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June 2, 1994

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CTIA

Cellular
Telecommunications
Industry Association
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Washington, D.C. 20036
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Re: *Ex Parte* Presentation
GEN Docket No. 90-314

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

On Thursday, June 2, 1994 at 10:00 a.m., the Cellular Telecommunications Industry Association (CTIA), represented by Thomas E. Wheeler and Randall S. Coleman of CTIA, met with Commissioner Andrew C. Barrett to discuss issues related to personal communications services. Accompanying Commissioner Barrett was his Senior Legal Advisor, Mr. Byron Marchant. The substantive matters discussed during this meeting are summarized in the attached document and reflect CTIA's position as previously filed in this docket.

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, an original and one copy of this letter and the attached document are being filed with your office.

If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Andrea D. Williams
Staff Counsel

Attachment

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Overlap Matrix for MTA-Barred Companies

MTA	Number of BTAs in MTA	Number of Carriers Barred in MTA	Identities	Number of BTAs in Which Barred by 10% Rule	Number of BTAs in Which Barred by 20% Rule	Number of BTAs in Which Barred by 30% Rule	Number of BTAs in Which Barred by 40% Rule	MTA Eligibility Under Higher Cap?
Atlanta	14	4	Alltel BellSouth Palmer AirTouch	5 9 4 3	4 8 4 3	4 8 4 3	3 8 3 3	Yes - 20% No Yes - 20% No
Birmingham	10	6	BellSouth GTE/Contel Crowley Alltel Palmer Dismissed	6 5 2 2 2 4	6 5 2 2 2 3	6 5 2 1 2 1	5 5 2 1 2 1	No No Yes - 20% Yes - 20% Yes - 20% Yes - 20%
Boston	14	4	NYNEX SWB BAM U.S. Cellular	11 3 3 8	7 3 3 8	7 3 3 7	7 3 3 7	No No No Yes - 30% Yes - 20%
Buffalo	4	4	Roch./NYNEX Ass./SWB Horizon McCaw	2 2 2 1	0 2 2 1	0 2 2 0	0 2 2 0	No No Yes - 20% Yes - 20%
Charlotte	23	5	Sprint GTE Mobilnet BAM U.S. Cellular Alltel	16 11 5 11 2	15 10 5 10 2	15 10 5 10 2	15 8 5 7 2	No Yes - 40% Yes - 30% Yes - 30% Yes - 20%
Chicago	18	2	SWB Ameritech	8 9	8 9	7 7	7 6	No No
Cincinnati	9	5	AirTouch/CCI Ameritech Cin. Bell Vanguard Indep. Cell.	2 2 2 2 2	2 2 2 2 2	2 2 2 2 2	2 2 2 2 2	No Yes - 40% Yes - 30% Yes - 20% Yes - 20%

Cleveland	10	4	AirTouch/CCI GTE Mobilnet Sprint SYGNET	4 4 6 3	4 4 6 3	4 4 6 3	4 4 6 2	No No Yes - 30% Yes - 20%
Columbus	6	4	AirTouch/CCI Ameritech Cin. Bell Sprint	1 1 1 2	1 1 1 1	1 1 1 1	1 1 0 1	No Yes - 40% Yes - 30% Yes - 20%
Dallas	22	5	SWB LIN McCaw GTE Mobilnet AirTouch - McCaw Part.	7 2 8 3 1	7 2 8 2 1	7 2 8 1 1	6 2 8 1 0	Yes - 40% Yes - 30% Yes - 30% Yes - 20% Yes - 20%
Denver	12	3	U S WEST McCaw Cellular Inc.	9 6 6	7 6 6	7 6 6	7 5 4	No No Yes - 20%
Des Moines	13	6	U.S.Cellular Sprint C-TEC GTE/Contel U S WEST	10 7 7 4 2	10 6 4 3 2	9 5 4 3 1	8 4 4 2 1	No Yes - 30% Yes - 20% Yes - 20% Yes - 20% Yes - 20%

Impact on Cellular Eligibility of Varying Overlap Thresholds

Restrictions In MTAs

◆ Under a 10 percent overlap rule

According to Paul Kagan Associates' *PCS Atlas & Databook* 54 cellular companies are restricted in 189 MTAs under the 10 percent rule using the financial community's proportionate attribution standard (percentage ownership x market pops = attributable pops).

Thus, on average, there are 3.5 conflicts per MTA.

The number of conflicts per specific cellular company can range from one for such companies as Radiofone, SYGNET Communications, and Dobson Cellular, up to 22 for McCaw Cellular/LIN. To summarize:

Under the 10 percent overlap rule, *based on the financial industry's proportionate attributable pop standard:*

- **Twenty-five** companies are prevented from seeking **one** MTA license
- **Ten** companies are prevented from seeking **two** MTA licenses
- **Three** are prevented from seeking **three** MTA licenses
- **Four** are prevented from seeking **four** MTA licenses
- **One** is prevented from seeking **five** MTA licenses
- **One** is prevented from seeking **seven** MTA licenses
- **One** is prevented from seeking **eight** MTA licenses
- **Two** are prevented from seeking **nine** MTA licenses
- **Two** are prevented from seeking **ten** MTA licenses
- **One** is prevented from seeking **11** MTA licenses
- **One** is prevented from seeking **13** MTA licenses
- **One** is prevented from seeking **15** MTA licenses
- **Two** are prevented from seeking **18** MTA licenses.

The proportionate attributable pop standard was originally proposed by American Personal Communications in a September 17, 1992, letter from Wayne Schelle to then-Chairman Alfred Sikes. On July 8, 1993, American Personal Communications, in a letter from Anne V. Phillips, Director of Corporate Affairs for American Personal Communications, to Gerald P. Vaughn, FCC, in GEN Docket No. 90-314, used that method to demonstrate cellular eligibility under a *twenty percent* overlap standard -- and conceded a willingness to consider a 25 percent overlap standard.

◆ Under a 20 percent overlap rule

APC reviewed the ownership presence of the top 36 cellular companies in the United States in Rand McNally's original 49 MTAs, based on data derived from Donaldson, Lufkin & Jenrette's Winter 1992-1993 publication *The Cellular Communications Industry*. That review demonstrated that there were conflicts for 30 of those 36 companies, which would render them ineligible for MTA licenses.

Specifically, according to APC's analysis:

- **Eleven** companies are prevented from seeking **one** MTA license
- **Four** companies are prevented from seeking **two** MTA licenses
- **One** is prevented from seeking **three** MTA licenses
- **One** is prevented from seeking **four** MTA licenses
- **One** is prevented from seeking **five** MTA licenses
- **One** is prevented from seeking **six** MTA licenses
- **Two** are prevented from seeking **seven** MTA licenses
- **Two** are prevented from seeking **eight** MTA licenses
- **Three** are prevented from seeking **nine** MTA licenses
- **Two** are prevented from seeking **ten** MTA licenses
- **One** is prevented from seeking **11** MTA licenses
- **One** is prevented from seeking **14** MTA licenses
- **One** is prevented from seeking **16** MTA licenses.
- **One** is prevented from seeking **21** licenses.

The change from a 10 percent to a 20 percent overlap standard, based on the population figures and attribution method used by APC, nonetheless would result in increased cellular eligibility, as:

- ALLTEL would be eligible for the MTA license in **seven** additional MTAs
- Ameritech would be eligible for the MTA license in **one** additional MTA
- BellSouth would be eligible for the MTA license in **two** additional MTAs
- Cellular Inc. would be eligible for the MTA license in **three** additional MTAs
- Celutel would be eligible for the MTA license in **one** additional MTA
- Centennial would be eligible for the MTA license in **one** additional MTA
- Century would be eligible for the MTA license in **one** additional MTA
- Contel would be eligible for the MTA license in **eight** additional MTAs
- GTE Mobilnet would be eligible for the MTA license in **eight** additional MTAs
- Independent Cellular would be eligible for the MTA license in **two** additional MTAs
- McCaw would be eligible for the MTA license in **two** additional MTAs
- Palmer Communications would be eligible for the MTA license in **two** additional MTAs
- SNET Cellular would be eligible for the MTA license in **one** additional MTA
- Sprint/Centel would be eligible for the MTA license in **eight** additional MTAs
- SWB would be eligible for the MTA license in **one** additional MTA (via the Associated Communications acquisition)
- TDS/U.S. Cellular would be eligible for the MTA license in **14** additional MTAs
- U S WEST Cellular would be eligible for the MTA license in **three** additional MTAs
- Vanguard would be eligible for the MTA license in **two** additional MTAs

Raising the threshold to 20 percent would eliminate 67 conflicts for these 30 companies, though there would still be 147 conflicts.

◆ Under a 30 percent overlap rule

Raising the MTA threshold from 10 percent to 30 percent would result in:

- ALLTEL would be eligible for the MTA license in **eight** additional MTAs
- Ameritech would be eligible for the MTA license in **one** additional MTA
- Bell Atlantic would be eligible for the MTA license in **two** additional MTAs

- BellSouth would be eligible for the MTA license in **two** additional MTAs
- Cellular Inc. would be eligible for the MTA license in **four** additional MTAs
- Celutel would be eligible for the MTA license in **two** additional MTAs
- Centennial would be eligible for the MTA license in **one** additional MTA
- Century would be eligible for the MTA license in **two** additional MTAs
- Contel would be eligible for the MTA license in **ten** additional MTAs
- Crowley Cellular would be eligible for the MTA license in **one** additional MTA
- GTE Mobilnet would be eligible for the MTA license in **eight** additional MTAs
(one listed MTA has no GTE presence in it)
- Independent Cellular would be eligible for the MTA license in **three** additional MTAs
- Lincoln Telephone would be eligible for the MTA license in **one** additional MTA
- McCaw/LIN would be eligible for the MTA license in **nine** additional MTAs
- Airtouch (then PacTel) would be eligible for the MTA license in **two** additional MTAs
- Palmer Communications would be eligible for the MTA license in **two** additional MTAs
- SNET Cellular would be eligible for the MTA license in **one** additional MTA
- Sprint/Centel would be eligible for the MTA license in **11** additional MTAs
- SWB would be eligible for the MTA license in **one** additional MTA (via the Associated Communications acquisition)
- TDS/U.S. Cellular would be eligible for the MTA license in **16** additional MTAs
- U S WEST Cellular would be eligible for the MTA license in **four** additional MTAs
- Vanguard would be eligible for the MTA license in **three** additional MTAs

Raising the threshold to 30 percent would eliminate 96 (67 + 29) conflicts for these 30 companies, though there would still be 118 conflicts.

◆ Under a 40 percent overlap rule

Raising the MTA threshold from 10 percent to 40 percent would result in:

- ALLTEL would be eligible for the MTA license in **eight** additional MTAs
- Ameritech would be eligible for the MTA license in **one** additional MTA
- Bell Atlantic would be eligible for the MTA license in **three** additional MTAs
- BellSouth would be eligible for the MTA license in **four** additional MTAs
- Cellular Communications would be eligible in **four** additional MTAs
- Cellular Inc. would be eligible for the MTA license in **four** additional MTAs
- Celutel would be eligible for the MTA license in **two** additional MTAs
- Centennial would be eligible for the MTA license in **one** additional MTA
- Century would be eligible for the MTA license in **three** additional MTA
- Cincinnati Bell would be eligible for the MTA license in **two** additional MTAs
- Contel would be eligible for the MTA license in **ten** additional MTAs
- Crowley Cellular would be eligible for the MTA license in **one** additional MTA
- GTE Mobilnet would be eligible for the MTA license in **nine** additional MTAs
(one listed MTA has no GTE presence in it)
- Independent Cellular would be eligible for the MTA license in **three** additional MTAs
- Lincoln Telephone would be eligible for the MTA license in **one** additional MTA
- McCaw/LIN would be eligible for the MTA license in **nine** additional MTAs
- Airtouch (then PacTel) would be eligible for the MTA license in **six** additional MTAs

- Palmer Communications would be eligible for the MTA license in **two** additional MTAs
- Radiofone would be eligible for the MTA license in **one** additional MTA
- Rochester would be eligible for the MTA license in **one** additional MTA
- SNET Cellular would be eligible for the MTA license in **one** additional MTA
- Sprint/Centel would be eligible for the MTA license in **12** additional MTAs
- SWB would be eligible for the MTA license in **one** additional MTA (via the Associated Communications acquisition)
- TDS/U.S. Cellular would be eligible for the MTA license in **17** additional MTAs
- U S WEST Cellular would be eligible for the MTA license in **six** additional MTAs
- Vanguard would be eligible for the MTA license in **three** additional MTAs

Raising the threshold to 40 percent would eliminate 145 (49 + 67 + 29) conflicts for these 30 companies, though there would still be 98 conflicts.

Restrictions On BTA Licenses Within Specific MTAs

Given the sheer number of BTAs, only a random sampling of them -- and a quick summary of the impact of different overlap standards -- has been possible.

◆ Atlanta MTA

In the Atlanta MTA there are fourteen BTAs, with some 25 cellular companies or cellular investors. Of those companies, four are barred by the Commission's 10 percent overlap rule from applying for the MTA license (i.e., ALLTEL, BellSouth, AirTouch and Palmer Communications).

Of the 25 companies and investors, there are 48 conflicts with the Commission's 10 percent overlap rules. For example, ALLTEL is restricted in five of the BTAs. BellSouth is restricted in nine of the BTAs. GTE is restricted in five of the BTAs. AirTouch is restricted in three of the BTAs. Palmer is restricted in four of the BTAs. Sterling Cellular is restricted in two of the BTAs, and U.S. Cellular is restricted in four of the BTAs.

If a 20 percent overlap rule is applied in place of a 10 percent rule, ALLTEL, BellSouth and U.S. Cellular will each have one additional opportunity for a 30 MHz BTA license. **In total, a 20 percent overlap rule would eliminate six of the 48 BTA conflicts.**

If a 30 percent overlap rule were applied in place of a 10 percent rule, ALLTEL, BellSouth, Sterling Cellular and U.S. Cellular will each have one additional opportunity for a 30 MHz BTA license. **In total, a 30 percent overlap rule would eliminate twelve of the 48 BTA conflicts.**

If a 40 percent overlap rule were applied in place of a 10 percent rule, ALLTEL, GTE and Sterling Cellular would each have two additional opportunities; BellSouth, Palmer Communications and U.S. Cellular would each have one additional opportunity. **In total, a 40 percent overlap rule would eliminate 20 of the 48 BTA conflicts.**

◆ Dallas MTA

In the Dallas MTA there are 22 BTAs, in which some 63 cellular companies or investors have interests. Six companies are barred from bidding for the MTA license by the Commission's current rules (i.e. SWB, LIN, McCaw, GTE Mobilnet, AirTouch/McCaw). There are also 93 BTA conflicts as a result of the Commission's overlap rules. For example, Cellular Telecommunications is restricted in all five of the BTAs in which it has a presence. ENMR Telephone Cooperative is restricted in three BTAs. GTE Mobilnet is restricted in three BTAs. K O Communications is restricted in five BTAs. McCaw is restricted in eight BTAs. SWB is restricted in seven BTAs. Triad Cellular is restricted in three BTAs, and U.S. Cellular is restricted in six BTAs.

If a 20 percent overlap rule were applied in place of a 10 percent rule, Cellular Telecommunications would have four additional opportunities. ENMR would have one additional opportunity. K O Communications would have three additional opportunities, and both GTE Mobilnet and U.S. Cellular would have one additional opportunity. **In total, a 20 percent overlap rule would eliminate 26 of the 93 conflicts.**

If a 30 percent overlap rule were applied in place of a 10 percent rule, Cellular Telecommunications would have five additional opportunities. ENMR and GTE Mobilnet would each have two additional opportunities. Both K O Communications and U.S. Cellular would have four additional opportunities. **In total, a 30 percent overlap rule would eliminate 44 of the 93 conflicts.**

If a 40 percent overlap rule were applied in place of a 10 percent rule, Cellular Telecommunications would have five additional opportunities, ENMR would have four additional opportunities, K O Communications would have four additional opportunities, McCaw would have one additional opportunity, SWB would have one additional opportunity, and U.S. Cellular would have five additional opportunities. GTE Mobilnet would have three additional opportunities. **In total, a 40 percent overlap rule would eliminate 51 of the 93 conflicts.**

◆ Miami MTA

In the Miami MTA there are five BTAs, and seven companies/investors with interests in them. Under the Commission's current rules, three of these companies are barred from bidding for the MTA license (i.e., McCaw, BellSouth, GTE Mobilnet). There are also 13 BTA conflicts.

If a 20 percent overlap rule were applied in place of a 10 percent rule, none of the companies would be eligible for any additional opportunities.

If a 30 percent overlap rule were applied in place of a 10 percent rule, Independent Cellular would be eligible for one additional opportunity, as would GTE Mobilnet. **Two out of the 13 conflicts would be eliminated.**

If a 40 percent overlap rule were applied in place of a 10 percent rule, Independent Cellular, GTE Mobilnet, and the Seminole Tribe of Florida would be eligible for one additional opportunity. **Three out of the 13 conflicts would be eliminated.** *GTE Mobilnet and BellSouth would remain restricted in two out of the five BTAs; McCaw would remain restricted in three BTAs; and Independent Cellular, U.S. Cellular and Palmer Communications would remain restricted in one BTA.*

◆ Chicago MTA

In the Chicago MTA, there are 18 BTAs, and 35 cellular operators or investors with interests overlapping those BTAs. Under the Commission's current rules, three companies are barred from bidding for the MTA license (SWB, Ameritech, and Sprint Cellular). There are also 55 BTA conflicts.

If a 20 percent overlap rule were applied in place of a 10 percent rule, Consolidated Telephone would have two additional opportunities. Illinois Consolidated Telephone, Inland Cellular, Ogden Telephone, Pacific National Cellular, and U.S. Cellular would each also have one additional opportunity. **A total of six of the 55 BTA conflicts would be eliminated.**

If a 30 percent overlap rule were applied in place of a 10 percent rule, BellSouth, GTE Mobilnet, Ogden Telephone, Pacific National Cellular, and SWB would each have one additional opportunity. Illinois Consolidated, Inland Cellular, and U.S. Cellular would each have two additional opportunities. Consolidated Telephone would have four additional opportunities. **A total of 17 of the 55 BTA conflicts would be eliminated.**

If a 40 percent overlap rule were applied in place of a 10 percent rule, BellSouth, GTE Mobilnet, Ogden Telephone, Pacific National Cellular, and SWB would each have one additional opportunity. Illinois Consolidated and Inland Cellular would each have three additional opportunities. U.S. Cellular would have two additional opportunities. Consolidated Telephone would have four additional opportunities. **A total of 21 of the 55 BTA conflicts would be eliminated.**