderstanding between designated entities and carriers & dominant corporations. The NPPCA will serve as liaison between dominant corporations, minority, women, small business leaders, and the federal government (FCC and Congress). We have already begun to meet with industry leaders and we will have a general overview to present to the media at the IWCE. We hope to include you among the list of leaders securing opportunities for America's current and developing work force.

**Please contact our office (202) 529-7853 to schedule a meeting between April 13-15 1994 in Las Vegas at the International Wireless Communication Expo. Our work is important and critically needed not only for the telecommunications industry but for America as a whole. We encourage you to work with us prior to the expo. Much is at stake and time is limited.**

We look forward to this epic undertaking and working with you and your company.

Cordially,

Micheal Walker  
Executive Director

MW:sbj