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July 14, 1994

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

JUL 14 1994
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Dear Mr. Caton:

A copy of the attached "Summary of Opening Comments Regarding 'Further Forbearance' (GN Docket No. 94-33)" was served on Dan Abeyta of the Commission staff today, pursuant to Section 1.1206(a)(1) of the Commission's Rules, 47 C.F.R. § 1.1206(a)(1). In accordance with Section 1.1206(a)(1), I am enclosing an original, duplicate, and one copy of the "Summary of Opening Comments Regarding 'Further Forbearance' (GN Docket No. 94-33)." The original and copy are to be included in the record in GN Docket No. 94-33. Please stamp the duplicate, and return it with the courier.

Respectfully submitted,

Karen Kincaid
Karen Kincaid
Wiley, Rein & Fielding

Enclosures
cc: Dan Abeyta

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**SUMMARY OF OPENING COMMENTS
REGARDING "FURTHER FORBEARANCE"
(GN DOCKET NO. 94-33)**

**Wiley, Rein and Fielding
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Foreword

On May 4, 1994, the FCC released a *Notice of Proposed Rule Making* in which the agency sought to identify whether, within particular services classified as commercial mobile radio services (CMRS), there are specific types of providers that merit further forbearance from the provisions of Title II.¹ The initial comments responding to the *Notice of Proposed Rule Making* were filed on June 27, 1994, and are summarized briefly herein.

We have done our best to represent each commenter's positions accurately on a range of issues within two pages and in a consistent format. Due to space and time constraints, however, many of the arguments have been truncated and rephrased. As such, in all cases, it is highly advisable to review the actual commenter's text. All summaries have page references to the actual commenter's text.

¹ In the Matter of Further Forbearance for Title II Regulation for Certain Types of Commercial Mobile Radio Service Providers, FCC 94-101 (released May 4, 1994).

ALLTEL MOBILE COMMUNICATIONS, INC. (ALLTEL)

Interest: ALLTEL and its subsidiaries provide cellular and paging services in various parts of the United States. (1)

Is further forbearance warranted:

- ALLTEL argues that further forbearance is warranted from the Telephone Operator Consumer Services Improvement Act (TOCSIA) requirements, codified in Section 226 of the Communications Act. ALLTEL argues that recent amendments to Section 332 were motivated by Congress's intent to create regulatory symmetry among all CMRS providers. (3)
- In determining whether or not to forbear from applying certain provisions of Title II, the Commission should evaluate: (1) the underlying purpose to be served by adoption of the provision in the first instance; (2) the extent to which that purpose continues to exist; and (3) whether technical or cost considerations should preclude application to particular CMRS providers. (2-3).
- ALLTEL argues that TOCSIA was a prophylactic measure adopted to prevent overcharges, splashing of calls, and blocking of access to preferred interexchange carriers - - problems that have no nexus to CMRS providers. (3)
- ALLTEL also argues that forbearance from the TOCSIA requirements in the case of CMRS operators satisfies the 3-pronged test for forbearance because mobile users have not complained about the practices TOCSIA was designed to prevent, there is a strong incentive to stimulate usage by keeping rates low and ensuring that customers are informed about the identity of the service provider, and the imposition of TOCSIA requirements would not only cause unwarranted, excessive costs, but also in many instances, compliance would not be practicable. (3)

AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION ("AMTA")

Interest: Trade association serving the private carrier industry.

Is further forbearance warranted:

- Strongly recommends adoption of the alternative tests outlined in the NPRM (section-by-section analysis of Title II, or an examination of whether there are technical and operational limits, or considerations of customer base, applicable to small providers that make forbearance appropriate on a more general basis) in determining whether or not to forbear. (5)
- "Small" mobile radio providers should be excluded from the definition of CMRS, and therefore, from any Title II obligations. (6)
- Urges the FCC to forebear from application of Title II requirements on small CMRS providers and those who serve the business community rather than individual customers. Additional forbearance might then be appropriate for other entities based on the more economically focused analysis. (6)
- Urges the Commission not to forbear from applying Section 223 (obscene, harassing, indecent communications) to CMRS providers. Protecting minors from such communications is an important public interest objective, and CMRS providers must make a business decision to offer services that will place them within the requirements of the statute. (11)
 - Believes it is unlikely that traditional SMR operators would offer services that would bring them in conflict with Section 223; these licensees generally offer fleet-type dispatch services to business entities. (11)
 - Similarly, ESMR operators do not provide services that will bring them within the language of the Section. However, should any CMRS provider make the business decision to offer billing and collection services to adult information providers, ATMA believes that it is not unreasonable for them to provide reverse blocking to customers not requesting access to adult information services. (11)

- With regard to Section 225 (Telecommunications Relay Services), AMTA maintains that small SMR service providers (as defined above) should be exempt from offering TRS services. These operators primarily offer two-way dispatch services to businesses, and offer interconnected service only incidentally. (12)
 - Recognizes the obligations of all communications service providers to fund TRS services under the statutory mandate, and anticipates that most licenses falling under AMTA's proposed definition of small CMRS providers will be obligated to pay only \$100 minimum annually. (13)
 - ESMR operators cannot interface between PDD devices and TRS facilities because MIRS equipment does not produce reliable tones; therefore, the acoustic coupling needed for the TDD device to send tone signals to the TRS facility is not available. As such, a hearing impaired TDD user cannot currently use a MIRS device to communicate with a TRS facility. (14)
 - Since ESMR systems will not be capable of testing tone transmission until sometime in 1995, the Commission should not require provision of TRS services by ESMR licensees before the end of the CMRS transition period in August 1996. (14)
- CMRS providers at 800 MHz, 900 MHz, and 220 MHz neither provide operator services nor serve as aggregators, therefore, Section 226 currently does not apply to these licensees. Should a large SMR entity choose to provide operator services in the future, Section 226 could be applied. (15)
- There are few 800 MHz, 900 MHz, or 220 MHz licensees in the telemarketing business but if CMRS providers make the business decision to engage in these activities, ATMA agrees with the Commission that the consumer's privacy interest would warrant application of Section 227 at that time. (16)
- With regard to Section 228 (pay-per-call), AMTA argues that the imposition of LEC TDDRA obligations would constitute an unnecessary regulatory burden on CMRS providers. CMRS operators provide interconnected services to customers by connecting with the PSTN

through LECs. Therefore, any requested blocking of 900 services would occur at the interconnected point, the LEC switch.

- The blocking requirements are best handled by the LEC. LEC tariff obligations under TDDRA would impose an unnecessary administrative cost on CMRS providers. (16-17)
- TDDRA blocking option requirement is unnecessary because blocking is generally provided to residential phone to prevent unsupervised minors from accessing pay per call services, and since CMRS is mobile, customers carry their equipment on their persons or in their vehicle. (17)

Definition of "small":

- Urges the Commission to forebear from applying all but the statutorily mandated Title II provisions on CMRS providers, other than paging operators, that serve fewer than 5,000 subscribers nationwide. (8)
- Recommends numbers of subscribers as the determinative factor of being small, not only because it is the most accurate measure of market power but because it also is simple to report and review. (8)
- Suggests 5,000 subscribers as the cap because it appears to represent a reasonable break-point between the traditional analog SMR operator and the so-called wide area systems being developed at the 900 MHz to serve a broader customer base. (8)
- AMTA considered but rejected the use of business size or number of channels for distinguishing large from small, because the Commission has already determined that the Small Business Administration (SBA) definition used to establish preferences would be too generous for this purpose. (10)
- In addition, use of the SBA definition would require entities that are not currently obligated to provide data regarding their financial status to the FCC to do so. (10)
- Channel count as a criterion is administratively convenient, but does not account for differences among CMRS frequencies. (10)

Other:

- Should exercise forbearance for those providers which can demonstrate that they serve predominately the business community rather than individual customers even if they exceed the 5,000 subscriber figure. (9)

AT&T CORP. (AT&T)

Interest: Interexchange carrier.

Is further forbearance warranted:

- **AT&T supports the FCC's tentative decision to apply Sections 223, 225, 226, 227, and 228 to all CMRS providers. (2)**
- **AT&T argues that the 3-pronged test of Section 332(c)(1)(A), which authorizes the Commission to forbear upon consideration of (1) whether enforcement is necessary to ensure just and reasonable rates, (2) whether enforcement is necessary for the protection of consumers, and (3) whether forbearance is consistent with the public interest, has not been met with regard to any of these provisions. (3)**
- **For most of the provisions from which the FCC plans not to forbear (Section 223: restrictions on obscene, harassing, or indecent communications; Section 226: TOCSIA requirements; Section 227: TCPA restrictions; and, Section 228: TDDRA rules), AT&T argues that the provisions of Sections 223, 226, 227, and 228 were intended to remedy abuses, and that as such, they provide valuable protection to the public. (4) Moreover, AT&T notes that the cost to providers of compliance with these provisions appears to be minimal. (4)**
- **The provisions of Section 225 (relating to telecommunications relay services and funding), while not essential to the protection of consumers, are in the public interest because they ensure that individuals with hearing and speech disabilities are able to communicate with hearing individuals. Moreover, once again, the cost of compliance to CMRS providers would appear to be quite small. (4)**

BELL ATLANTIC MOBILE SYSTEMS, INC. (Bell Atlantic)

Interest: Regional Bell operating company mobile affiliate.

Is further forbearance warranted:

- Bell Atlantic argues that further forbearance is warranted from the Telephone Operator Consumer Services Improvement Act, codified in Section 226 of the Communications Act; it applies the three-prong test of Section 332(c)(1)(A): consumer cost, consumer protection, and the public interest. (8-9)
- The Commission's decision to forbear from the tariffing requirements of Section 203 indicates that, in the Commission's own view, tariffing requirements, such as those under Section 226, are unnecessary to protect consumers sufficient competition exists. (8)
- Bell Atlantic argues that Section 226 is not necessary for consumer protection because there is no evidence that the practices at which TOCSIA was directed have arisen in the mobile services (rather than landline) market. Forbearance from Section 226 would be in the public interest because it would relieve the emerging CMRS industry from burdens while having no "countervailing benefits." (9)

Definition of "small":

- Bell Atlantic argues that the Commission should not adopt any definition of "small", because any division based on size would undercut the regulatory symmetry authorized by Congress, would be impractical and burdensome to implement and would be irrational. (2-8)
- Bell Atlantic argues that any definition of "small" to provide for disparate treatment would be contrary to the intent of the Budget Act because the brief discussion in the committee report is barren of any discussion of distinctions based on a carrier's size. Rather, Bell Atlantic points out that the legislative history approves of disparate treatment based on services. (3-4)
- Any definition of "small" will be impractical to implement because sufficient quantifiable data may not exist and intractable problems will arise, such as how to classify a carrier with a tiny presence in one

geographic area, but a larger presence in another. Similarly, a "revenues" test, such as that suggested by the Commission, would be subject to great fluctuation and would require detailed financial monitoring. (5-6)

- Another suggested basis, forbearing from providers that charge less than half the current average cellular rate, is objected to as inconsistent with a Commission policy of forbearing from rate regulation in the CMRS marketplace. (6)
- Bell Atlantic also argues that any definition based on size would be burdensome to implement because it would entail continuing administrative costs to police compliance. (7)
- Any disproportionate impact of regulation can be addressed on a case-by-case basis that enables the Commission to make "real distinctions" rather than "sweeping generalizations." (7-8)
- Bell Atlantic argues that a definition based on size is irrational because being a larger company or serving a larger customer base bears no relation to making a carrier more or less likely to engage in actions that various Title II provisions are designed to prevent or police. (4) Bell Atlantic also points out that the mobile services industry is changing quickly and questions judgments made at this time. (4-5)

BELLSOUTH

Interest: Regional Bell Operating Company.

Is further forbearance warranted:

- Generally supports the Commission's proposals to further forbear from applying sections of Title II of the Communications Act of 1934 to the extent that such forbearance is applied equally to all providers of CMRS. (1)
- Supports the Commission's efforts to remove the regulatory burdens imposed by the remaining sections of Title II, to the extent that such burdens will be removed for all CMRS providers. (2)
- Opposes any proposals to create a regulatory scheme that forbears from applying provisions of Title II with respect to only certain classes of CMRS providers, while leaving them in place for others. Such a scheme would be inconsistent with Congress' objective to remove regulatory distinctions that impede growth in the industry and stifle competition between providers of like services. (3)
- Argues that creating separate regulatory classifications within services classified as CMRS could set the foundation for disparate treatment of similar entities, a problem that Congress intended to eliminate. (5)
- Asserts that further forbearance only for particular types of CMRS providers would not comport with the notion of regulatory symmetry. (5)
- Believes the Commission should not engage in drawing fine distinctions between providers based upon their overall size. Such distinctions will be subject to varying interpretations and will impose additional regulatory burdens on the Commission as it attempts to define eligible entities. (6)
- States that the Commission should either forbear with equality from applying those provisions of Title II it deems appropriate to all CMRS providers, or it should abstain from further forbearance altogether. (6)

THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

Interest: Trade association for the cellular industry.

Is further forbearance warranted:

- Forbearance from Title II regulation is not warranted. (1-2)
- Forbearance from Section 210 is not necessary as this section imposes no affirmative obligations on CMRS providers. (2-3)
- Sections 213, 214, 215, 219, and 220 support the Commission's enforcement powers and do not create affirmative obligations or have an immediate economic impact on CMRS providers. If appropriate, the Commission can revisit forbearance of these sections in future rulemakings. (3)
- Supports the Commission's decision not to forbear from Section 223 (obscene phone calls). Exemptions from this section undermine national policy of protecting minors while providing mechanism for adults to receive the service. Section 223 is not unduly burdensome. CMRS providers who provide such services do it voluntarily and they can evaluate the benefits and burdens, including the obligations of Section 223. (4-5)
- The obligation to provide TRS and contribute to the fund should apply to all CMRS providers. Exemptions to Section 225 would undermine the goals of the ADA and the implementing regulations. Moreover, such exemptions would undermine the goal of consistent regulatory treatment for comparable mobile services. (5-6)
- Exempting certain CMRS providers from TOCSIA requirements creates regulatory disparity and contravenes the statutory protection that is afforded to consumers who need interstate operator service from public telephones. Section 226 obligations are not imposed unless a CMRS provider voluntarily chooses to offer operator services. Selective future forbearance of Section 226 should focus on the nature of the service, not the class of CMRS provider. (6-7)
- Endorses the Commission's decision not to forbear from Section 227 (telemarketing). Creating exemptions from Section 227 for small CMRS providers would create

incentives for telemarketers to use small CMRS providers. (7-8)

DIAL PAGE, INC.

Interest: Provider of public land mobile service, private carrier paging service, and specialized mobile radio service.

Is further forbearance warranted:

- Urges the Commission to forbear from applying various provisions of Title II to the following classes of CMRS providers:
 - Providers of emerging communications systems such as ESMR and PCS. (3)
 - CMRS providers that would previously have been classified as private carriers: (3)
 - Providers of narrow band services such as paging. (3)
- Maintains that the three forbearance criteria (enforcement is not necessary to ensure just and reasonable charges, enforcement is not necessary for the protection of consumers, and forbearance is consistent with the public interest) can be met for each of these CMRS classes. (2,3)
 - Argues that because the Commission is required to apply Sections 201 and 202 of the Act to all CMRS providers, enforcement of other provisions of Title II is unnecessary to prevent unreasonable or discriminatory practices. (3)
 - Asserts that CMRS licensees will have no market power and thus do not present a significant risk of harm to consumers in the absence of regulation. (3)
 - Maintains that forbearance of regulation of developing CMRS services helps achieve the important public interest goal of fostering a competitive CMRS market. (3)
- Agrees that the Commission need take no action with respect to Sections 210, 213, 215, 218 and 220. In the absence of further rulemaking proceedings, none of these provisions presently places obligations on CMRS providers. If the Commission decides to exercise its authority under the foregoing provisions, it should

decline to apply them to the classes of CMRS providers listed above. (4)

- Suggests that Section 223(c)(1) is not needed to protect minors because minors, by and large, are not CMRS subscribers, and they generally do not have unrestricted access to CMRS units. (5-6)
- Urges the Commission to exempt CMRS providers from the obligation of offering TRS service because the inherent mobile nature of CMRS operations does not lend itself easily to the use of TTY equipment. (6)
 - The imposition of a requirement on CMRS licensees to provide TRS would be unduly burdensome in light of the projected low demand for such service. (6)
 - Concerned that TRS service is not compatible with most CMRS equipment. (6)
- Urges the Commission to forbear from applying Section 225's financial obligations to narrow band paging type carriers. With respect to carriers providing wide band voice and data service, however, the funding obligation is so small that it is not a significant burden. (6-7)
- Recommends that the Commission forbear application of Section 226 (regarding Operator Service Providers (OSPS)) to CMRS providers because CMRS providers generally do not offer this type of service. If a record indicating abuse develops, the Commission should revisit the issue. (8)
- Agrees with the Commission's analysis that Section 227 generally does not apply to CMRS carriers in their capacity as common carriers as long as the Commission continues to determine that the costs of establishing a national do-not-call database outweighs its benefits. (8)
- Urges the Commission not to impose Telephone Disclosure and Dispute Resolution Act (TDDRA) obligations, codified in Section 228 on CMRS providers because imposition of these requirements would be an unnecessary and duplicative regulation. (9)
 - CMRS licenses provide interconnected service to their customers by connecting with local exchange carriers, which are already subject to TDDRA and

which must, therefore, tariff blocking services.

(9)

- In any event, with Section 223's blocking requirements, CMRS blocking of 900 services is unnecessary to protect consumers from inadvertent access by minors or other unauthorized persons.
(9)

- With respect to TDDRA obligations on common carriers generally, Dial Page maintains that in its experience, CMRS licensees do not provide 800 service or collect information services, nor do they bill or collect for 900 service providers. Should such practices become widespread, the FCC can revisit the question of whether to enforce Section 228 in the CMRS context. (9-10)

E.F. JOHNSON COMPANY

Interest: Designer and manufacturer of radio communications products for commercial and public safety use. (1)

Is further forbearance warranted:

- Sections 210, 223, and 227 do not impose any additional burdens on CMRS providers. Accordingly forbearance is not necessary. (8)
- Sections 213, 215, 218, 219, and 220 potentially could pose additional burdens on small CMRS licensees. The Commission should forbear from applying these sections to small CMRS licensees. (8)
- Compliance with the Section 228 requirement on blocking 900 calls would be burdensome for small CMRS licensees. The Commission should affirm that CMRS licensees are not local exchange carriers. In addition, the Commission should affirm that CMRS licensees may continue to charge per minute of use for airtime used during an 800 call. (8-9)
- Small CMRS providers do not usually make telephone service available to the public on an itinerant basis. Thus, the Commission should confirm that small CMRS licensees will not generally be subject to TOCSIA requirements. (9)
- The company does not object to the requirement that local SMR licensees contribute to the TRS fund. However, it requests an exemption for small CMRS licensees from that provision of Section 225 that requires carriers to provide TRS. Because CMRS services are not broadly available to the public, application of TRS requirements are not necessary for consumer protection purposes. (10)

Definition of "small":

- The Commission should employ a definition of small and large CMRS licensees that encompasses frequency reuse in determining when further forbearance is appropriate. Local SMR licensees should not be subject to the same Title II regulation as wide area SMR providers. (5-7)

- Supports the Commission's decision to apply Section 228 to all CMRS providers. Most TDDRA obligations do not affect CMRS providers. (8-9)
- The Commission should focus on the nature of services rather than the providers. If unique circumstances arise, providers may petition the Commission on a case-by-case basis. (9-10)

GEOTECH COMMUNICATIONS, INC.

Interest: SMR Service Provider.

Is further forbearance warranted:

- The Commission should forbear from applying Section 225 (TRS) to CMRS providers with a business customer base. (6)
- Forbearance from applying Section 225 for CMRS providers with a business customer base would be consistent with the forbearance test.
 - Forbearance from applying Section 225 would not be "unjustly discriminatory" because Section 225 was intended to serve the goal of universal service by providing individuals with hearing or speech disabilities telephone services functionally equivalent to those provided to individuals without such disabilities. (7)
 - When Congress permitted the Commission to differentiate among CMRS services for purposes of further forbearance, it affirmed that certain providers with specialized customer bases may not require the same level of customer protection. Therefore, application of Section 225 for such providers is not "necessary for the protection of consumers." (8)
 - For these same reasons, forbearance from applying Section 225 is consistent with the public interest. (8)

Definition of "small":

- The distinction between the customer bases of ESMRs providing cellular-like services (i.e., serving the general public) and SMRs providing traditional dispatch services (i.e., serving only business customers) should be an important consideration in the application of Title II requirements to newly reclassified CMRS providers. (4)
- Business customers are better informed and have greater bargaining power than individual customers, and therefore are more aware of communications service options, are in a better position to negotiate for

competitive services, and generally need less Title II protection. (4)

- With respect to CMRS providers serving only business customers, the Commission should not distinguish between large, medium, and small business customer bases. (5)
 - Even small business customers possess significantly greater bargaining power than individual customers, and therefore do not require the same degree of Title II protection as individual customers. (5)

GRAND BROADCASTING CORPORATION

Interest: Proponent of new 900 MHz radio service called the Interactive Broadcast Radio Service ("IBRS").

Other:

- **IBRS/Mobile Electronic Mailing Service (IBRS/MEMS) seeks to interconnect with long distance providers' X.400 based electronic mail network and to "piggy back" on top of the existing cellular radio infrastructure to maximize network and operational efficiency. (2)**
- **Grand Broadcasting maintains that IBRS/MEMS interconnected with a long distance carrier's X.400 electronic mail network in this fashion is a PMRS because it does not result in public network interconnection, and does not provide service to a substantial portion of the public. (3-4)**
- **Likewise, an IBRS/MEMS mobile service provider affiliated or interconnected with a private X.400 based electronic mail network should be classified as PMRS. (4)**
- **Grand Broadcasting argues that due to the dichotomy between X.400 and other electronic mail networking and the resultant variance in regulatory status, IBRS/MEMS should be classified as CMRS only if interconnected with a non-X.400 based electronic mail network, and should be classified as PMRS if interconnected with an X.400 based electronic mail network.**

GTE SERVICE CORPORATION

Interest: Provider of cellular, satellite, and other mobile radio services including Airfone and Railfone, and paging services.

Is further forbearance warranted:

- The Commission should not forbear from enforcing Sections 210, 213, 215, 218, and 220. (2)
 - Selective and disparate forbearance from these sections is unnecessary because these provisions either grant flexibility (in the case of Section 210) or are merely reservations of authority which impose no material compliance costs. (2)
 - Discrimination among categories of carriers in the application of these sections would yield no benefits but could violate principles of regulatory parity, harm consumers, and create arbitrary and unenforceable classifications. (2-3)
 - Section 210 increases flexibility by allowing carriers to issue franks and passes to their employees and to provide free service to the government in certain circumstances. Therefore forbearance is unnecessary. (4)
 - Section 213, 215, 218, 219, and 220 impose no affirmative obligations on CMRS providers and therefore forbearance is unnecessary. (4)
- The Commission should not forbear from enforcing Sections 223, 225, 227, and 228 because these sections either do not impose significant costs or create expenses only for entities that voluntarily enter certain non-common carrier businesses. Additionally, in each case the statutory requirements advance important consumer protection goals. (2-4)
 - Section 223 (obscene phone calls) forces carriers that choose to carry adult information to restrict access to minors and allow "reverse blocking." (4)
 - Section 227 (telemarketing) imposes various requirements on carriers that engage in telemarketing activities. (4)

- Section 228 (pay-per-call) requires local exchange carriers to block access to 900 services when technically feasible, and impose other obligations on long distance carriers that bill and collect for 900 calls. (4)
- Section 225 (TRS) imposes costs that vary with the size of the carrier. Small carriers would be required to pay as little as \$100 a year. Therefore, selective forbearance is not warranted. (5)
- Further forbearance from Section 226 (TOCSIA) is warranted for all CMRS providers regardless of size. (3)
 - Enforcement of Section 226 in the CMRS context is unnecessary to ensure just and reasonable rates or to protect consumers, as there is no evidence in the record of consumer complaints regarding mobile public phone service. (3, 6)
 - Mobile public phone service providers must offer reasonable rates to convince third parties, such as rental car companies and airlines to use their service platforms. (6)
 - Mobile public phone service providers also have strong incentives to educate consumers regarding their rates and service offerings and unblock access in order to maximize usage and avoid discontent. (6)
 - Forbearance is also compelled by the cost/benefit analysis underlying the public interest prong of Section 332, as compliance with TOCSIA's branding requirement would impose costs of over twenty million dollars on the cellular industry alone -- for CMRS providers generally, compliance costs would likely be significantly higher. (7)
 - Enforcing compliance with TOCSIA undermines the benefits of tariff forbearance and diminishes competition. (7)
 - Compliance with TOCSIA would be impossible in many situations. (7)
 - Underlying CMRS providers cannot enforce compliance with aggregator requirements by mobile public phone providers because they

have no contractual or tariff relationship with those entities. (7)

- Underlying CMRS carriers cannot provide information about their rates because the charges to the customers are determined by the mobile public phone provider. (7)
- For terrestrial services, the mobile public phone provider cannot realistically satisfy the aggregator requirement of allowing the caller to transfer to another underlying CMRS provider, especially if a customer is roaming. (7-8)
- Similarly, one air-to-ground provider cannot transfer calls to another air-to-ground provider because of the shared use of frequencies by such licensees and the incompatibility of different carriers' equipment. (8)