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KECK, MAHIN & CATE

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FILE NUMBER

DIRECT DIAL (202) 789-3447

SEP - 8 1994

September 7, 1994

BY HAND

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DOCKET FILE COPY ORIGINAL

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

Re: Implementation of Sections 3(n) and 332 of the
Communications Act, GN Docket No. 93-252

Dear Mr. Caton:

Enclosed please find three copies of ex parte letters to Karen Brinkman, Legal Advisor to the Chairman; Lauren J. Belvin, Senior Advisor to Commissioner James H. Quello; Byron F. Marchant, Senior Advisor to Commissioner Andrew D. Barrett; Jill Luckett, Legal Advisor to Commissioner Rachelle Chong; David R. Siddall, Legal Advisor to Commissioner Susan Ness; A. Richard Metzger, Jr., Acting Chief of the Common Carrier Bureau; Ralph A. Haller, Chief of the Private Radio Bureau; Myron C. Peck, Deputy Chief of the Mobile Services Division; Rosalind K. Allen, Chief of the Rules Branch of the Private Radio Bureau; and Judith Argentieri, Esq. Each of the letters had attached to it a copy of a decision of the California Public Utility Commission, which is also annexed hereto.

I would appreciate it if you could file two copies of each letter and the attachment and date-stamp the third set for return to me.

Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular Service,
Inc. and ComTech, Inc.

By: 
Lewis J. Paper

No. of Copies rec'd 033
List ABCDE

Enclosures

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KECK, MAHIN, CATE & KOETHER NEW YORK, NEW YORK FAR HILLS, NEW JERSEY

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September 6, 1994

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Two Copies Filed With
the Secretary's Office

BY HAND

Jill Luckett, Legal Advisor
Office of the Honorable Rachelle Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Jill:

I want to thank you for taking time from your hectic schedule to meet with me to discuss the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc. with respect to the Second Report and Order's failure to recognize the right of cellular resellers to interconnect their own switches with the cellular carriers' MTSOs.

Enclosed with this letter is a copy of the decision of the California Public Utilities Commission authorizing cellular resellers to interconnect their switches with the cellular carriers' MTSOs. You may find the summary of Findings of Fact and Conclusions of Law at pages 88-96 to be particularly illuminating in the event you do not have time to read the entire document.

The California decision highlights three (3) basic points which are relevant to the FCC's disposition of the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc.:

- The California PUC concluded that "the federal licensing of only two facility-based cellular carriers in a given market places control of the radio 'transmission bottleneck' into the hands of just those

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KECK, MAHIN & CATE

Jill Lockett, Legal Advisor
September 6, 1994
Page 2

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- Cellular resellers are rapidly losing market share in large part because of "their inability to control the majority of their costs which are determined by the duopolists who control the bottleneck facilities." By 1993, the cellular resellers' market shares in the Los Angeles and San Francisco MSAs -- the two largest in California -- decreased from 35% in 1989 to less than 20% in 1993. Page 26. See page 90 at ¶¶ 19-20.
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The foregoing findings underscore the importance of the cellular resellers' right to interconnection as a means to survive -- and thus preserve competition for the two FCC-licensed cellular carriers.

If you would like any additional information concerning the California PUC decision or any other matter concerning the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc., please let me know.

Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular
Service, Inc. and ComTech,
Inc.

By: 

Lewis J. Paper

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KECK, MAHIN & CATE

FILE NUMBER

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September 6, 1994

EX PARTE FILING
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BY HAND

Ralph A. Haller, Chief
Private Radio Bureau
Federal Communications Commission
Room 5002
2025 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Ralph:

I want to thank you for taking time from your hectic schedule to meet with me to discuss the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc. with respect to the Second Report and Order's failure to recognize the right of cellular resellers to interconnect their own switches with the cellular carriers' MTSOs.

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Ralph A. Haller, Chief
Private Radio Bureau
September 6, 1994
Page 2

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If you would like any additional information concerning the California PUC decision or any other matter concerning the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc., please let me know.

Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular
Service, Inc. and ComTech,
Inc.

By: 
Lewis J. Paper

LJP:jlq

KECK, MAHIN & CATE

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FILE NUMBER

SEP - 8 1994

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September 6, 1994

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BY HAND

Rosalind K. Allen, Chief
Rules Branch
Private Radio Bureau
Federal Communications Commission
Room 5202
2025 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Roz:

I want to thank you for taking time from your hectic schedule to meet with me to discuss the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc. with respect to the Second Report and Order's failure to recognize the right of cellular resellers to interconnect their own switches with the cellular carriers' MTSOs.

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Rosalind K. Allen, Chief Rules Branch
Private Radio Bureau
September 6, 1994
Page 2

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Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular
Service, Inc. and ComTech,
Inc.

By: 

Lewis J. Paper

LJP:jlq

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KECK, MAHIN & CATE

FILE NUMBER

DIRECT DIAL (202) 789-3447

SEP - 8 1994

September 6, 1994

EX PARTE FILING
Two Copies Filed With
the Secretary's Office

BY HAND

Judith Argentieri, Esq.
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
Room 644
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Judith:

I want to thank you for taking time from your hectic schedule to meet with me to discuss the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc. with respect to the Second Report and Order's failure to recognize the right of cellular resellers to interconnect their own switches with the cellular carriers' MTSOs.

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Judith Argentieri, Esq.
September 6, 1994
Page 2

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Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular
Service, Inc. and ComTech,
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By: 

Lewis J. Paper

LJP:jlq

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KECK, MAHIN & CATE

FILE NUMBER 45737-002

DIRECT DIAL (202) 789-3447

September 2, 1994

EX PARTE FILING
Two Copies Filed With
the Secretary's Office

BY HAND

Karen Brinkman, Legal Advisor
Office of the Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act, GN Docket No. 93-252

Dear Karen:

I want to thank you for taking time from your hectic schedule to meet with me to discuss the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc. with respect to the Second Report and Order's failure to recognize the right of cellular resellers to interconnect their own switches with the cellular carriers' MTSOs.

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KECK, MAHIN & CATE

Karen Brinkman, Legal Advisor
September 2, 1994
Page 2

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Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular
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By: 

Lewis J. Paper

LJP:jlq

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KECK, MAHIN & CATE

FILE NUMBER

DIRECT DIAL (202) 789-3447

September 6, 1994

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BY HAND

Lauren J. Belvin, Legal Advisor
Office of the Honorable James H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Pete:

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KECK, MAHIN & CATE

Lauren J. Belvin, Legal Advisor
September 6, 1994
Page 2

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By:



Lewis J. Paper

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KECK, MAHIN & CATE

FILE NUMBER

DIRECT DIAL (202) 789-3447

September 7, 1994

EX PARTE FILING
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BY HAND

David R. Siddall, Legal Advisor
Office of the Honorable Susan Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear David:

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David R. Siddall, Legal Advisor
September 7, 1994
Page 2

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By: 

Lewis J. Paper

LJP:jlq

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Myron C. Peck, Deputy Chief
Mobile Services Division
Common Carrier Bureau
Federal Communications Commission
Room 644
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Myron:

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Myron C. Peck, Deputy Chief
September 6, 1994
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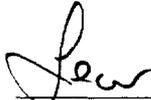
The foregoing findings underscore the importance of the cellular resellers' right to interconnection as a means to survive -- and thus preserve competition for the two FCC-licensed cellular carriers.

If you would like any additional information concerning the California PUC decision or any other matter concerning the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc., please let me know.

Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular
Service, Inc. and ComTech,
Inc.

By: 

Lewis J. Paper

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September 6, 1994

EX PARTE FILING
Two Copies Filed With
the Secretary's Office

BY HAND

A. Richard Metzger, Jr., Acting Chief
Common Carrier Bureau
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Richard:

I want to thank you for taking time from your hectic schedule to meet with me to discuss the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc. with respect to the Second Report and Order's failure to recognize the right of cellular resellers to interconnect their own switches with the cellular carriers' MTSOs.

Enclosed with this letter is a copy of the decision of the California Public Utilities Commission authorizing cellular resellers to interconnect their switches with the cellular carriers' MTSOs. You may find the summary of Findings of Fact and Conclusions of Law at pages 88-96 to be particularly illuminating in the event you do not have time to read the entire document.

The California decision highlights three (3) basic points which are relevant to the FCC's disposition of the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc.:

- The California PUC concluded that "the federal licensing of only two facility-based cellular carriers in a given market places control of the radio 'transmission bottleneck' into the hands of just those

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CHICAGO, ILLINOIS HOUSTON, TEXAS LOS ANGELES, CALIFORNIA SAN FRANCISCO, CALIFORNIA
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A. Richard Metzger, Jr., Acting Chief
September 6, 1994
Page 2

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- Cellular resellers are rapidly losing market share in large part because of "their inability to control the majority of their costs which are determined by the duopolists who control the bottleneck facilities." By 1993, the cellular resellers' market shares in the Los Angeles and San Francisco MSAs -- the two largest in California -- decreased from 35% in 1989 to less than 20% in 1993. Page 26. See page 90 at ¶¶ 19-20.
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September 7, 1994

EX PARTE FILING
Two Copies Filed With
the Secretary's Office

BY HAND

Byron F. Marchant, Senior Advisor
Office of the Honorable Andrew C. Barrett
Federal Communications Commission
Room 826
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of Sections 3(n) and 332 of the
Communications Act; GN Docket No. 93-252

Dear Byron:

I want to thank you for taking time from your hectic schedule to meet with me to discuss the Petition for Reconsideration filed by Cellular Service, Inc. and ComTech, Inc. with respect to the Second Report and Order's failure to recognize the right of cellular resellers to interconnect their own switches with the cellular carriers' MTSOs.

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Byron F. Marchant, Senior Advisor
September 7, 1994
Page 2

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Sincerely,

KECK, MAHIN & CATE

Attorneys for Cellular
Service, Inc. and ComTech,
Inc.

By: 
Lewis J. Paper

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ALJ/TRP/sid

Mailed

AUG 4 1994

Decision 94-08-022 August 3, 1994

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
Own Motion into Mobile Telephone)
Service and Wireless Communications.)

I.93-12-007
(Filed December 17, 1993)

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INTERIM OPINION

I. Background

On December 17, 1993, we opened an investigation of the mobile telephone service industry to develop a comprehensive regulatory framework designed to promote an orderly transition into a fully competitive marketplace while assuring that consumers are protected against unjust or unreasonable rates. In this interim opinion, we consider the threshold question of whether current market conditions for mobile telephone services protect subscribers adequately from unjust, unreasonable, or discriminatory rates, and consequently, whether continued state regulation of carriers is necessary to protect consumers.

As a result of our investigation in this proceeding, we conclude that the wholesale cellular telephone market currently remains uncompetitive. Accordingly, state regulation of cellular carriers should continue at least for the near term to protect consumers against unreasonable rates while fostering the development of a competitive mobile telecommunications market. For purposes of this interim decision, we defer full consideration and implementation of a new regulatory framework for the mobile telecommunications service market to a later decision in this proceeding. Except for limited interim measures as adopted herein, existing rules shall continue in effect pending completion of our investigation in the second phase of this Order Instituting Investigation (OII or I.) as to the appropriate regulatory framework to govern mobile telephone services. In formulating a new regulatory framework, we shall adopt provisions to gradually reduce and eventually eliminate regulation of facilities-based cellular carriers as effective competition materializes in the wholesale mobile service market.