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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Eligibility for the Specialized Mobile Radio Services and Radio Services in the 220-222 MHZ Land Mobile Band and Use of Radio Dispatch Communications	)	GN Docket No. 94-90

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To: The Commission

OPPOSITION TO REQUEST FOR PARTIAL RECONSIDERATION

Bell Atlantic Mobile Systems, Inc. (Bell Atlantic Mobile),[1/] by its attorneys and pursuant to Section 1.429 of the Commission's Rules, hereby opposes the American Mobile Telecommunication Association's Request for Partial Reconsideration of the Commission's Report and Order in this proceeding (FCC 95-98, released March 7, 1995).

AMTA objects to the Commission's repeal of its prohibition on cellular carrier provision of dispatch services (47 CFR § 22.911). Report and Order at ¶¶ 29-30. That decision was, however, fully supported by the factual record and compelled by applicable law. The record showed that the prohibition was impairing competition by depriving numerous carriers the opportunity to provide dispatch services to their customers. The Commission also properly applied

1/ Bell Atlantic Mobile, either directly or through subsidiaries, partnerships or affiliates, holds authorizations from the Commission to operate cellular radiotelephone systems in numerous markets in the Northeast, Mid-Atlantic, Southeast and Southwest regions of the United States.

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its obligation under Section 332(c) of the Communications Act to achieve symmetrical regulation of commercial mobile radio services, which includes dispatch services. It noted that the rule restricted entry into dispatch, thereby allowing some competitors to offer a service that others could not. Repeal of the dispatch prohibition was thus mandated by Congress's direction to the Commission to achieve symmetrical CMRS regulation.

AMTA largely reiterates the arguments it previously made. Nothing in its Request for Partial Reconsideration warrants changing the Commission's correct decision to open up dispatch services to new competition. AMTA contends, for example, that the goal of symmetry does not support the decision, because a party could apply for a Part 90 license. (Request at 4.) But this ignores the difficulties in acquiring Part 90 spectrum that the Commission identified (Report and Order at ¶ 30) and that AMTA itself concedes (Request at 5). In any event, AMTA ignores the rule's crucial flaw: it absolutely barred some CMRS providers, but not others, from offering dispatch services as part of their offerings to customers. This is why the Commission properly found that the rule was inconsistent with Section 332(c). While AMTA may want to keep dispatch service the preserve of its members, the plain fact is that Section 22.911 has operated to frustrate entry into a communications service by imposing different rules on different competitors. Repeal was essential to achieve parity in this area.

AMTA also objects to repeal by asserting, incorrectly, that if there is unused cellular spectrum, it should be "redeployed."

(Request at 6.) This ignores the record evidence that cellular carriers can, as a technical matter, integrate dispatch offerings into their cellular service. Report and Order at ¶¶ 32, 35. The issue is not, as AMTA insists, who should "retain" the cellular spectrum, but how to achieve the most competitive market for CMRS services. AMTA essentially argues that cellular spectrum should be restricted to particular uses and not be allowed to be used to offer other services that would compete with the services offered by AMTA's members. Protecting one segment of the CMRS industry from competition is precisely what the Commission has set out in its CMRS rulemakings to avoid; perpetuating the ban, as AMTA requests, would undermine that cardinal objective.

Finally, AMTA asserts that the prohibition should at least be retained until the end of the three-year period set forth in Section 332(c). (Request at 6). AMTA advocated the same request for deferred repeal before, the Commission rejected it (Report and Order at ¶ 36), and there is no reason to reconsider it. As the Commission and numerous commenters pointed out before, that three-year period was not designed to insulate formerly private carriers from competition; it was to afford them a grace period to come into compliance with certain rules applicable to CMRS providers. Moreover, perpetuating the dispatch ban until mid-1996 would delay the public interest benefits that the Commission has found will result from open entry into dispatch. Report and Order at ¶ 29. AMTA's attempt to invoke the transition period as a shield against competition should also be rejected.

In sum, AMTA's Request for Partial Reconsideration presents no basis for the Commission to reverse or modify its repeal of the dispatch prohibition. The Request should be denied.

Respectfully submitted,

BELL ATLANTIC MOBILE SYSTEMS, INC.

By: _____

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Dated: May 24, 1995

CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of May, 1995, caused copies of the foregoing "Opposition to Request for Partial Reconsideration" to be sent by first-class mail, postage prepaid, to the following:

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