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May 8, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Re: Comments of Omnipoint Communications Inc.
CC Dkt. No. 96-115; DA 98-836

Dear Ms. Salas:

Enclosed please find an original and twelve (12) copies of the Comments of Omnipoint Communications Inc. filed in the above-captioned matter.

If you have any questions, please feel free to contact me.

Sincerely,

Gus J. Halpert/spj

James J. Halpert

JJH/spj
Enclosure

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C.

In the Matter of	)	
	)	
Implementation of the Telecommunications Act of 1996:	)	
	)	
Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Information	)	CC Dkt. No. 96-115
	)	
Request for Deferral and Clarification	)	DA 98-836
	)	

COMMENTS OF OMNIPOINT COMMUNICATIONS, INC.

Omnipoint Communications, Inc. ("Omnipoint"), by its attorneys, files these comments in response to the Commission's May 1, 1998 Public Notice (DA 98-836). Omnipoint supports requests of the Cellular Telecommunications Industry Association ("CTIA") for deferral and clarification and of GTE Service Corporation ("GTE") for temporary forbearance or, in the alternative, a temporary motion to stay enforcement of the CPNI rules adopted in the Commission's Second Report and Order,[1] particularly Sections 65.2005(b)(1) and 65.2005(b)(3).

Omnipoint fully agrees with CTIA and GTE that deferral, clarification and, if necessary, forbearance would serve the public interest. Unlike its landline competitors, Omnipoint, as well as a few other CMRS carriers, have historically provided total service packages which bundle local service, long distance service and enhanced information services within a single offering. These practices augment the development of the wireless industry as vigorous competitors to incumbent wireline providers and differentiate their offerings from those of other wireless

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1 Second Report and Order and Further Notice of Proposed Rulemaking, CC Dkt. No.s 96-115, 97-149, FCC 98-27 (rel. Feb. 26, 1998).

carriers in the same market. Furthermore, such practices are well within consumers' expectations of privacy vis-a-vis CMRS service offerings.

Moreover, as CTIA points out, the CPNI rules contradict the Commission's stated policies to promote the rapid deployment of competing wireless systems and to encourage the industry to adopt flexible, market-based wireless services. The Commission has given PCS carriers great flexibility in the offering of integrated services to consumers. As a result, the PCS industry has embraced that flexibility and become a highly competitive industry in which providers deploy and seek to market a variety of innovative services -- including integrated information services -- to their existing customers. These activities, which clearly serve the public interest, would be seriously impeded by Section 65.2005(b)(1) of the rules.

Furthermore, all wireless providers are engaged in vigorous price and service competition to win-back customers who have announced their intention to switch to a competing carrier, which clearly benefit consumers in the form of lower prices for enhanced service offerings.[2] As CTIA and GTE observe, Section 65.2005(b)(3) would present an enormous obstacle to this beneficial, competitive activity.

Omnipoint agrees with CTIA that granting the requests for deferral and clarification is necessary for the Commission to develop a more complete record regarding the impact of the CPNI rules on the wireless industry. This need to develop a more complete record is compounded by the Second Report and Order's imposition of old landline regulatory distinctions on CMRS carriers.

Omnipoint intends to file a petition for reconsideration of the Second Report and Order to address its concerns, including the overwhelmingly burdensome regulatory impact of the Commission's CPNI rules. At a time when the Commission is engaged in a full biennial review

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[2] CTIA Request for Deferral and Clarification, at 24; GTE Petition for Temporary Forbearance or, In the Alternative, Motion for Stay, at 28.

of its rules for the purpose of reducing regulatory burdens, it is troubling that the costs of compliance with the Second Report and Order may result in severe economic harm, especially for emergent CMRS carriers such as Omnipoint.[3] As such, the 180 day stay proposed by CTIA is a modest deferral that would allow full consideration of these and the other issues that Omnipoint and other carriers will raise in the reconsideration proceeding.

Finally, Omnipoint agrees with GTE that in the event that the Commission does not stay the rules at issue, it should temporarily forebear from applying them. The regulations at issue are not necessary to ensure that charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory. See 47 U.S.C. § 160(a)(1). Finally, Omnipoint agrees with GTE that the public interest would be served by forbearance because of the overwhelming pro-competitive advantages of forbearance. Id. at § 160(a)(3) & (b).

For all these reasons, Omnipoint urges the Commission to grant the relief requests and to thoroughly review its CPNI rules in the context of the competitive CMRS market.

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[3] FCC Notice of Public Information Collection(s) Submitted to OMB for Review and Approval, 63 Fed. Reg. 19725 (April 21, 1998) (estimating aggregate cost of compliance with the Commission's new CPNI rules as $229,520,000, and average compliance time as between .5 to 77 hours).

Respectfully submitted,

OMNIPOINT COMMUNICATIONS INC.

By: _____

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Its Attorneys

Date: May 8, 1998

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was this 8th day of May, 1998 mailed, postage prepaid to the following:

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