ClearComm

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Federal Communications Commission
Office of Secretary

June 20, 1997

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

Re: Broadband PCS C&F Block Financial Restructuring
WT Docket 97-82, DA 97-679

Dear Mr. Hundt:

ClearComm, L.P. (formerly PCS 2000, L.P.) hereby requests that the Commission restructure the terms for installment payment financing of licenses obtained in the C Block spectrum auction. Recently you have stated that you are prepared to urge such restructuring if necessary to make the C block a viable, competitive segment of Broadband PCS. As demonstrated below, ClearComm's request is consistent with this goal and the public interest. Without significant restructuring, small businesses like ClearComm will not have a fair chance to attract investment capital.

In the auction, ClearComm acquired 15 licenses representing a population reach of 8.8 million in Puerto Rico and the western United States. We raised capital to participate in the auction and initially fund the Company from 1,641 individual investors, over 99% of whom are United States citizens. These individuals, limited partners, have invested nearly $70 million in the Company. ClearComm currently does not have any institutional or corporate investors. The majority of our control group is comprised of women and members of the Hispanic community.

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ClearComm made its 10% deposit with limited-partner investor funds that are not loans that have to be repaid. We have enough cash in the bank to meet quarterly interest payments to the FCC and our operating capital needs for the near term. We have met all of our financial obligations to the Commission on a timely basis. Unfortunately, this prudent and conservative approach is not enough given the investment community's attitude toward the FCC license debt.

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Several factors have contributed to the financing uncertainty that currently confronts C Block entrepreneurs. First, there were significant delays in conducting the auction itself. The auction process was delayed three times due to court-ordered stays. These delays significantly increased the competitive advantage already accorded to A and B Block participants by the Commission's decision to conduct those auctions ahead of the C Block auction. The A and B Block licensees, predominately the major telecommunications companies, enjoyed more than a full year's head start over C Block participants in building out their PCS networks and penetrating the market.

Secondly, and most importantly, delays in the C Block auction meant that A and B Block licensees, many of them with long-established relationship in the financial community, were able to access the capital markets well ahead of C Block participants. The C Block auction was conducted at a time when A and B Block companies were successfully raising capital in the public equity and debt markets. The most efficient marketplace in the world, the public equity markets, were valuing those companies on a basis that, in many cases, was higher than prices paid in the C Block auction. Unfortunately, the public equity markets have been brutal in their valuation of domestic wireless companies in general in the last several months. Only recently have the stocks of some of these companies seen a small positive move to the plus side.

Third, intervening action by the Congress and the Commission itself have contributed to concerns in the capital markets about financing the C Block license debt. Pursuant to a Congressional directive enacted after the C Block auction, the Commission has just recently completed an auction for a new "Wireless Communications Service." Further, both the Administration and Congress are now proposing auctions over the next five years to raise as much as $26 billion. Radio spectrum is, at least theoretically, infinitely divisible. The capital markets need assurance that Commission policies will recognize that, in the actual marketplace, license values are directly related to supply. The markets also need to know that the Commission, as a major creditor, is prepared to take steps to permit the C Block licensees to succeed.

All of the foregoing uncertainties are making it very difficult for ClearComm to secure necessary public equity or debt capital to develop its markets. Under current conditions, the license debt is viewed as artificially high. Further, obligations to make installment payments in the early years are considered to be a drain on resources that best would be devoted to building our systems and developing a base of customers. Vendor financing, in turn, is unavailable because it is contingent upon our ability to raise public equity or high yield debt.

ClearComm's discussions with investment bankers and equipment vendors make clear that most Designated Entities cannot expect to obtain sufficient capital to provide current payments for both system buildout and FCC interest obligations at this time. For this reason, we strongly urge the Commission to adopt changes in the installment payments terms that,

consistent with public interest goals, will permit C Block licensees to raise the capital they need. The Commission has before it two sets of proposals -- from MCI and General Wireless, Inc. -- that go a long way toward achieving this end. We believe that in considering these and other proposals, the Commission should be guided by the following principles -

-- The Commission should determine what restructuring is appropriate in light of the Communications Act's public interest objectives. These include assuring rapid deployment of C Block systems and encouraging economic opportunity and competition. The statute requires recovery of only "a portion of the value of the public spectrum."

-- The Commission should act as expeditiously as possible. C Block licensees were seriously disadvantaged by the head start accorded to A and B Block licensees. This disadvantage only increases with each day that restructuring is delayed.

-- The Commission should make any restructuring of license financing terms available to all C Block participants, at the licensee's option. It is important to keep competitive equities balanced among C Block entities.

-- The Commission should defer all interest payments on license debt for a minimum of five years. For most small businesses, such deferral appears to be a sine qua non for access to the capital markets. Interest payment deferral will enable C Block licensees to invest quickly in system deployment and operations, thereby significantly improving their ability to compete effectively against larger, established service providers.

-- The Commission should extend installment financing, at the rates provided in the rules, from the current 10 years to 15 or 20 years. C Block licensees must compete against existing cellular operators who paid nothing for their licenses, in addition to well-financed A and B Block operators.

-- The Commission should permit C Block licensees to prepay their license debt, within a stated period, at a discounted price that recoups the present value of foregone FCC financing, with an additional discount calculated to encourage licensees to take advantage of the prepayment option. This would relieve the Commission of both the burdens of debt administration and the risks inherent in its creditor status.

-- The Commission should make clear that its "unjust enrichment" rules do not apply to auctions in which bid prices exceed prices paid contemporaneously for comparable spectrum (here the A and B Block licenses). The statute contemplates recoupment of actual unjust enrichment only, an FCC statement to that effect will remove uncertainty about the true value of C Block licenses.

ClearComm, like other C Block participants, entered the auction process believing that we can build a business that will compete effectively in the marketplace. Early evidence bears out that our goals, and the Commission's, are achievable if the C Block remains economically viable. In a study of 30 markets, for example, the Yankee Group has recently found that wireless pricing in markets with at least one PCS operator averages 18 % lower than in markets with no PCS competition, and that PCS pricing typically is 10-15% lower than cellular pricing.

ClearComm recognizes that not every C Block company will survive in a new highly competitive wireless marketplace. We are convinced, however, that changes to the installment payment provisions along the lines described above will assure survival for companies that provide the best wireless service at the most competitive price to the widest range of consumers.

C Block companies by definition had to be small in order to participate in the designated Entity auction. For companies like ClearComm, the FCC's favorable installment financing made that participation possible. It is now clear, however, that the very substantial installment interest obligations need to be deferred, and the term of the loans significantly extended, in order for many if not most of these companies to have a real chance in the marketplace. For that reason, ClearComm urges the Commission to take action to restructure the installment payment terms for C Block entrepreneurs. Because time to market truly is critical here, we ask the Commission to act as expeditiously as possible.

Respectfully,

ClearComm, L.P.

John J. Duffy
Senior Vice President - External Affairs

cc: Commissioners
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