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May 4, 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Suite 222  
Washington, D.C. 20554

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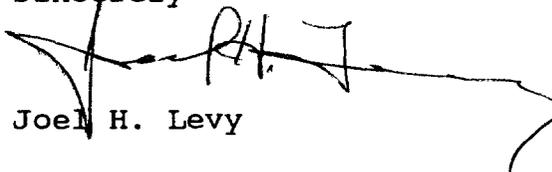
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation to the Office of  
Commissioner James H. Quello re: Further  
Proceedings in GN Docket No. 93-252, Regulatory  
Treatment of Mobile Services

Dear Mr. Caton

On May 4, 1994, Mr. David Gusky, Executive Director of the National Cellular Resellers Association ("NCRA"), Mr. Steven Katz, President, Nationwide Cellular Services, Inc., Mr. Jerome Sanders, Executive Vice President, Nationwide Cellular Service, Inc., Mr. David S. Nelson, President, Cellular Services, Inc., and the undersigned met with Rudolfo M. Baca, of Commissioner James H. Quello's staff to discuss matters related to the March 7, 1994 Second Report and Order in the above-referenced proceeding. The topics discussed included the importance of resale to the development of a competitive CMRS marketplace, the forthcoming NOI concerning wireless resale, CMRS to CMRS interconnection obligations, as well as a discussion concerning the timing of these further proceedings. Documents distributed to Mr. Baca during the meeting are attached.

Sincerely



Joel H. Levy

Enclosure

cc: Office of Commissioner James H. Quello

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*NATIONAL CELLULAR RESELLERS ASSOCIATION*

**INFORMATION ON SELECTED MATTERS  
BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION**

**May 3, 1994**

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**PART A: Summary Position on Selected Matters Before the Federal  
Communications Position**

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Competition To A Highly-Concentrated Market**

**PART C: NCRA Survey of Cellular Rates for Personal Safety and Convenience**

**PART D: About the Association**

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## **PART A**

NATIONAL CELLULAR RESELLERS ASSOCIATION  
SUMMARY POSITION ON SELECTED MATTERS  
BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

- \* CELLULAR IS NOT A COMPETITIVE COMMERCIAL MOBILE RADIO SERVICE
  
- \* IN ITS QUEST TO BRING EFFECTIVE COMPETITION TO CELLULAR, THE COMMISSION SHOULD PURSUE MULTIPLE STRATEGIES, NOT JUST PCS
  
- \* CELLULAR RESELLERS CAN BE A COMPETITIVE FORCE NOW, CREATING PRESSURE WITHIN THE INDUSTRY FOR LOWER RATES, BETTER SERVICE QUALITY, AND A WIDER SELECTION OF SERVICE OFFERINGS
  
- \* INTERCONNECTION IS THE KEY TO A VIABLE RESALE INDUSTRY
  
- \* UNBUNDLING OF ESSENTIAL SERVICE ELEMENTS IS THE KEY TO EFFECTIVE INTERCONNECTION
  
- \* THE COMMISSION SHOULD ACT PROMPTLY TO RECOGNIZE THE PUBLIC INTEREST BENEFITS OF INTERCONNECTION BETWEEN CELLULAR RESELLERS AND FACILITIES-BASED CARRIERS
  
- \* EFFECTIVE RESALE POLICIES ARE REQUIRED BY CURRENT LAW AND WILL ADVANCE THE GOALS OF THE NATIONAL INFORMATION SUPERHIGHWAY

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May 3, 1994

## **PART B**

# **SWITCH-BASED RESELLING IN THE CELLULAR INDUSTRY:**

Bringing Additional Competition  
To a Highly-Concentrated Market

*National Cellular Resellers Association*

January 3, 1994

## **BACKGROUND**

In each of cellular's 734 markets, the Federal Communications Commission licenses only two companies to transmit cellular calls over Federally-controlled radio spectrum. However, there are no laws barring other companies, using their own facilities, from transmitting cellular calls between the radio-based cellular carriers' network and the public switched telephone network (PSTN).

Cellular resellers, in fact, have asked radio-based cellular carriers for permission to connect switching equipment to the carriers' mobile telephone switching office (MTSO) and to assume the task of transmitting their subscribers' calls to and from the PSTN. In each instance, however, the carriers, using a variety of erroneous and antiquated arguments, have denied the requests.

The National Cellular Resellers Association, in the rulemaking proceeding addressing the regulatory treatment of mobile services,<sup>1</sup> has asked the FCC to require radio-based cellular carriers to offer interconnection to firms wishing to provide competing access services. NCRA believes this interconnection requirement is called for by the 1993 Omnibus Budget Reconciliation Act.<sup>2</sup> Equally important, NCRA believes the requirement would be wholly consistent with those policies meant to foster greater competition, rather than more regulation, in the telecommunications arena.

## **GENERAL DESCRIPTION**

Resellers wishing to transmit calls between a radio-based cellular carrier's network and the PSTN would install a switch between the cellular network's MTSO and the facilities of the local exchange carrier (LEC) and interexchange carriers (IXCs). The reseller switch and its associated data bank would administer the resellers' own NXX codes, record and verify all pertinent information related to the reseller subscribers' calls, perform all functions necessary to route calls

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<sup>1</sup> FCC Docket NO. 93-252, Notice of Proposed Rulemaking, October 8, 1993

<sup>2</sup> Section 6002 (b)(2)(B), Public Law 103-66

through the local and interexchange networks and, in the case of incoming calls, the MTSO, and provide the data required to generate subscriber bills.

Switch-based resellers would provide competition in those areas of cellular service where such competition is technically feasible. Until now, open competition in the cellular market has been limited to "retail" activities, that is, the solicitation of end-user customers, the initiation of their service, and the administration of their accounts. The "wholesale" activities, that is, the physical transmission of cellular calls, including interconnection with the PSTN, have been performed solely by the two firms in each market holding FCC licenses to use the radio spectrum allotted to cellular service.

In fact, only a small portion of these wholesale activities must be performed by the two FCC licensees in each market: the actual transmission of calls from cell site to cell site. There is no legal requirement which holds that only the two FCC licensees may transmit cellular calls from the point where they are converted to landline signals to the point where they interconnect with the PSTN (or the reverse in the case of incoming calls). This portion of the cellular system between the MTSO and the local and interexchange networks can and should be opened to competition from switch-based resellers.

Furthermore, there are no technological barriers to switch-based resellers. Every cellular phone is identified by a unique North American Numbering Plan destination address code -- a ten-digit telephone number. Cellular phones served by cellular reseller switches would be no different. When a reseller customer originates a call through the host radio-based cellular system, the MTSO would pass the connection directly through to the reseller switch. The reseller switch, rather than the MTSO, would then proceed to identify the caller and verify that the call is originating from a valid subscriber, route the call to its appropriate destination, and record all details required for billing. The reseller switch would also handle any special and enhanced features such as voice mail.

## **REGULATORY REQUIREMENTS**

For switch-based cellular resellers to compete effectively with radio-based cellular carriers, the Commission must ensure that they can provide service to customers on an equal footing with radio-based carriers. To do this, resellers need only purchase from radio-based carriers those bottleneck network elements needed to provide service to end-users.

In this regard, there are relatively few requirements to ensure an equal competitive footing between switch-based resellers and radio-based carriers:

\* **Radio-based cellular carriers' services must be unbundled into separate elements and offered to switch-based resellers at cost-based rates.** This would permit switch-based resellers to purchase, at a fair price, only those services that the radio-based carriers perform on their behalf.

\* **Local exchange carriers must grant switch-based resellers interconnection on the same basis as the radio-based cellular carriers.** This would ensure that switch-based resellers incur the same charges to route calls through the local and interstate networks as their competitors.

\* **NXX codes must be available to switch-based resellers on the same basis as they are available to radio-based cellular carriers.** Again, this would assure that switch-based resellers incur the same costs to administer their cellular phone numbers as their radio-based competitors.

## **CONSUMER BENEFITS**

Should the Commission impose the requirements identified above, switch-based resellers can quickly bring much-needed competition to the cellular marketplace. Consumers naturally would benefit in several ways -- better service rates, improved quality of service, and more rapid service innovations.

### **Price**

Competition is the most effective method yet devised to reduce costs to a minimum consistent with the provision of adequate service. The competitor that is capable of providing the best service at the lowest cost will be the most profitable. Other competitors must either emulate the efficiency of the lowest-cost competitor or risk being driven from the market. Over time, legitimate price competition from switch-based resellers would put downward pressure on provider costs and, in turn, retail prices throughout the cellular industry.

### **Improved Service Quality**

Competition ensures a quality of service that is consistent with the requirements of the consumer. With the advent of switch-based resellers, multiple providers of cellular service would compete in most markets. Consumers could compare their performance and select the cellular provider whose service best meets their individual needs consistent with their willingness and ability to pay for the service.

### **Innovative Services**

Competition encourages innovation. With switch-based resellers and radio-based carriers active in the same markets, there will be substantial pressure on each provider to try to distinguish its service or product by offering features or subservices not offered by competitors. For example, the technology exists to offer extension phone service to cellular subscribers. Competition, however, has been strong enough to prompt radio-based carriers to offer this service in only but a few markets. This would not be the case once switch-based resellers came into existence.

Unlike radio-based carriers, which must design their rate plans to capture large numbers of subscribers, smaller, switch-based resellers would be able to customize their services to target "niche" markets. For instance, certain occupations such as real estate and insurance sales require individuals to be on the road during the early evening hours or on weekends. An enterprising switch-based reseller might tailor its rate plans to best meet the needs of these individuals.

Competition drives innovation. Without competition, innovation is likely to languish even when the technology is readily available

## **CONCEPT FURTHERS CURRENT COMMUNICATIONS POLICY**

In 1963, a small company named Microwave Communications, Inc., proposed to build a long-distance telephone network between St. Louis and Chicago to compete with AT&T. Opponents of the plan argued that it would be an unnecessary duplication of facilities, that MCI did not have the legal, technical, and financial qualifications to build and operate the system, and that the system would be harmful to the existing network. But above all else, it would be an utter waste of time and money because MCI would be denied local interconnection and thus would be unable to complete its calls.

After a legal battle that went on for nearly a decade, the Commission reached the conclusion that competition could be introduced in the interexchange market and that MCI and other potential interexchange carriers, in order to construct viable systems, must be allowed to interconnect to the local exchange networks. With that decision, the Commission ushered in a new era of competition and innovation in the telecommunications arena which, thirty years later, is still in its early stages.

Clearly, a hallmark of this new era are policies which eliminate unnecessary and obsolete entry barriers. Giving cellular resellers the right to interconnect to radio-based cellular networks would be a further step in this ongoing effort to open highly concentrated markets to competition from new suppliers. While each of these attempts to create additional competition has been criticized by adversaries as being technically impossible, economically inefficient, or harmful to existing facilities, results in markets already opened to competition have proved otherwise, bringing better pricing, improved service, and innovative products to consumers.

Switch-based resellers would be no less beneficial for consumers in the cellular industry.

## **PART C**



January 24, 1994

Mr. Reed Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Mr. Chairman:

Recently, the National Cellular Resellers Association undertook a comparison of monthly cellular airtime rates for personal safety and convenience use between January, 1988 and January, 1994 in the 30 largest cellular markets.<sup>1</sup> The results of the comparison, which are attached, are extraordinary, showing almost a **33 percent average increase** in these rates.<sup>2</sup>

The report finally puts to rest the notion, touted loudly and frequently by the licensed carriers, that cellular rates have come down for average consumers. In fact, just the opposite has occurred -- for the family or individual who simply wants the security and peace of mind offered by a cellular phone, the technology is further out of reach today than six years ago when cellular was just entering the marketplace and the number of cellular subscribers was only a fraction of the

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<sup>1</sup> The 30 largest cellular markets encompass approximately 40 percent of the total U.S. population.

<sup>2</sup> NCRA estimates that a reasonable pattern of monthly usage for individuals using cellular phones chiefly for personal safety and convenience would be 20 minutes of airtime during peak hours and 10 minutes of airtime during off-peak hours. We estimate these individuals typically would make one cellular call, of between one and two minutes duration, every other day and most frequently during peak hours; to and from work for example.

Additional comments concerning the report's findings:

(1) The difference in rates between the A and B systems in the same markets at the same point in time for the identical amount of monthly usage is less today than in January, 1988. It would appear that, at least for low-volume users, the facilities-based carriers are not competing the rates down, but up;

(2) Six of the eight systems experiencing no change or a reduction in rates are located in states which regulate cellular -- additional evidence that state regulation, despite erroneous claims to the contrary, does not drive up cellular rates.

total number today.<sup>3</sup>

This trend certainly defies the behavior expected of a competitive industry. In markets where competition is vigorous and growth is strong, prices over time typically come down as producers strive to achieve greater efficiencies through economies of scale<sup>4</sup> and other means of reducing per unit costs. A number of examples come to mind, including personal computers, video cassette recorders, long distance service, and pocket calculators.

In highly concentrated markets, however, where competition is limited, producers have both the motivation and power to keep prices high or to even raise prices for certain market segments. NCRA believes this is clearly the case in cellular. As our report shows, cellular has become *more* expensive, not less expensive, for consumers wishing to make a limited number of calls each month. The trend further restricts cellular's accessibility to all except the financially advantaged. Equally important, we believe the trend has not been driven by technology costs or supply scarcity as much as by policies which give just two carriers in each market control of essential facilities.

In the current Notice of Proposed Rulemaking on the regulatory treatment of mobile services,<sup>5</sup> the Commission has the opportunity to reverse this trend and begin bringing cellular's numerous benefits within reach of millions of additional consumers. As NCRA proposed in its comments, the Commission should require facilities-based cellular carriers to interconnect at just and reasonable rates with cellular resellers. This would severely weaken the carriers' control of bottleneck services and soon create a highly competitive retail cellular market and fair rates for consumers.

In closing, we would like to point out that a key issue in the debate surrounding the development of tomorrow's "information superhighway" is accessibility, that is, how to make access to this array of critical information services both available and affordable. NCRA urges the Commission to adopt policies today that will help open up cellular and other wireless technologies, which promise to be important avenues to the superhighway, to virtually all consumers throughout the country. As we explained in our comments, cellular resellers can and should play an important role in achieving this goal.

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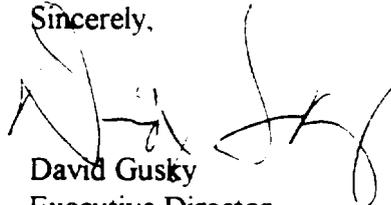
<sup>3</sup> According to the Cellular Telecommunications Industry Association's latest Mid-Year Data Survey, released October 12, 1993, there were 1,230,855 cellular subscribers in December, 1987 and 13,067,318 in June, 1993.

<sup>4</sup> As of June, 1988, capital investment per cellular subscriber was \$1,816. As of June, 1993, capital investment per cellular subscriber was \$978. CTIA Mid-Year Data Survey, October 12, 1993.

<sup>5</sup> Docket No. 93-252

We appreciate your interest. Please do not hesitate to contact us if you need further information or have questions regarding this letter and attached report, which we request be made part of the record and given due consideration in GN Docket 93-252.

Sincerely,



David Gusky  
Executive Director

cc: Attached List.

Attachment: NCRA Comparison of Cellular Service Prices For Personal Safety  
and Convenience Use: January, 1988 - January, 1994

***NCRA***

***NATIONAL CELLULAR RESELLERS ASSOCIATION***

**COMPARISON  
OF CELLULAR SERVICE PRICES  
IN THE  
30 LARGEST MARKETS  
FOR PERSONAL SAFETY  
AND CONVENIENCE  
USE:  
JANUARY, 1988 - JANUARY, 1994**

**January 24, 1994**

***1825 Eye Street, N.W., Suite 400, Washington, D.C. 20006 (202) 429-2014: FAX: (202) 857-0897***

## NATIONAL CELLULAR RESELLERS ASSOCIATION

### COMPARISON OF CELLULAR SERVICE PRICES FOR PERSONAL SAFETY AND CONVENIENCE USE: JANUARY, 1988 - JANUARY, 1994

The following table shows the best rates available in the 30 largest cellular markets for 30 minutes of monthly airtime in January, 1988 and January, 1994. NCRA believes this amount of airtime, divided into 20 minutes of usage during peak hours and 10 minutes of usage during off-peak hours, represents a reasonable calling pattern for individuals using a cellular phone chiefly for personal safety and convenience.

1988 \$ Diff	Market #	City	System	1988	1994	% Change	1994 \$ Diff
\$3.50	1	New York	A	\$32.50	\$39.99	23.0%	
			B	\$36.00	\$45.65	26.8%	\$5.66
\$0.00	2	Los Angeles	A	\$45.00	\$45.00	0.0%	
			B	\$45.00	\$45.00	0.0%	\$0.00
\$1.00	3	Chicago	A	\$20.00	\$28.35	41.8%	
			B	\$21.00	\$24.21	15.3%	\$4.14
\$1.00	4	Philadelphia	A	\$22.95	\$34.95	52.3%	
			B	\$23.95	\$34.65	44.7%	\$0.30
\$0.00	5	Detroit	A	\$16.10	\$30.95	92.2%	
			B	\$16.10	\$30.95	92.2%	\$0.00
\$3.00	6	Boston	A	\$22.50	\$33.15	47.3%	
			B	\$19.50	\$27.95	43.3%	\$5.20
\$0.00	7	San Francisco	A	\$56.00	\$44.74	-20.1%	
			B	\$56.00	\$45.00	-19.6%	\$0.26
\$1.95	8	Wash/Balt	A	\$22.00	\$33.70	53.2%	
			B	\$23.95	\$34.65	44.7%	\$0.95
\$0.00	9	Dallas	A	\$30.00	\$42.39	41.3%	
			B	\$30.00	\$41.95	39.8%	\$0.44
\$2.75	10	Houston	A	\$28.95	\$31.99	10.5%	
			B	\$26.20	\$39.95	52.5%	\$7.96
\$0.00	11	St. Louis	A	\$23.00	\$26.95	17.2%	
			B	\$23.00	\$29.95	30.2%	\$3.00
\$4.50	12	Miami	A	\$30.00	\$52.70	75.7%	
			B	\$34.50	\$49.55	43.6%	\$3.15
\$18.75	13	Pittsburgh	A	\$14.20	\$39.99	181.6%	
			B	\$32.95	\$38.05	15.5%	\$1.94

\$6.60	15 Minneapolis	A	\$28.95	\$32.24	11.4%	
		B	\$35.55	\$35.85	0.8%	\$3.61
\$0.05	16 Cleveland	A	\$27.95	\$30.95	10.7%	
		B	\$28.00	\$29.75	6.3%	\$1.20
\$0.00	17 Atlanta	A	\$40.00	\$33.70	-15.7%	
		B	\$40.00	\$41.75	4.4%	\$8.05
\$8.35	18 San Diego	A	\$45.00	\$36.55	-18.8%	
		B	\$36.65	\$38.00	3.7%	\$1.45
\$6.05	19 Denver	A	\$29.50	\$36.59	24.0%	
		B	\$35.55	\$36.95	3.9%	\$0.36
\$11.75	20 Seattle	A	\$29.50	\$29.99	1.7%	
		B	\$41.25	\$29.95	-27.4%	\$0.04
\$1.30	21 Milwaukee	A	\$20.00	\$29.95	49.7%	
		B	\$21.30	\$27.00	26.8%	\$2.95
\$0.80	22 Tampa	A	\$26.80	\$34.95	30.4%	
		B	\$27.60	\$46.45	68.3%	\$11.50
\$0.05	23 Cincinnati	A	\$17.95	\$30.95	72.4%	
		B	\$18.00	\$24.91	38.4%	\$6.04
\$0.00	24 Kansas City	A	\$25.50	\$33.45	31.2%	
		B	\$25.50	\$35.85	40.6%	\$2.40
\$13.10	25 Buffalo	A	\$25.10	\$27.65	10.2%	
		B	\$12.00	\$23.35	94.6%	\$4.30
\$6.60	26 Phoenix	A	\$28.95	\$39.25	35.6%	
		B	\$35.55	\$40.25	13.2%	\$1.00
\$3.00	28 Indianapolis	A	\$12.00	\$26.95	124.6%	
		B	\$15.00	\$24.95	66.3%	\$2.00
\$9.40	29 New Orleans	A	\$42.90	\$33.95	-20.9%	
		B	\$33.50	\$33.95	1.3%	\$0.00
\$1.50	30 Portland	A	\$25.00	\$35.00	40.0%	
		B	\$23.50	\$33.50	42.6%	\$1.50
<b>\$3.75</b>	<b>Averages</b>		<b>\$28.67</b>	<b>\$35.12</b>	<b>+32.4%</b>	<b>\$2.84</b>

The monthly airtime charges contained in this report were calculated by using data obtained from Information Enterprises and the customer service departments of the licensed carriers in each market listed above. The monthly airtime charges reflect the best rates available on service contracts not exceeding one year in length.

## **PART D**

## ABOUT THE ASSOCIATION

### THE NCRA MISSION

The National Cellular Resellers Association was formed in 1987 by the leading resellers of cellular telephone service across the country. The main goals of NCRA are to promote the resale of cellular services and to ensure a competitive marketplace for cellular telephone service. NCRA believes that cellular's two-carrier per market system is incapable of generating real price competition and fair rates for consumers, and that by allowing resellers to compete on a "level playing field" with carriers, consumers would enjoy the benefits of vigorous competition and better service rates.

In order to create effective competition between resellers and facilities-based carriers, resellers must be given the opportunity to purchase wholesale cellular service at just and reasonable rates. Resellers must also have the right to operate their own switches and to purchase unbundled service elements from facilities-based carriers. These measures will position resellers to compete evenly against facilities-based carriers and help make cellular service a better value for consumers.

### ABOUT THE ORGANIZATION

The National Cellular Resellers Association is governed by a board of directors composed of members of the association. NCRA's executive director, working closely with the board, provides leadership on a day-to-day basis from the Washington office.

Committees are appointed by the board of directors on an *ad hoc* basis to address specific needs of the industry. Dutko and Associates, a Washington government relations firm specializing in telecommunications, provides legislative assistance, while Washington law firm Cohn and Marks serves as legal counsel.

**DISTINCT CELLULAR SERVICE ELEMENTS**

**Spectrum-Dependent**

1. Transmit customer calls from cellular handset through cell towers to the Mobile Telephone Switching Office (MTSO)
  2. Route calls through MTSO to the reseller-supplied trunks leading to the reseller switch
  3. Supply interface permitting MTSO to communicate with reseller trunks
- 

**Spectrum-Independent**

4. Administer NXX codes
  5. Route calls to local and interexchange networks
  6. Transmit calls to local and interexchange networks
  7. Verify caller identification
  8. Record certain elements of cellular calls (for billing purposes)
  9. Customer billing
  10. Enhanced services (voice mail, extension phones, specialized billing formats)
  11. Distribute, install, and service customer premises equipment (CPE)
  12. Marketing (retail stores, direct sales force, advertising, public relations)
  13. Customer service
  14. General and administrative
-

# CELLULAR RESELLER SWITCH

