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

In the Matter of	)	
	)	
Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services	)	CC Docket No. 94-54

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COMMENTS OF LDDS WORLDCOM

WorldCom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"),[1] hereby files its comments in response to the Second Notice of Proposed Rulemaking ("Second Notice") issued by the Commission in the above-captioned proceeding on April 20, 1995. LDDS WorldCom strongly supports the Commission's tentative conclusion to impose a resale obligation on CMRS providers.

INTRODUCTION AND SUMMARY

LDDS has filed comments in this and related proceedings advocating that the Commission extend resale requirements to all CMRS providers.[2] LDDS pointed out the numerous public interest benefits of a resale obligation, including its contribution to creating a more diverse and competitive telecommunications market:

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[1] Effective May 26, 1995, LDDS Communications, Inc. has changed its corporate name to WorldCom, Inc. The company's adoption of its new name reflects in part its continuing significant growth and its recent merger with IDB Communications Group, Inc. on December 30, 1994 and the acquisition of WilTel, Inc. on January 5, 1995.

[2] See Comments of LDDS Communications, Inc., CC Docket No. 94-54, filed September 12, 1994, at 21-22 ("LDDS Comments"); Reply Comments of LDDS Communications, Inc., CC Docket No. 94-54, filed October 13, 1994, at 14-15 ("LDDS Reply Comments"); Ex Parte Presentation of LDDS Communications, Inc., PR Docket Nos. 94-105 and 94-106, dated February 16, 1995 ("LDDS Ex Parte").

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- Resale allows new entrants to provide wide-area service while building out their facilities-based networks, allowing the carriers to bring service to market much faster.
- Resale helps drive rates to cost by allowing resellers to offer discounts that exploit the underlying carrier's non-cost-based rates.
- Resale makes it possible for a greater number of providers to compete in the provision of full-service packages.
- Resale provides a low-cost, easy means for small businesses and new entrants to participate in telecommunications markets, and to bring a broader range of service offerings tailored to the needs of different users.

The obligation to permit unlimited resale is also a fundamental Title II duty of every common carrier, including CMRS providers. LDDS urges the FCC to monitor the development of CMRS resale on an ongoing basis and to take action if facilities-based CMRS licensees are effectively blocking resale competition.

The Second Notice notes that commenters generally agree that the Commission should impose an obligation on CMRS carriers to permit unrestricted and nondiscriminatory resale.[3] The Commission tentatively concludes that "the existing obligation on cellular providers to permit resale should be extended to apply to CMRS providers, unless there is a showing that resale would not be technically feasible or economically reasonable for a specific class of CMRS providers."[4] By applying a resale obligation to all CMRS licensees, the Commission tentatively concludes that greater competition will be promoted, with minimal expense and no technical

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[3] Second Notice at para. 65.

[4] Second Notice at para. 83.

problems for most CMRS licensees.[5] As in the cellular area, the Commission proposes to impose a specific time limitation on the obligation of one facilities-based CMRS provider to permit another facilities-based CMRS provider to resell services.[6]

LDDS WorldCom continues to strongly support the FCC's proposal to impose a resale obligation on CMRS providers. The benefits of such a policy in the wireline long distance market point up the pro-competitive benefits of such a policy for CMRS.

I. THE COMMISSION SHOULD AFFIRM ITS TENTATIVE CONCLUSION THAT RESALE OF CMRS SERVICES IS IN THE PUBLIC INTEREST AND IS AN OBLIGATION THAT SHOULD BE IMPOSED ON ALL CMRS LICENSEES

The long distance wireline market with which LDDS WorldCom is most acquainted provides perhaps the best example of the tremendous success of the Commission's policies in favor of resale. Competition currently is flourishing in the long distance market. In particular, while the four largest interexchange carriers (IXCs), including LDDS WorldCom, operate through national networks comprised largely of wholly-owned or leased transmission and switching facilities, hundreds of national and regional networks have also been established utilizing resold interexchange services. As a result, long distance services today are provided over a diverse mix of resold, leased, and owned facilities. The ability of long distance carriers to employ resale to create the most efficient and economical network configurations has

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[5] Second Notice at paras. 84-85.

[6] Second Notice at paras. 90-93.

contributed significantly to the intensity of the competition in the interexchange marketplace.

A. Resale Allows Carriers To Compete While Building Out Their Networks

Resale of wireless services is in the public interest because it is crucial to advancing competition in the market. First, as the FCC points out, resale makes it possible for new entrants to provide wide-area service while building out their facilities-based network, thus allowing the new entrant to bring services to market much faster.[7] As a result, the resale of wireless services will help licensees build out their systems more quickly because they will be able to provide revenue-generating services sooner. In this regard, ownership of a CMRS license and facilities should not be a prerequisite to operating in the wireless business. As a prime example, the FCC does not require long distance companies to own facilities before entering the long distance business.

B. Resale Benefits Consumers By Pushing Rates To Cost

Moreover, resale helps to drive service rates to cost by allowing resellers to offer discounts that exploit the underlying carrier's non-cost-based rates. In addition, resale helps protect against unreasonable price discrimination among customers.[8] Thus, resale operates as a market-based supplement to regulation.

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[7] See Second Notice at para. 88.

[8] See Second Notice at para. 84.

C. Resale Permits More Carriers To Offer Full-Service Packages

The resale of local telephone service -- whether wireless or wireline -- also will make it possible for a greater number of providers to compete in the provision of full-service packages. Because it is unrealistic to expect that many companies will have facilities-based networks across all market segments, resale opens to all companies the potential for competing to offer one-stop shopping. This means additional service options for consumers and business users.[9]

D. Resale Lowers Barriers To Entry

Resale also serves as a valuable vehicle for competitive entry into the market, helping to expand the number of potential service providers.[10] Resale provides a low-cost, easy means for small businesses and new entrants to participate in telecommunications markets. Many of these entities develop their own switchless networks, allowing them to build a customer base with minimal economic investment in facilities. As a result, all carriers benefit from resale arrangements because they increase

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[9] For example, LDDS WorldCom has told the MFJ Court that a fundamental prerequisite to RBOC interLATA entry is the availability of a "carrier's carrier" local service product for resale. See Response of LDDS WorldCom to Motion of the United States for a Modification of the Decree to Permit a Limited Trial of Interexchange Service by Ameritech, filed May 31, 1995, at 26-27. LDDS WorldCom articulated a similar argument to the FCC recently regarding Ameritech's "Customers First" rules waiver request. See Comments of LDDS WorldCom, DA 93-481, filed May 16, 1995.

[10] See Second Notice at para. 84.

overall demand for services, increasing network traffic and permitting the achievement of economies of scope and scale.

Finally, resale allows numerous providers to compete in areas such as product design, customer support, billing detail, and pricing. This brings to the market a broader range of service offerings tailored to the needs of different users.[11]

II. UNRESTRICTED RESALE OF WIRELESS SERVICES IS REQUIRED BY THE COMMUNICATIONS ACT

The Commission has long held that denial of resale opportunities is unjust and unreasonable and unlawfully discriminatory in violation of Section 201(b) and Section 202(a) of the Communications Act.[12] In 1982, the Commission applied its resale obligation to cellular carriers.[13]

Thus, the unrestricted resale of telecommunications services is a fundamental principle of common carrier law. The obligation to permit resale of one's services is a basic duty of every common carrier, including CMRS providers. Restrictions on

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[11] See Second Notice at para. 84.

[12] See, e.g., Resale and Shared Use of Common Carrier Facilities, 60 FCC 2d 261 (1976); recon., 62 FCC 2d 588 (1977), aff'd sub nom., AT&T v. FCC, 572 F.2d 17 (2d. Cir.), cert. denied, 439 U.S. 875 (1978); Resale and Shared Use of Common Carrier Domestic Switched Network Services, 83 FCC 2d 167 (1980), recon. denied, 86 FCC 2d 820 (1981).

[13] Cellular Communications Systems, 86 FCC 2d 469 (1981), modified, 89 FCC 2d 58 (1982), further modified, 90 FCC 2d 571 (1982), appeal dismissed sub nom., U.S. v. FCC, No. 82-1526 (D.C. Cir. March 3, 1983); Petitions for Rulemaking Concerning Proposed Changes to the Commission's Cellular Resale Policies, 7 FCC Rcd 4006 (1992).

the availability of CMRS services for resale would clearly violate the Communications Act.

The FCC seeks comment on whether time limitations should be placed on a resale obligation for facilities-based CMRS competitors.[14] Should the FCC decide to adopt such a time limitation -- which already exists for cellular licensees -- the Commission should make clear that it is a limited exception to the general resale obligation, an exception that is necessary to ensure that holders of FCC licenses fulfill their obligation under the FCC's rules to build out their wireless network facilities in a timely fashion. In all other instances, the FCC should ensure that resale is an ongoing requirement for all common carriers.

III. MARKET FORCES ALONE WILL NOT ENSURE THAT ADEQUATE RESALE OPPORTUNITIES WILL BE AVAILABLE

Although a resale requirement undoubtedly will bring major lasting benefits to the CMRS market, the Commission must do more than simply endorse resale as a theoretical option. Resale must be made freely available as a practical matter by all CMRS providers because market forces do not always guarantee such an outcome. In the Second Notice, the Commission notes that "CMRS providers may have incentives to refuse to enter into resale arrangements with competing carriers," thereby preventing other providers from reselling their services.[15] LDDS agrees that

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[14] Second Notice at para. 90.

[15] Second Notice at para. 86.

facilities-based providers often have incentives to discourage resale of their services, even in markets that are competitive. As one example, the Commission recently found that AT&T has unlawfully denied resale of its Tariff 12 services and issued a notice of apparent liability against AT&T for $1 million.[16]

Resale restrictions have taken many forms in the past, including geographic restrictions and restrictions on the availability of volume discounted services for resale. The Commission has required cellular providers to make bulk discounted rates available to resellers. The FCC should make clear that this requirement applies equally to other CMRS providers.

LDDS WorldCom urges the FCC to monitor the continuing development of CMRS resale on an ongoing basis and take any action that is necessary to prevent facilities-based CMRS licensees from blocking resale competition. In particular, the FCC should be prepared to use its tariffing authority and the complaint process to enforce its resale requirement. In this vein, LDDS supports requiring CMRS carriers to implement number transferability as a means of encouraging a vibrant wireless resale market.[17]

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[16] Notice of Apparent Liability for Forfeiture and Order to Show Cause, FCC 94-359 (released January 4, 1995).

[17] See Second Notice at para. 94.

IV. CONCLUSION

For the reasons articulated above, the Commission should adopt its tentative conclusion that the resale of CMRS services is in the public interest and should not be subject to restriction.

Respectfully submitted,

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June 14, 1995

CERTIFICATE OF SERVICE

I, Cecelia Johnson, hereby certify that I have this 14th day of June, 1995 sent a copy of the foregoing "Comments of LDDS WorldCom" by first-class U.S. mail, postage prepaid, to the following:

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