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**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT
ON CTIA PETITION REQUESTING FORBEARANCE FROM
CMRS NUMBER PORTABILITY REQUIREMENTS
CC Docket No. 95-116**

Comment Date: February 23, 1998
Reply Comment Date: March 10, 1998

On December 16, 1997, the Cellular Telecommunications Industry Association ("CTIA") filed a petition requesting that the Commission employ its authority under section 10 of the Communications Act of 1934, as amended¹ to forbear from enforcing number portability requirements for CMRS providers.²

CTIA requests that the Commission forbear from enforcing the June 30, 1999 implementation deadline for CMRS service provider number portability at least until the completion of the five-year build-out period for broadband personal communications services ("PCS") carriers has expired.³ CTIA asserts that competition is flourishing in the CMRS market notwithstanding the current lack of implementation of number portability.⁴ CTIA believes that competition in the absence of number portability supports forbearance and favors aggressive network build-out.⁵ CTIA states that for PCS providers the market supports a finding that the key to competition is "enhancing coverage areas, aggressive marketing, and reducing consumer telephone prices (to compete with cellular phones)."⁶ Therefore, CTIA maintains that the diversion of finite financial resources from current number portability obligations to maximum capital

¹ See 47 U.S.C. § 160 (a).

² Prior to submitting its petition requesting forbearance, CTIA petitioned the Wireless Telecommunications Bureau for a nine-month extension of the implementation deadline for CMRS service provider number portability pursuant to the Bureau's delegated authority. See Telephone Number Portability, CC Docket No. 95-116, Petition for Extension of Implementation Deadlines of Cellular Telecommunications Industry Association (filed Nov. 24, 1997). On December 9, 1998, the Bureau issued a Public Notice seeking comment on this petition. See *Public Notice*, "Wireless Telecommunications Bureau Seeks Comment on CTIA Petition to Extend Implementation Deadlines of Wireless Number Portability," DA 97-2579, (rel. Dec. 9, 1997).

³ CTIA Number Portability Forbearance Petition at 3.

⁴ *Id.* at 5.

⁵ *Id.* at 4.

⁶ *Id.*

investment in network construction and marketing is more competitively beneficial for the wireless industry than number portability at this time.⁷

CTIA also claims that forbearance from number portability requirements is appropriate under the three-prong test set forth in section 10 of the Communications Act of 1934, as amended.⁸ CTIA argues that the first prong of the section 10 forbearance test is met because no one CMRS carrier exercises monopoly power requiring the enforcement of number portability to ensure that the charges, practices or regulations of providing service are just and reasonable.⁹ CTIA argues that the second prong of the test is satisfied because the diversion of limited financial resources for the purposes of introducing number portability -- absent demonstrated consumer demand -- will harm consumers by resulting in less network coverage, reduced price competition, and overall reduction in competition.¹⁰ Finally, CTIA argues that forbearance from the implementation of number portability serves the public interest because committing resources to those elements that have been proven to influence competition is in the public interest.¹¹ CTIA therefore requests that the Commission forbear from imposing number portability requirements upon CMRS providers until at least the end of the five-year PCS build-out period, when CMRS number portability may become a factor for competition in the industry.

We seek comment on the issues raised in the CTIA Forbearance Petition by February 23, 1998 and reply comments by March 10, 1998. Ex parte presentations in this proceeding will be governed by the procedures set forth in section 1.1206 of the Commission's rules. Interested parties should file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20054. In addition, parties should send two copies to Janice Jamison, Wireless Telecommunications Bureau, FCC, Suite 700, 2100 M Street, N.W., Washington, DC 20554. Copies of comments and reply comments will also be available from ITS, at 1231 20th Street, N.W., Washington, DC 20036, or by calling (202) 857-3800.

For further information contact Janice Jamison, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-7240.

⁷ *Id.*

⁸ Section 10 of the Communication Act of 1934, as amended provides:

"the Commission shall forbear from applying any regulation or any provision of the Act to a telecommunications carrier . . . if the Commission determines that -

(1) the enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest."

47 U.S.C. § 160 (a).

⁹ CTIA Number Portability Forbearance Petition at 7-8.

¹⁰ *Id.* at. 9.

¹¹ *Id.*