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CC 96-98

Building The Wireless Future™

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July 11, 1996

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Randall S. Coleman
Vice President for Regulatory Policy and Law

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JUL 11 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: ***Ex Parte* Presentation**
CC Docket No. 95-185 (Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers) and **CC Docket No. 96-98** (Implementation of the Local Competition Provisions in the Telecommunications Act of 1996)

Dear Mr. Caton:

On Friday, June 28, 1996, the attached CTIA White Paper, "A Bold Policy Is The Best Policy: Reciprocal Termination Is Pro-Consumer and Permissible," and related cover letter, were delivered to FCC Chairman Reed E. Hundt, Commissioner James H. Quello, Commissioner Susan Ness, Commissioner Rachelle B. Chong and the Commission employees listed below:

Rosalind Allen	Laurence Atlas	Rudolfo Baca
Lauren Belvin	Nancy Boocker	Karen Brinkmann
James Casserly	Jackie Chorney	John Cimko
James Coltharp	David Ellen	Michelle Farquhar
Joseph Farrell	David Furth	Donald Gips
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Christopher Wright		

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Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and the attachment are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Randall S. Coleman

Attachments

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Vice President for
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July 11, 1996

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: **CC Docket No. 95-185** (Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers) and **CC Docket No. 96-98** (Implementation of the Local Competition Provisions in the Telecommunications Act of 1996)

Dear Mr. Chairman:

The attached CTIA White Paper, "A Bold Policy Is The Best Policy: Reciprocal Termination Is Pro-Consumer and Permissible," underscores the tentative conclusions reached by the Commission in the *NPRM* in CC Docket No. 95-185, *e.g.*, that reciprocal termination (or "bill and keep") is (1) administratively simple, (2) prevents the abuse of market power by LECs, and (3) is economically efficient. The White Paper also highlights the support of reciprocal termination expressed by leading business and residential consumer organizations.

The attached White Paper also cautions against a repudiation of Section 332 of the Communications Act as a serious blow to the will of Congress, and the expectations of new wireless entrants, that the FCC, not the states, would remain the arbiter if policies affecting CMRS.

Sincerely,

Randall S. Coleman

Attachment

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LEC-CMRS Interconnection WHITE PAPER No. 2
First Series

A BOLD POLICY IS THE BEST POLICY: RECIPROCAL TERMINATION IS PRO-CONSUMER AND PERMISSIBLE

July 11, 1996

A Bold Policy Is the Best Policy: Reciprocal Termination Is Pro-Consumer and Permissible

In December 1995, the FCC tentatively concluded that "reciprocal termination" "represents the best interim solution with respect to [LEC-CMRS interconnection]."[1] The FCC noted that this solution is (1) administratively simple, (2) prevents the abuse of market power by LECs, and (3) is economically efficient.[2] In fact, reciprocal termination is all of these things, and more.

Reciprocal Termination Offers To Cut Consumer Bills

The leading business and residential consumer organizations support the FCC's LEC-CMRS **reciprocal interconnection** proposal because it **offers "significant consumer benefits" in the form of lower prices to consumers and the elimination of "the largest current regulatory barrier to the rapid growth of PCS service" and to "wireless competing with local wireline service."**[3]

The **Consumer Federation of America** (CFA) recently said: "**The current compensation regime for traffic exchange is the most anti-consumer, anti-competitive model and is a remaining vestige of monopoly control over the local network.**"[4]

The **Telecommunications Ratepayers Association for Cost-based and Equitable Rates** (TRACER) observed in its Reply Comments: "**for competition to be successful . . . it is essential that rational interconnection policies be adopted**. If new entrants are burdened by unnecessarily high interconnection costs, competition will effectively be precluded from providing any meaningful downward pressure on rates."[5]

The **International Communications Association** said on June 25: "**Failure to enact this proposal would cost business and residential wireless consumers hundreds of millions in annual savings, [and] seriously delay the advent of wireless competition for local telephone service.**"[6]

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[1] *Notice of Proposed Rulemaking, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers,* CC Docket No. 95-185, released January 11, 1996, (*LEC-CMRS Interconnection NPRM*), at para. 60.

[2] *Id.* at para. 61 (in particular, this solution is efficient when (a) traffic is balanced in each direction, or (b) actual interconnection costs are so low as to produce little difference between zero and a cost-based rate).

[3] Letter from Brian R. Moir, International Communications Association, Brad Stillman, Consumer Federation of America, Arthur A. Butler, TRACER, and August Sairnen, Information Technology and Telecommunication Association, to Chairman Reed E. Hundt, and Commissioners James H. Quello, Andrew C. Barrett, Susan Ness and Rachelle B. Chong, March 26, 1996 (emphasis supplied).

[4] Statement of Bradley Stillman, Telecommunications Policy Director, CFA, June 25, 1996.

[5] Reply Comments of TRACER, CC Docket No. 95-185, March 22, 1996, at p.2.

[6] ICA Press Release, June 25, 1996.

The FCC has declared its goal is to remove barriers in order to "stimulate the development of new services and technologies, and create incentives for carriers to lower prices and costs."[7] (At an average of three cents per minute, CMRS payments to LECs total about $1 billion per year.) While the FCC has declared that "competition from PCS, alone, is expected to reduce cellular prices by as much as 40 % over the next two years," reciprocal termination offers to reduce CMRS costs overall by 10 % practically immediately, and set into play powerful competitive forces that promise to change the dynamics of the telecommunications industry.

As the CFA says:

> **As new players come to the wireless market, a reduction in artificially inflated termination charges will provide an increased opportunity for aggressive price competition. Such a downward pressure on rates could help make wireless services more affordable for the residential consumer, for whom these services are currently too expensive. The fact is, if prices decline, the residential consumer will be a significant growth market for wireless services.**[8]

RECIPROCAL TERMINATION ENCOURAGES EFFICIENCY

Reciprocal termination -- under the name of "mutual traffic exchange" or "bill and keep" -- is recognized by many states as a pro-competitive policy for CLEC-LEC interconnection. Reciprocal termination eliminates the need for expensive and time-consuming negotiations and regulatory proceedings to set interconnect rates. Instead, it provides incentives for efficient interconnection, the recovery of costs from each carrier's own customers, and eliminates the demand-reducing effect that a per minute charge of any sort imposes on the traffic of consumers using new local networks.

SEPARATE AND INDEPENDENT FCC JURISDICTION APPLIES TO CMRS-LEC INTERCONNECTION AND CLEC-LEC INTERCONNECTION

The FCC has separate and independent jurisdiction over CMRS-related issues under Section 332 of the Communications Act, as amended by the Omnibus Budget Reconciliation Act of 1993, as the Commission recently found in its *Report and Order* on number portability. Rather than relying upon the grant of authority contained in Section 251(b) of the Telecommunications Act of 1996 (which it used to adopt its LEC/CLEC portability policy), the FCC relied upon its authority under Section 332 as the basis for applying portability to CMRS providers.[9]

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[7] *First Report and Order and Further Notice of Proposed Rulemaking, Telephone Number Portability*, CC Docket No. 95-116, RM 8535, FCC 96-286, released July 2, 1996, at para. 158.
[8] Statement of Bradley Stillman, CFA, June 25, 1996.
[9] *First Report and Order and Further NPRM, Telephone Number Portability*, at paras. 4, 7. *See also* 47 U.S.C. Sections 251(b) and 332(c).

The Commission must reject the notion that Section 332 was repealed by Sections 251 and 252 of the Telecommunications Act of 1996. Such a ruling would be inconsistent with the plain language of the Telecommunications Act of 1996, and it would be fatal to the FCC's pro-competitive objectives and Congress' pro-competitive policies. It would fundamentally alter the clear federal jurisdiction promised the parties which paid billions of dollars for PCS spectrum in the last year.

RECIPROCAL TERMINATION IS THE BEST POLICY FOR COMPETITION

In the final analysis, Reciprocal Termination -- whether known by that name, as "bill and keep" or as "mutual traffic exchange" -- is the best policy for a competitive marketplace. As with price caps, reciprocal termination provides incentives for more efficient operations by LECs. Reciprocal termination also prevents the abuse of their dominant market position by LECs, and fosters the provision of competitive services by CMRS providers.