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March 7, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND DELIVERY

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

Re: Notice of Ex Parte Communication in CC Docket 94-54

Dear Mr. Caton:

On March 7, 1996, on behalf of WorldCom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"), Richard Fruchterman of LDDS WorldCom, and I of Hogan and Hartson L.L.P., met with Michele Farquhar, Chief of the Wireless Telecommunications Bureau, and with Karen Brinkmann and Rosalind Allen of the Bureau to discuss the referenced proceeding. The attached handout was used in our discussion.

I have hereby submitted two copies of this notice and the attachment for the referenced proceeding to the Secretary, as required by the Commission's rules. Please return a date-stamped copy of the enclosed (copy provided).

Please contact the undersigned if you have any questions.

Respectfully submitted,

Linda L. Oliver

Linda L. Oliver
Counsel for LDDS WorldCom

Enclosure

cc: Michele Farquhar
Karen Brinkmann
Rosalind Allen

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Ex Parte Presentation Of
LDDS Communications, Inc.
CC Docket No. 94-54
March 1996

THE COMMISSION SHOULD NOT ALLOW CMRS PROVIDERS TO DENY SERVICE TO RESELLERS.

1. **Wireless resale will be fundamental to a diverse and fully competitive telecommunications market.**

2. **The Commission should make it clear that restrictions against wireless resale are discriminatory and violate the Communications Act.**

3. **The FCC should ensure that wireless resale opportunities will be protected.**

I. RESALE OF WIRELESS TELECOMMUNICATIONS SERVICES HAS MANY PUBLIC INTEREST AND PRO-COMPETITIVE BENEFITS.

A. Resale Helps Buildout of Facilities. Wireless resale can help new entrants develop a customer base and revenue stream that can fund buildout of facilities.

* In the long distance market, resale has made it possible for new entrants to provide wide-area service while building out a facilities-based network, and thus to bring service to market much faster.

* Today's long distance services continue to be provided over a mix of resold, leased, and owned facilities.

B. Resale Promotes Competitive Choice in Full Service Packages. Resale of local service -- whether wireless or wireline -- will make it possible for a greater number of providers to compete in the provision of full-service packages.

* It is unrealistic to expect that many companies will have facilities-based networks across all market segments -- wireline local, wireline long distance, wireless, and video. Resale opens to all companies the potential for competing in provision of full-service packages.

* MCI and Time Warner, for example, have announced their intention to participate in the wireless market by reselling cellular services in combination with other services they already provide.

* Systems integrators also will have a role to play in fulfilling consumer needs for full-service packages.

* RBOC InterLATA entry will make wireless resale even more essential. The RBOCs' competitors will need the ability to include wireless as well as wireline local services in their full service packages.

C. Resale Expands Consumer Choices. 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.

D. Barriers To Entry Through Resale Are Low. Resale provides a low-cost, easy means for small businesses and new entrants to participate in telecommunications markets.

E. Resale Provides Competitive Pressures on Price. Resale helps to drive rates to cost, by allowing resellers to offer discounts that exploit the underlying carrier's non-cost-based rates. Thus, resale is a market-based supplement to regulation.

II. RESALE OF WIRELESS SERVICES IS CRUCIAL TO ADVANCE COMPETITION IN THIS MARKET.

A. Wireless resale will allow non-licensees to include wireless services in their service offerings, just as licensees will be able to do.

* Ownership of a CMRS license should not be a prerequisite to being in the wireless business.

* The Commission does not require long distance companies to own facilities before entering the long distance business. There should be no such barrier to entry in the wireless business either.

B. Resale of wireless services will help licensees build out their systems more quickly because they will be able to provide revenue-generating service sooner. Some limitations on the right of licensees to resell their facilities-based competitor's service may be appropriate in order to encourage all licensees to construct their systems promptly.

III. UNRESTRICTED RESALE OF TELECOMMUNICATIONS SERVICES IS A FUNDAMENTAL PRINCIPLE OF COMMON CARRIER LAW.

A. The Commission has long recognized the public interest and pro-competitive benefits of resale.

B. The Commission itself consistently has required unrestricted resale of all telecommunications services, including wireless services.

* The Commission has long required resale of cellular service.

* The Commission has reaffirmed the importance of wireless resale in its CMRS attribution order. 1/

C. The sole exception the Commission ever has permitted to its resale requirement has been to allow cellular carriers to deny resale to the other cellular licensee after the five-year buildout period, as a means to ensure that initial cellular systems will be fully built.

D. CMRS providers that deny services to resellers are engaging in unreasonable discrimination and anticompetitive activity.

1/ *Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*, GN Docket No. 93-252 at ¶ 10 (released Nov. 18, 1994) ("We believe that resale activities are in the public interest because they expand the availability of communications services, promote the efficient use of spectrum, and enhance competition.").

IV. MARKET FORCES DO NOT NECESSARILY ENSURE THAT RESALE WILL BE POSSIBLE AS A PRACTICAL MATTER.

A. Resale must be a practical, as well as a theoretical, option.

B. Facilities-based providers often have incentives to discourage resale of their services, even in markets that are competitive.

* For example, the Commission has found that AT&T had unlawfully denied resale of its Tariff 12 services, and issued a notice of apparent liability against AT&T in the amount of $1 million. 2/

C. Resale restrictions have taken many forms in the past, including geographic restrictions and restrictions on the availability of volume discounted services for resale.

D. Resale of cellular service has not generally been easy or profitable.

E. Commission policy prohibiting restrictions on wireless resale therefore is essential.

2/ *Notice of Apparent Liability for Forfeiture and Order to Show Cause,* FCC 94-359 (released Jan. 4, 1995).