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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY MESSENGER

The Hon. Alfred C. Sikes, Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Re: Personal Communications Services
General Docket 90-314

Dear Chairman Sikes:

American Personal Communications ("APC") supports the Commission's efforts to develop new personal communications services ("PCS") in the United States by adopting a Notice of Proposed Rule Making. Among the most important issues before the Commission is the size of PCS licensing areas. As you know, APC has proposed that the Commission define PCS licensing areas consistent with Rand-McNally's 49 "major trading areas."[1/] I am writing to suggest the addition of a 10 percent or even a 20 percent ownership benchmark to APC's "major trading area" proposal that will make major trading areas more flexible and inclusive than several of the other licensing area options before the Commission.[2/]

These benchmark options are suggested to permit many cellular companies and local exchange carriers to participate

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[1/] See APC, Supplement to Petition for Rule Making, pp. 27-32 (filed May 4, 1992); see also Amendment of the Commission's Rules to Establish New Personal Communications Services, Notice of Proposed Rule Making (the "Notice"), FCC 92-333, slip op. at 25-26 (Gen. Docket 90-314, August 14, 1992) (proposing major trading areas).

[2/] We submit this proposal prior to the formal comment deadline to permit interested parties to assess the "major trading area" proposal with the addition of the modified ownership benchmark in their initial comments. Because this benchmark may be a threshold issue determining whether some parties can support the major trading area concept, APC's early filing on this score will permit the parties time for any required analysis now and thus avoid potential delays to the rule making process when comments are filed in November.

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in PCS even if the Commission prevents cellular licensees or local exchange carriers from applying for PCS licenses within their own cellular service area. Thus, if an entity has a less than 10 percent, or less than 20 percent, interest in the cellular licensee or local exchange carrier serving the same area, it would not be barred from filing for a PCS license in that area.[3/]

Our suggestion would be that if the entity in question owned 100 percent of a cellular system or telephone company that served less than 10 percent or 20 percent of the population of the major trading area, then it would not be disqualified. Minority interests would be subject to multiplier principles similar to those set forth in the Commission's multiple ownership rules, so that if the entity in question owned 25 percent of a cellular system which served 36 percent of the population of the PCS licensing area, it would be attributed with a 9 percent interest (25% x 36%) and then would be eligible to apply for a PCS license for that area.[4/] The same principles would apply with respect to calculating the ownership interest in the PCS application. A less than 10 percent interest, or 20 percent interest, as the case may be, in the PCS application would not be attributable (i.e., would not be considered to trigger the bar).

* * *

APC has not taken a position on whether existing cellular licensees or local exchange carriers should be excluded from applying for PCS licenses because of competitive considerations. APC has, nonetheless, considered whether its major trading area proposal would foreclose those entities from participating in PCS to a greater degree than smaller

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[3/] This approach is substantially more liberal than the 1 percent and 5 percent options identified by the Commission. See Notice at 28 n.46.

[4/] As in the Commission's multiple ownership rules, interests of 50 percent or more could be treated as if they were 100 percent interests for purposes of the multiplier, because ownership of more than 50 percent implies control of the licensee. Alternatively, a more liberal approach could be used under which the ownership percentage always would be used for purposes of the multiplier even if that percentage were greater than 50 percent.

licensing area options if the Commission determines that these entities will be ineligible within their own service areas.

The options here suggested would provide greater flexibility and allow for greater participation in PCS than other options before the Commission. In the Washington/ Baltimore major trading area, for example, there are 30 wireline and non-wireline cellular licensing areas. Under the options advanced by APC, only the two dominant cellular licensees in the entire region (Bell Atlantic and Southwestern Bell) would be ineligible to apply for PCS licenses.[5/] Under our proposal, the 18 other cellular licensees in the area would be permitted to apply for PCS licenses to serve the entire major trading area.

* * *

A major advantage of APC's major trading area proposal is that the Commission could license PCS nationwide in less than 100 licensing decisions. There would be substantial opportunity for diversity among the licensees and yet the market areas would be large enough to generate economies of scale and healthy competition with other providers of mobile communications services. APC was surprised to learn that the Cellular Telecommunications Industry Association ("CTIA") favors the replication of the 734 cellular licensing areas for the PCS licensing process. This view is difficult to reconcile with the fact that the use of cellular licensing areas for PCS would require almost 1,500 licensing decisions (assuming two licensees per market) or almost 2,250 licensing decisions (assuming three licensees per market) before PCS could be implemented nationwide. Even adoption of "basic trading areas" would lead to almost 1,000 to almost 1,500 licensing decisions. Cellular licensing has absorbed more than a decade of the Commission's attention and

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[5/] Of course, the Commission now grants cellular licensees the flexibility to provide many forms of PCS over cellular frequencies today, and some cellular industry associations even assert that cellular <u>is</u> PCS. Given the flexibility of the Commission's rules and the amount of capacity that will be reclaimed by the eventual shift to digital cellular, APC believes that cellular licensees in all markets will provide PCS to the public in competition with PCS licensees regardless of whether cellular companies are permitted to apply for new PCS spectrum.

is continuing even today. This delay in cellular licensing has been estimated to have cost the American economy $86 billion.[6/] Our economy should not suffer similar or greater losses by analogous delays in licensing PCS.

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Should any questions arise in connection with the matters discussed in this letter, please do not hesitate to contact us.

Very truly yours,

Wayne N. Schelle
Chairman

cc: Docket file
All parties filing Notice of Inquiry comments in Gen. Docket 90-314
Mr. Thomas Wheeler, CTIA

[6/] See J.H. Rohlfs, C.L. Jackson, & T.E. Kelly, Estimate of the Loss to the United States Caused by the FCC's Delay in Licensing Cellular Telecommunications (National Economic Research Associates, 1991). Additionally, some aspects of cellular licensing areas would be inappropriate for PCS. Rural PCS service areas, for example, could be uneconomic and remain largely unbuilt if not linked to associated metropolitan areas in the manner of APC's major trading area licensing concept.