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EX PARTE

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

Dear Mr. Caton:

Re: CPNI, CC Docket No.96-115; WT Docket No. 96-162, Competitive Service Safeguards for LEC Provision of CMRS

Today, Jim Tuthill, Vice President, External Affairs, and Denise A. Christmann, Manager, Industry Affairs, Pacific Bell Mobile Services, and I met with Karen Brinkmann, Associate Chief, Wireless Telecommunications Bureau, to discuss 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: Karen Brinkmann

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Presentation by Pacific Bell Mobile Services on CPNI and Wireless Service CC Docket No. 96-115 and WT Docket No. 96-162

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PACIFIC BELL
Mobile Services

The New CPNI Rules Should Not Focus on Enhanced Services and CPE

- Existing CPNI rules are based on distinctions of basic service, enhanced service and CPE in the landline context.
- Some parties advocate that the CPNI requirements of the Telecommunications Act of 1996 should maintain this focus.
- As Pacific Telesis explained in its comments and ex parte filings, the new rules should focus on buckets and integrated packages within the buckets, not on CPE and enhanced services.
- This is especially true for wireless service which has never been subject to CPNI rules related to CPE and enhanced services.

Historically, The Commission Has Treated The Wireless Family As a Whole

- Over a decade ago, the Commission analyzed the nature of wireless offerings and concluded that the wireless family of services can be provided without regard to the distinction of CPE and enhanced/information services. In the Matter of Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Commissions Services by Bell Operating Companies, CC Docket No. 84-637, 57 Rad. Reg. 2d 989 (1985).

Historically, the Commission Has Treated the Wireless Family As a Whole

- In that decision the Commission concluded that cellular service, CPE, and enhanced services could be provided in one subsidiary.
- No customer proprietary information rules were imposed on services and products offered within the subsidiary.
- The only customer proprietary information rule that was imposed prohibited BOCs from sharing customer proprietary information with the cellular subsidiary unless such information was publicly available on the same terms and conditions.

Historically, the Commission Has Treated the Wireless Family As a Whole

- In 1992, the Commission specifically authorized cellular CPE and cellular service to be offered on a bundled basis. In the Matter of Bundling of Cellular Customer Premises Equipment and Cellular Service, CC Docket No. 91-34, released June 10, 1992.
- Commercial Mobile Service is broadly defined and has never been subdivided into basic and enhanced services. In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411 (1994).

Wireless Service Encompasses All Associated Components

- Whether or not the Commission concludes a separate bucket of wireless service is appropriate, all components of a wireless service (local, long distance, voice mail, text messaging, etc.) should be treated as "services necessary to, or used in the provision of such telecommunications service" and not subject to any CPNI restrictions.
- We advocated this position in our comments in Docket 96-162. No commenters objected to treating wireless services as a whole.
- The handset is an integral part of the wireless package and should not be treated separately for CPNI purposes.

The CPNI Provisions of the Telecommunications Act Do Not Require Any Subdivision Within Wireless Service

- The CPE and enhanced services distinction arose in the landline context over a decade ago.
- Wireless services have always been competitive and competition continues to grow.
- Any division within the wireless family of services for CPNI purposes would hamper the marketing efforts of wireless carriers and confuse the public.

The CPNI Provisions of the Telecommunications Act Do Not Require and Subdivision Within Wireless Service

- Neither privacy nor competitive issues arise from treating wireless as a whole. All wireless competitors benefit equally. As is customary in the wireless market, customers expect to be able to purchase a package of wireless CPE and services and receive marketing information without having to provide consent.

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

- The Telecommunications Act of 1996 specifically allows the joint marketing of CMRS with telephone exchange service, exchange access, intraLATA telecommunications, interLATA telecommunications service, and information services.
- The CPNI rules must not create procedures such as affirmative written consent that effectively hamper the ability of a BOC to offer the one-stop shopping that Congress intended.

Conclusion

- The procompetitive, deregulatory goals of the 1996 Telecommunications Act will be furthered by continuing to allow wireless carriers to market their services and products as a whole.
- Treating the wireless family of services and products as a whole does not change the relationship with the services in the other buckets. Consent is still required to obtain CPNI from the local and long distance buckets.
- The Commission should officially recognize that the enhanced/information services distinction has no relevance in the wireless context. Furthermore, the CPNI rules should not separate wireless CPE and service into separate categories.