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December 5, 1996

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Federal Communications Commission
Office of Secretary

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

96-115

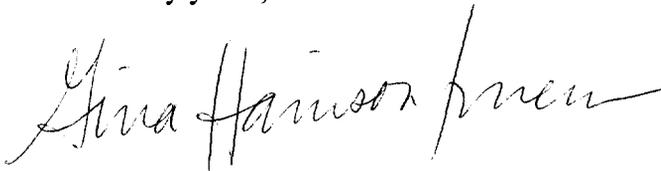
Dear Mr. Caton:

Re: CMRS Competitive Safeguards, WT Docket No. 96-162;
CPNI, CC Docket No. 96-115

Yesterday, Betsey Granger, Senior Attorney, Pacific Bell Mobile Services, and I met with Karen Brinkmann, Associate Chief, Wireless Telecommunications Bureau and Mika Savir of the Commercial Wireless Division, Wireless Telecommunications Bureau, to discuss the issues summarized in the attachment. We are submitting two copies of this notice, in accordance with Section 1.206(a)(1) of the Commission's rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions.

Sincerely yours,



Attachment

cc: K. Brinkmann
M. Savir

Competitive Service Safeguards for
Local Exchange Carrier Provision of
Commercial Mobile Radio Services
WT Docket No. 96-162

Presentation by Pacific Bell Mobile
Services

December 4, 1996

Structural Separation Should Not Be Extended to BOC Provision of PCS

- “We continue to believe that it serves the public interest to permit the LECs, including the BOCs, flexibility in the provision of PCS through nonstructural safeguards as part of our efforts to introduce greater competition to the CMRS market.” NPRM, August 13, 1996.
- Relying on Commission decisions, PBMS has integrated its PCS business with Pacific Bell.
- Undoing this would be enormously expensive and delay competition -- just what cellular wants.
- Arguments to impose structural separation on the provision of PCS are untimely petitions for reconsideration.

Structural Separation Should Not Be Extended to BOC Provision of PCS

- There are no changed circumstances that support a change in the Commission's decision, (Amendment of the Commission's Rules to Establish New Personal Communications Services, Second Report and Order, 8 FCC Rcd 7700, para. 126, 1993). If anything, the passage of the Telecommunications Act of 1996 adds weight to the Commission's position in favor of non-structural safeguards.

The Concerns That Led to Structural Separation Are Addressed Through Price Caps, Accounting Safeguards and Non-Discrimination Interconnection Obligations

- Structural separation was imposed to assure non-discriminatory interconnection and protection against cross-subsidy.
- Now, stringent accounting safeguards imposed in Part 64 and Part 32, as well as price caps, prevent cross-subsidy.
- Non-discriminatory interconnection obligations have existed since cellular service began and have been codified by the Telecommunications Act.

The Concerns That Led to Structural Separation Are Addressed Through Price Caps, Accounting Safeguards, and Non-Discrimination Interconnection Obligations

- The record contains no evidence of discriminatory interconnection practices, *i.e.*, the provision of interconnection that favors an affiliated wireless provider. GTE has provided integrated LEC and wireless service for a decade and has had no claims filed against it.

The Accounting Rules Do Not Need to Be Strengthened

- Some commenters misunderstand the effect of the Commission's proposed requirement that PCS should be provided in a separate affiliate with separate books.
- This requirement moots any argument that Part 64 needs to be amended to better identify CMRS costs. The costs are already off the BOC's books.
- Requests for a line-by-line disclosure of CMRS costs must be rejected.
- Part 64 accounting audits are sufficient to insure compliance with accounting safeguards. There is no need to disclose publicly the costs of a competitive service.

The Commission's Rules Should Support One-Stop Shopping, Not Hinder It

- Joint marketing was specifically addressed and permitted by Congress.
- CPNI rules affect our ability to do joint marketing.
- Our competitors know this and seek to limit our ability to joint market by advocating stringent CPNI rules be imposed on BOCs.
- The Commission declined to bar AT&T from sharing CPNI with its cellular affiliates because it did not want to limit customer choice and efficiency. “We continue to believe that prohibiting the sharing of CPNI among AT&T’s affiliates would diminish the benefits of removing structural separation....” “‘One-stop shopping’ promotes efficiency and avoids customer confusion.” AT&T/McCaw Transfer Reconsideration Order, 10 FCC Rcd 11786, 11795-96 (1995).

The Commission's Rules Should Support One-Stop Shopping, Not Hinder It

- AirTouch advocates that written authorization must be imposed on the LECs for release of CPNI to the CMRS affiliate. This is an attempt to limit PBMS's use of the PB sales channel to sell mobile services.
- It is entirely appropriate and consistent with Congressional intent to use the PB sales channel to sell PCS; the Commission should reject attempts to limit customer access to one-stop shopping.
- The affiliate transaction rules apply to the use of the PB sales channel. PB will be compensated for these costs.

The Commission's Rules Should Support One-Stop Shopping, Not Hinder It

- The Commission must reject AT&T's request that a BOC and its affiliate that intend to market jointly should be required to announce the availability and terms of any such arrangement at least three months prior to implementing it.
- There is no basis in the law or Commission regulation for Comcast's request that any marketing service offered by a BOC to its CMRS affiliate must be available to non-affiliated CMRS providers on the same terms and conditions.
- Likewise, access to billing services under the same terms and conditions offered to a CMRS affiliate should not be mandated.

CPNI Rules Must Be Consistent with the Statute

- Requests that any release of BOC CPNI to a CMRS affiliate should result in disclosure to all other competing CMRS providers ignore the statutory requirements. These requests must be rejected.
- The customer controls the release of his/her CPNI and release to third parties must be in writing. 47 USC §222(c)(2).
- Likewise, the statute does not support requests for third party access to BOC bill inserts to obtain release of CPNI.
- Nor does the statute support a requirement that LECs should be required to seek authorization from their customers as a prerequisite to their use of CPNI.

Conclusion

- PCS is a new service that offers a competitive alternative in the mature cellular market.
- The Commission's proposal for non-structural safeguards should be the upper limit of regulation. Attempts by our competitors to impose greater regulation must be rejected.
- Consistent with the sunset provisions of the Telecommunications Act of 1996, the Commission should include a sunset provision for its proposed separate affiliate requirement.