DOCKET FILE COPY ORIGINAL

ORIGINAL

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

MAY - 8 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of the Telecommunications Act of 1996:	)	
	)	CC Docket No. 96-115
Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	)	

COMMENTS OF BELL ATLANTIC MOBILE, INC.
ON REQUEST FOR DEFERRAL OR CLARIFICATION

Bell Atlantic Mobile, Inc.,[1] submits these comments to support the "Request for Deferral and Clarification" filed by the Cellular Telecommunications Industry Association ("CTIA") in this proceeding.

On May 26, 1998, absent a grant of CTIA's Request, certain longstanding procompetitive and proconsumer wireless marketing practices will suddenly be restricted or even transformed into apparent violations of law. CTIA seeks a 180-day extension of that May 26 deadline for wireless providers to comply with two

---

1 Bell Atlantic Mobile, Inc. ("BAM"), one of the nation's largest wireless telecommunications carriers, provides cellular radiotelephone service to customers in nineteen states and the District of Columbia.

No. of Copies rec'd 0+11
List ABCDE

provisions of the new CPNI rules, 47 C.F.R. §§ 64.2005(b)(1) and (b)(3).[2] CTIA argues that (1) the rules will seriously disrupt and impair longstanding wireless marketing practices which promote competition and benefit consumers; (2) the language of Section 222 of the Communications Act does not compel this drastic and harmful result; and (3) a temporary delay will allow the Commission to reconsider how Section 222 should apply to wireless providers' relationships with their customers. CTIA is correct on each point.

There is Every Reason for the Commission to Defer the Rules, and No Reason Not To Do So. BAM files these comments primarily to underscore the gravity of the situation created by the new CPNI rules and the urgent need for immediate relief. CTIA's Request addresses only two provisions out of many pages of new CPNI rules, but these brief provisions will seriously impair the very efforts that have brought vigorous competition to the wireless market. The new rules are scheduled to take effect May 26, less than three weeks away. There is no plausible public interest reason for the Commission to allow that to occur.

1. The May 26 date is not based on any provision of Section 222, which sets no deadline for adopting rules (and indeed does not expressly require any

---

2 The rules were adopted in Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Information and Other Customer Information, Second Report and Order, FCC 98-27, released February 26, 1998 ("Order").

implementing rules at all). The Commission has full discretion to change the effective date of these rules.

2. The Commission began this proceeding in May 1996, but did not issue the Order until late February 1998, a time span of over 21 months. Given the long period that the Commission deliberated over what rules to adopt, there is no reason why extending the effective date will undermine the Commission's objectives.

3. May 26 is simply the date that is 30 days following publication of the new rules in the Federal Register. In adopting the rules the Commission did not mention any need for them to take effect on such notice. It often sets far longer periods before the effective dates of new rules, as it did in this proceeding by delaying by eight months the deadline for complying with the new rules on carriers' internal use of CPNI. CTIA correctly argues that the grounds the Commission has cited in other actions extending effective dates for new rules also exist here.

4. No one will be harmed by the temporary delay CTIA requests. There is no present, ongoing harm to wireless customers' privacy expectations or to competition that will now be stopped by the new rules. To the contrary, as CTIA shows, these practices are expected by customers, and have contributed to the intense competition among wireless carriers for new customers that is driving down prices and benefiting subscribers. Because the new rules disserve the public interest, deferring them is the responsible course.

5. These longstanding procompetitive practices cannot be stopped on a dime. But the imminent effective date requires carriers to do just that or risk violating the

rules. BAM's efforts to compete for customers through bundled promotions or win-back programs require significant lead times. Designing and implementing marketing strategies, developing mailings and brochures, producing media advertising and other such efforts require extensive preparation before actual marketing begins. The Order does not acknowledge this problem. The requested deferral of the effective date will avoid the unnecessary and harmful disruption that the current effective date will otherwise cause.

6. Although the new rules permit the use of CPNI in bundled offerings if customers' affirmative consent is obtained, the May 26 deadline makes this exception useless to wireless carriers. The affirmative consent rules require each customer to be contacted, be provided with notice of the new CPNI regime, and to expressly authorize use of their CPNI. Contacting BAM's millions of customers by phone is prohibitively expensive. Securing affirmative consents by mail is similarly infeasible. BAM's longstanding experience shows that a large percentage never respond to mailings. In any event, obtaining any such consents in the time frame allowed is impossible.

7. The Order appears to be premised on the incorrect assumption that because carriers are already subject to certain CPNI rules, they will be able to transition to the new rules easily. But only some landline carriers, and no CMRS carriers, have been subject to any rules. The Computer III regime did not apply at all to CMRS providers. And the only CMRS-specific CPNI restraint, 47 C.F.R. § 22.903(f), applied only to a BOC's provision of CPNI to its cellular affiliate, but did

not restrict the cellular carrier's use of its own CPNI, as the new rules do. Wireless carriers thus face having to stop longstanding competitive practices.

CTIA's Petition supplies ample grounds for the 180-day deferral it requests. Indeed BAM believes that CTIA's showing supports a stay of the two rules at issue until the Commission can consider the inevitable petitions for reconsideration, forbearance or waiver of the new rules, even if that takes longer than six months.[3] In other situations where parties pointed out to the Commission that new rules were based on an inadequate record and that their immediate enforcement raised public interest concerns that the Commission had not had an opportunity to consider, it ordered a stay to permit consideration of these issues. See CTIA Petition at 10-11. The Commission should do so here.

The Rules Will Restrict Procompetitive and Longstanding Wireless Marketing Practices. The two new rules CTIA addresses inhibit BAM and other wireless carriers from engaging in the very types of marketing that serve customers and that has generated intense competition in the industry. Integration of handsets and other CMRS-related equipment, voice mail and other non-telecommunications services has long been a driving force behind wireless

---

3 In a separate "Petition for Temporary Forbearance or, In the Alternative, Motion for Stay," GTE Service Corporation asks for that broader relief, requesting that the Commission stay certain CPNI rules until the Commission acts on GTE's forthcoming "Petition for Forbearance, Reconsideration and Clarification." GTE correctly argues that the new rules will impair wireless competition and cause customer disruption and confusion.

competition. CTIA correctly explains the many benefits of these practices that would be affected by new Section 64.2005(b)(1).

For example, the sale of digital service is inextricably tied to the sale of the phone that can receive that service. Exhibit 1 to these Comments provides examples of BAM's marketing materials that are targeted at existing analog customers who may be interested in digital service. Customers, of course, must obtain a digital phone to obtain that service. By restricting the use of CPNI to market such equipment, however, Section 64.2005(b)(1) will frustrate customers who want and need to have that information. Similarly, wireless providers are today marketing voice mail and other state of the art features and services. These efforts clearly benefit subscribers by responding to their individual needs for mobile communications. Exhibit 2 is an example of such marketing materials. These practices, too, would appear to be restricted by Section 64.2005(b)(1).

BAM also agrees with CTIA that Section 64.2005(b)(3), the new prohibition on the use of CPNI to "win back" customers, is flagrantly anticompetitive. This rule flatly prohibits carriers from fully communicating with their customers in the very situation where competition is most vigorous – one-on-one competition between carriers to obtain (or retain) a single customer. Exhibit 3 provides an example of BAM's win-back efforts that would be subject to the new regulations. Given BAM's years of experience as a wireless competitor, it can state without reservation that win-back efforts are intensely proconsumer. Exhibit 4, a recent article about the vigorous wireless competition in one market, confirms BAM's experience, by

showing how win-back efforts enhance competition and result in lower prices for customers.

The Commission's imposition of the anti-win-back rule is particularly troubling given that it was not proposed in the Notice of Proposed Rulemaking which initiated this proceeding, and there was thus no record on which it could plausibly be based. The Order not surprisingly devotes only a few sentences to the rule, without acknowledging the serious anticompetitive effects it will have, let alone justifying the harm to competition it will cause.

Section 222 Does Not Compel These Harmful Results. There can be no doubt that the new rules restrict wireless competition and prevent information about new services and equipment from reaching many subscribers who could benefit from that equipment. The Commission concedes it had previously endorsed some of the very wireless practices that are now suddenly restricted. It concludes, however, that it has no choice because Section 222 compels this result. BAM strongly disagrees. There are numerous ways in which the Commission can permit these pro-competitive, pro-consumer practices to continue, while faithfully implementing Congress's objectives in Section 222.

1. The Commission could have consistently applied Congress' overarching objective – to allow use of CPNI where customers had an expectation that it would be used, and prohibit it only where they did not. The Commission held true to this objective in allowing the use of CPNI derived from one of the three broad types of telecommunications services – local, interexchange and CMRS – because it found

that this approach tracked customer expectations as to their "existing service relationship" with their carrier. But it then diverged from and undermined that objective in its treatment of CMRS. The Commission had no evidence before it that wireless customers' "existing service relationship" did not encompass CMRS-related equipment and information services. To the contrary, the scope of that relationship does encompass not only the telecommunications service but also the phone that is necessary to receive it, and other services that use that phone such as voice mail. By acting without a record on the particular wireless "existing service relationship," the Commission did not achieve one of the goals of Section 222, to allow use of CPNI by carriers where customers expected that information to be used.

2. The Commission could have permitted use of CPNI to sell wireless phones and related equipment by interpreting the term "service" in Section 222(c)(1)(B) to encompass such equipment. BAM agrees with CTIA that the Commission's narrow conception of "service" is inappropriate with regard to wireless services, which are both Title II and Title III services. BAM, for example, provides a radio service that is not limited to transmission but encompasses the handsets themselves; that is, the handsets are part of the service. Alternatively, the Commission could have applied the same rationale it used to treat inside wiring, which like CMRS includes equipment, as a service.

3. The Commission could have encompassed CMRS information services within the term "service" by recognizing that these services are integrated with the underlying telecommunications service. Congress allowed certain non-

telecommunications services, such as directories, to be marketed using CPNI without the need to obtain prior consent because they were functionally related to the underlying service. CMRS-related information services, which are even more closely tied to the underlying service, could have been similarly treated.

4. Even if the Commission believed that Section 10 required adoption of these rules, it could have forborne from doing so with regard to CMRS. Section 10 of the Communications Act permits the Commission to forbear from enforcement of Section 222 or any rules adopted to implement it. The rules are not necessary to protect consumers' interests, given that consumers already expect that they will receive information about CMRS-related equipment and information services, and expect that their carrier will try to retain them. GTE's Petition correctly argues that forbearance is warranted.

Conclusion. The relief CTIA requests is clearly in the public interest. BAM urges the Commission to grant that relief without further delay.

Respectfully submitted,

S. Mark Tuller

S. Mark Tuller
Vice President, Secretary and
General Counsel
Bell Atlantic Mobile, Inc.
180 Washington Valley Road
Bedminster, NJ 07921
(908) 306-7390

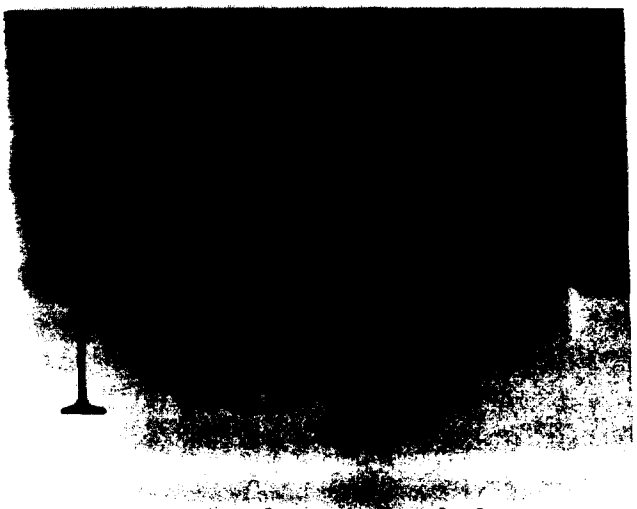
John T. Scott, III

John T. Scott, III
Crowell & Moring LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 624-2582

Attorneys for Bell Atlantic Mobile, Inc.

Dated: May 8, 1998

EXHIBIT 1



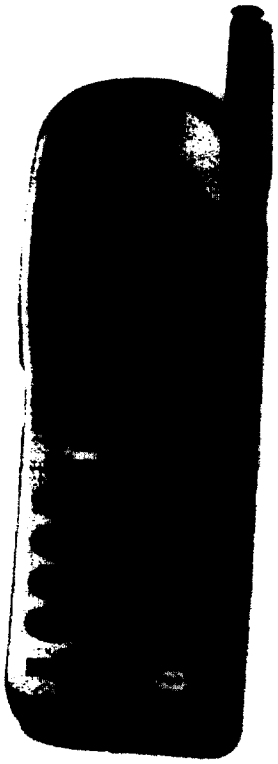
an unbeatable combination of convenience and value

To get free unlimited night and weekend home airtime for 12 months, call

1-888-670-2355

or visit your nearest Bell Atlantic Mobile Communications Store today.

SIGN UP FOR DIGITALCHOICE℠ SERVICE BY MARCH 31, 1998 AND GET FREE UNLIMITED NIGHT AND WEEKEND HOME AIRTIME FOR ONE YEAR.



ALL DIGITAL PRICE PLANS INCLUDE:

- Free First Incoming Local Airtime Minute
- Voice Mail[1]
- Caller ID[2]
- Enhanced Services:
  Call Waiting,
  3-Way Calling,
  No Answer/Busy Transfer

Purchase a QUALCOMM CDMA Digital Phone

- The QCP-820 is one of the most advanc digital phones on the market today.

Free unlimited night and weekend home airtime for one year is available with the Unlimited Night & Weekend Option. After one year, customer will be charged an additional $9.99 per month for Unlimited Night & Weekend Option unless customer requests to cancel. If voice mailbox is not set up within 60 days, it will be automatically deleted. Airtime charges apply when retrieving messages from a wireless phone. Caller ID may not be available in all areas. Airtime, toll and wireless long distance charges may also apply to all calls made or received using Call Waiting, Call Forwarding, 3-Way Calling and No Answer/Busy Transfer. Offer expires March 31, 1998.

Bell Atlantic Mobile

P.O. Box 4000
Woburn, MA 01888-4000

February 27, 1998

Sample A. Sample
ABC Company
123 Any Street
Any Town, AA 12345-1234

Dear Sample A. Sample,

Mobile# (000) 000-0000

At Bell Atlantic Mobile, we appreciate your business and try to anticipate your needs as much as possible. Since you rely on wireless service every day, we think you'll want to experience a new advanced level of wireless communication — DigitalChoice℠ service from Bell Atlantic Mobile.

DigitalChoice is nothing short of amazing.

The clearest wireless sound you've ever heard, virtually static-free. Dramatically improved call privacy. All made possible through state-of-the-art CDMA technology based on Bell Labs innovations by Lucent Technologies.® And because DigitalChoice works coast to coast on either digital or traditional analog networks, you'll never be out of touch.

An impressive array of features and services makes DigitalChoice an unbeatable combination of convenience and value. The first minute of every incoming call in your home airtime rate area is always free. Enhanced features like Voice Mail with visual Message Waiting Indicator, custom calling features and Caller ID are also included. And with its low power requirements, you can now leave your digital phone on standby for up to 65 hours in digital mode.

You're entitled to a special package.

As one of our preferred customers, you'll receive key elements of your DigitalChoice service free *if you order by April 15, 1998.* Subscribe to one of our new DigitalChoice annual calling plans, with monthly access as low as $29.99, and use of the full-featured Nokia 2180 or Qualcomm 820 digital phone is free for as long as you're a DigitalChoice customer. Plus, 25% off your choice of digital accessories.

You already rely on wireless to stay on top of everything in your business and personal life. Why not step up to the next level with DigitalChoice? Call **1-800-806-1059** or come into one of the Communications Stores to begin enjoying the clarity, the enhanced privacy, the sheer superiority of DigitalChoice service.

Sincerely,

Debra Carroll

Debra Carroll
Executive Director of Marketing

P.S. Remember, you can use the Nokia 2180 or Qualcomm 820 digital phone free of charge for as long as you're a DigitalChoice customer and get 25% off your choice of accessories *if you order by*

FREE USE
of a Nokia 2180
digital phone

OR

FREE USE
of a Qualcomm 820
digital phone

PLUS
25% OFF
all digital accessories

Use either of these excellent phones for free when you order DigitalChoice℠ service. All the latest in wireless technology is packed into the Nokia 2180 and Qualcomm 820, making them the ultimate in communication devices. Both allow you to enjoy the superior voice clarity, added privacy, and longer talk time of digital. They also feature services such as: Caller ID, Voice Mail with Message Waiting Indicator, and Text Messaging. Plus you can use both phones on CDMA digital or analog networks.

With 25% off our wide range of digital accessories, you can get all the additional items you really need. Like the hands-free kit which makes it easy to talk and listen with minimal handling of your phone while you drive. Or choose leather cases, spare batteries or even travel chargers.

Order before **April 15, 1998** to receive this special offer.
Act now, call **1-800-806-1059** or visit the nearest Communications Store
and start enjoying superior DigitalChoice service today.

New annual contract and terms and conditions required. Existing mobile number must be transferred to new DigitalChoice phone. $175 early termination fee applies. Other charges may apply for unreturned or damaged equipment. DigitalChoice service may not be available in all areas or on non-compatible networks. Caller ID may not be available outside your home service area. Airtime charges apply to message retrieval from your cellular phone. Text Messaging available for an additional monthly charge. Equipment must be returned or payment remitted to Bell Atlantic Mobile at termination of service.

Mobile

superior network

DigitalChoice utilizes superior state-of-the-art CDMA digital technology to bring you crisp, clear sound. Hearing is proof. And with QUALCOMM'S CDMA digital phone and technology, you will get clear voice quality, virtually no static or crosstalk, enhanced privacy and longer talk time.

&

sound quality

Introducing the EZ MAX℠ Additional Line Plan. A second cellular phone line for just $9.99* monthly access that gives your family affordable security!

As a Bell Atlantic NYNEX Mobile customer, you know the convenience and security of having a phone with you at all times. That's why we came up with the Additional Line Plan. This exclusive offer lets our valued customers give 12 months of wireless safety and security to a family member or friend for just $9.99* a month. Plus, when you add the Additional Line Plan to your existing account, you'll get a special bonus: a state-of-the-art Ericsson AH600 phone for just $19.99!

Peace of mind is now affordable.

Accidents happen. So do breakdowns and other emergencies. That's why having a phone with you at all times is a comfort. Now you can afford to give that comfort to the rest of your family for just $9.99 a month. With the Additional Line Plan, your wife, your son or your parent is always connected. In a pinch, it's a hotline. In an emergency it can be a lifeline.

Your family can call from virtually anywhere.

With the Additional Line Plan, a call for help is just 69¢ per minute** in the NY/NJ home calling area and throughout the MobileReach Network -- from Maine to Northern Virginia, in the Carolinas and in Northern Georgia. For just $9.99 a month per line added to your existing account, you'll know that your loved ones will always be near a phone. Just in case.

With annual contract

Just $9.99 monthly access.

Add a line (or two) and we'll add the phone for just $19.99!

FOR FREE DELIVERY, CALL

1-800-814-4448

Bell Atlantic NYNEX Mobile

*Offer available in the New York, New Jersey Metro area only. Additional line service for introductory price of $9.99 per month is available with an annual contract when added onto existing accounts on select rate plans. After 12 months, customer will be charged a monthly access fee of $19.99 (service location fee) unless customer requests line be disconnected. TalkAlong and GO zoned plans and Corporate pri[illegible] excluded. Customer's account must be in good standing in order to qualify for additional line. [illegible] customer must maintain eligible primary price plan for the duration of additional line's service. Ac[illegible] may require [illegible] and may require [illegible] information fee of $3.75 applies. Maximum 2 additional lines per customer account.

Bell Atlantic Mobile
GET THE MESSAGE
WITH VOICE MAIL SERVICE FROM BELL ATLANTIC MOBILE, YOU'LL NEVER MISS A CALL.

EXHIBIT 2

WITH VOICE MAIL, YOU GET THE MESSAGE, EVEN WHEN YOU DON'T GET THE CALL.

That call you missed could have been very important. But with Voice Mail service from Bell Atlantic Mobile, you'll never miss a message again. And we'd like to prove to our best customers *how* indispensable our Voice Mail service is with a very special offer.

Call now and get two full months of Voice Mail service FREE!

Voice Mail service is just $4.95[1] a month. Subscribe today and you'll get two full months of service free. And you can cancel any time if you are not completely satisfied.

Store up to 40 time and date stamped messages and even access your voice mailbox from any Touch Tone phone. There's no charge for incoming messages deposited in your mailbox. And airtime charges only apply if you retrieve messages from your cellular phone.

With Voice Mail service from Bell Atlantic Mobile, you get more than a message. You get peace of mind. Try it and then wonder how you ever got by without it!

Hurry! This special offer expires 12/31/97.
Call 1-800-227-1069 today.

[1]Monthly service fee of $4.95 will be credited on first two *full* months of service. Airtime and roaming charges will be incurred and billed if applicable when accessing your voice mailbox from your cellular phone. Roaming, toll and long distance charges will apply when traveling outside your home calling area. When accessing *your voice mailbox* from a landline phone, you may receive landline telephone charges on your landline phone bill. Offer expires 12/31/97.

© 1997 Bell Atlantic Mobile

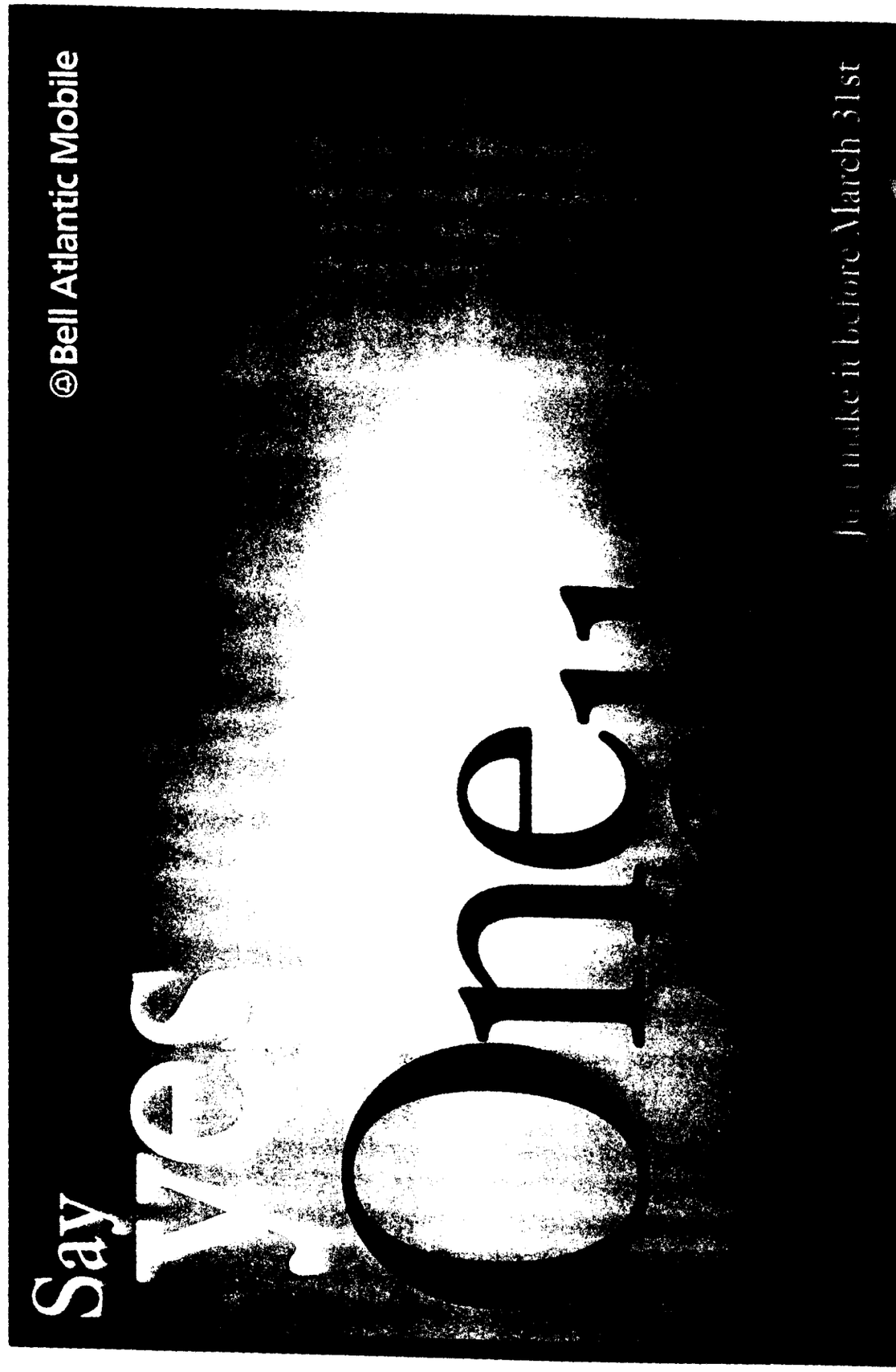
VM1197

Bell Atlantic Mobile
2000 Corporate Drive
Orangeburg, NY 10962

Bell Atlantic

PRESORTED
FIRST CLASS MAIL
US POSTAGE
PAID
BELL ATLANTIC
MOBILE

EXHIBIT 3


Say
yes
one
Bell Atlantic Mobile
Just make it before March 31st

Bell Atlantic Mobile

Your "I-want-to-come-back" call comes with this special offer:

Free Unlimited Night & Weekend local airtime for [illegible] when you sign up for a DigitalChoice service before March 31, 1998.

The new DigitalChoice Price Plans:
Simply the best wireless value in the NY & NJ area.

The New DigitalChoice℠ Price Plans

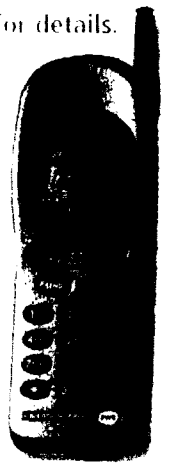
	[illegible]	[illegible]	[illegible]	[illegible]
Monthly Access	$29.99	$49.99	$99.99	$159.99
Home Airtime Minutes Included	60	150	600	1,200
Home Airtime per Minute Rate	[illegible]	45¢	40¢	35¢
Wireless Long Distance per Minute Rate	[illegible]	[illegible]	[illegible]	[illegible]

Included with every plan*

[illegible] Dial Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, [illegible] Answer/Busy Transfer

Call **1-888-660-2355** before March 31st.
or visit your nearest Bell Atlantic Mobile Communications Store today.

$30
Trade in Offer.
Call for details.



A cell phone is only as good as the network it's on.

Bell Atlantic

et's not say good-bye, just yet.

Bell Atlantic Mobile

Our door is always open. We understand your decision to change your wireless service provider. And while there may not be much difference in what you pay, there's a big difference in what you get.

Only Bell Atlantic Mobile can offer you:

- Customer Service 24 hours a day, 7 days a week.
- Comprehensive coverage – our phones work virtually everywhere you go, from coast to coast.
- 35 conveniently located Communications Stores.
- Calling plans and enhanced services to fit every need.
- Clear sound. Our digital network is one of the largest digital calling areas on the East Coast.
- Reliability. We're the leader in wireless communications.

Your number is good with us for one more month.

Just in case you change your mind, we're holding your number for you and we'll contact you in three weeks. But if you find you want to say "hello" again sooner, call us at **1 - 800 - 227 - 1069**. We'll be waiting for you!

Bell Atlantic

WB 10/97

© 1997 Bell Atlantic Mobile

Bell Atlantic Mobile

2000 Corporate Drive
Orangeburg, NY 10962

Yakking It Up

For Wireless Services, Talk Gets Far Cheaper As Competition Rages

In Jacksonville, Fla., Rivals Are Multiplying Faster Than New Customers

BellSouth Issues Surfer Duds

By ELIZABETH JENSEN
Staff Reporter of THE WALL STREET JOURNAL

JACKSONVILLE, Fla. – A giant black balloon shaped like a cell phone bobs in the wind in front of the PrimeCo store in an Orange Park strip mall. The gimmick is tacky, but PrimeCo has little choice: About a dozen other outlets within a few blocks are hawking wireless services, too.

Like almost all areas of the U.S., this midsize market of one million people made do with just two cellular companies for more than a decade. But 18 months ago, competition came to town, and now six companies vie for attention, pushing competing technologies, coverage patterns, ever-tinier pocket phones and packages of monthly minutes so large the sellers call them "buckets." A seventh, Sprint Corp., will arrive this summer.

Wireless ads beckon from billboards and in TV spots, radio jingles and full-color newspaper inserts. Service is sold at more than 250 outlets, ranging from Radio Shack stores to kiosks in Winn-Dixies and Wal-Marts. The pro-football stadium is emblazoned with the name of one wireless upstart. Art exhibits and charity golf tournaments have wireless sponsors, and BellSouth Corp. recently took over the annual Kingfish tournament, with $500,000 in angling prizes, from Nissan Motor Co.

Plunge in Prices

The marketing frenzy has benefited consumers and pained the combatants. Prices have plunged an average of 46%, by one industry estimate, features are snazzier and long-term contracts, with their hundreds of dollars in penalties for early cancellation, are disappearing fast. The newcomers have cut prices more than even they had anticipated, offering cheap, unlimited-usage packages once unknown and forcing sharp rate reductions by the two incumbents, BellSouth, the local phone provider, and AT&T Corp. BellSouth's market share has tumbled 10 percentage points to 52%, and AT&T's is down six points to 32%, estimates Richard Prentiss, a former BellSouth staffer and now a

But a major question remains: How can anyone earn much in such a game? Even the combatants are predicting casualties.

"I wouldn't expect everyone to still be around in five years," says Scott Ford, president of Alltel Corp., which entered the fray here in February. "You'll see merger mania," predicts Frank Bell, a Sprint vice president who is overseeing its summer launch here. "Because of the cost of playing in this game, you need to be prepared to be in it for the long haul."

Sort of a Preview

The battle of Jacksonville is an early version of what many cities can expect. The cellular business started in the 1980s as a system of federally sanctioned duopolies in each market. For years, rates stayed high and pricing and feature packages varied little. But in 1995, the government ushered in new wireless technology known as "personal communications services." It auctioned off vast swaths of airwaves and cracked open local markets so that as many as 10 players eventually could compete in each one.

The new players quickly began building PCS networks, and now cities long accustomed to the cozy cellular duopoly are watching it shatter. Phoenix, Philadelphia, Denver, Miami and Boston have six rival service providers apiece. Of the top 25 U.S. markets, all but two now have five wireless franchises. The question is whether the newcomers can expand the market and attract enough first-time customers for everyone to survive – or whether the industry will sink into a war of attrition, with rivals raiding clients from one another and eventually consolidating.

So far, the scene here isn't reassuring. Jacksonville hardly seems the ideal place for a wireless free-for-all. Its economy employs about 500,000 people, and approximately 240,000 already get wireless service, up 60,000 in less than two years – a gain of about a third. But the number of competitors has *tripled*. By most estimates, moreover, at least half of the new PCS companies' subscribers are switchers from other carriers rather than new users helping expand the market.

Earlier Financial Penalties

For years, cellular companies had held down customer turnover to about 20% a year by imposing financial penalties for canceling a one- or two-year contract. That gave them some time to recoup the upfront costs of landing new customers, such as the subsidies required to "sell" $400 cell phones for almost nothing. With the locked-in contracts now fading, some wireless executives fret that their business could come to resemble the fickle long-distance field, with customers switching carriers at the whiff of a better offer.

None of the companies here is disclosing its "churn" rate, but that spikes every time another rival opens shop, and it could go even higher as contracts expire and the newcomers put in more cell sites.

The high turnover makes it all the harder to post a profit. The newcomers have spent a total of several hundred

Talk Gets Cheaper and More Competitive in Jacksonvil

Continued From First Page

million dollars to build local networks in this area. Powertel Inc., the first new arrival when it began offering service in the fall of 1996, has invested about $65 million. The fourth entrant, the PrimeCo joint venture of Bell Atlantic Corp. and AirTouch Communications Inc., is estimated to have spent $110 million, while the fifth and sixth entrants – wireless-dispatcher Nextel Communications Inc. and Alltel, of Little Rock, Ark. – are estimated to have spent less than $50 million each. Sprint estimates that it will spend $360 million for licenses, cell sites and marketing in Jacksonville and nearby Tampa, Orlando and Tallahassee.

Despite such outlays, prices went into a free fall shortly after competition hit. When Powertel turned on its network on Oct. 29 and PrimeCo on Nov. 13, it initially seemed as if it would be a very polite party. The new services unveiled prices just slightly lower than the incumbents' and ran only a few teaser ads pushing features such as no long-term contracts.

Suddenly Changed Game

That changed on the morning of Nov. 24. In an ad in the Florida Times-Union, Powertel offered unlimited calls for $50 a month for one year – at a time when BellSouth was charging $395 a month for its all-you-can-eat plan. "We were shocked," concedes Jim Bugel, BellSouth Mobility's Jacksonville general manager.

The low price, which the company offered in all its markets to jump-start a slow launch, drew new customers such as Telinda Morgan. The 30-year-old real-estate agent had abandoned her cell phone several years earlier for a pager. She wasn't willing to pay hundreds of dollars a month for a cell phone, but "for $50 a month, you can't beat it," she says. She wasn't a bargain for Powertel, however: She gobbled up 1,500 minutes of talk time a month and once hit 3,000. Now that the offer has expired, she is paying $90 a month for a 1,500-minute-bucket plus a time for every additional minute.

BellSouth didn't immediately counter with lower prices. Nor did AT&T or PrimeCo. They were betting that Powertel would be swamped by huge demand, and they were partly right. It took Powertel several months to get service and billing straightened out. The offer "was a lot more well received than anticipated," says Walt Pettiss, the general manager of Powertel's Jacksonville system.

Other Reactions

It soon became clear, however, that at $50 a month for unlimited chatting, many customers willingly put up with the problems. Forty-five days after Powertel's move, BellSouth bit the bullet and called up its unlimited-plan customers, as well as people who had defected to Powertel, and offered to halve their monthly costs, to just under $200. Even though that was still $150 a month more than Powertel's price, 30% to 40% of the defectors came back within six months, BellSouth says. Mr. Pettiss says

PrimeCo reacted, too, but with nothing nearly as attractive: $45 for 400 minutes. And AT&T held firm, through October. "If price is customers' only consideration, they may not buy from us," says Ron McKenzie, AT&T's Jacksonville general manager, contending that people will pay extra for the AT&T brand and truly nationwide coverage. "Some of the other characters would love to have that blue globe," he says, referring to AT&T's logo.

By contrast, BellSouth, which had the most to lose, turned up the heat. "Did we have to go to drastic measures? Sure," Mr. Bugel says. Even before competition arrived, the Bell had initiated pre-emptive defenses, stoking the work force and offering major customers slightly better rates and new features such as voice mail, a freebie that helped boost usage. Mindful of its market dominance, BellSouth issued "Big Dog" surfer duds to staffers and staged a weeklong pep rally dubbed "The Battle of Jacksonville."

Employees learned the history of the Telecommunications Act of 1996 and, through role-playing skits, how to handle confused customers. BellSouth also nearly doubled its customer-support staff and enlisted rank-and-filers for intelligence gathering; today, they peek between the brown paper on the windows when competitors open new stores, and then they distribute their findings in urgent e-mails. BellSouth also opened more of its own stores, signed up more independent dealers and put kiosks in grocery stores. It now has about 100 outlets, well ahead of its rivals.

BellSouth also tripled the size of its "save group," a SWAT team that jumps on defectors. When the team heard that a major builder was about to leave for Powertel, BellSouth bought 20 Powertel phones and delivered them to the client even as the Powertel sales rep was waiting in the lobby. The client tried the Powertel phones for 48 hours and then stayed with BellSouth, finding that the Powertel phones didn't work in as many places, says Denise Ramey, BellSouth's director of sales. Powertel says it can't confirm or deny the incident.

Confusing Hype

By last May, all the hype was so confusing customers that BellSouth took out a 14-page advertising supplement in the Sunday paper. But the frenzy didn't let up. Nextel, with an unusual walkie-talkie feature that appeals to groups such as construction crews, launched its service last June and immediately began challenging PrimeCo for the lucrative small-business market. That coincided with another bucket from PrimeCo: 600 minutes a month until the year 2000, for just $54.99 a month.

Then came Alltel. Although its mort-

pany had little brand recognition when it began offering phone services here on Feb. 23. So it spent $6.2 million to slap its name for 10 years on the recently built National Football League stadium that is home to the new Jacksonville Jaguars – a deal that BellSouth says it turned down.

Everyone has grabbed for a piece of the Jaguars. Alltel has also cut deals with several players, but Sprint notes that those players can appear only in street clothes because Sprint has the national NFL tie-in rights, giving it half-time field promotions and player appearances in uniform. BellSouth provides phones to the team, although Alltel will soon take over that role. Powertel has to be content with pregame tailgate parties for consumers in the Alltel stadium parking lot. PrimeCo works closely with the charitable foundations of two local Jaguar players.

Alltel came to town touting the convenience of getting wireless, paging, long-distance and Internet service from a single company on a single bill. Its ads promised nickel-a-minute cellular rates and sleek $49 phones. But Powertel blunted Alltel's pitch by unveiling attractive flat-rate long-distance fees, such as $15 a month for unlimited long-distance calling in its 12-state region. BellSouth saved its countermove for March, with a "1-bill" campaign promising to combine wireless, local phone and Internet-access charges. Eventually, Alltel also hopes to add to its bundle by offering local phone service in Jacksonville. BellSouth is getting into cable TV this fall.

Price Still Crucial

Whether tactics such as bill bundling and community involvement actually work is questionable. Price remains crucial to many consumers, who, with all the hype, are now much savvier about wireless. Five years ago, a lot of people weren't sure they needed a wireless phone at all, but now they grill the providers on the superiority of a particular system, Mr. Bugel says.

Excluding promotions such as Alltel's rate of five cents a minute, Powertel has by far the lowest-cost minutes, according to an analysis by Yankee Group Inc., while AT&T, under most of its rate plans, has the highest. On 100-minute-a-month plans, for example, the Boston consulting group estimates that AT&T charges 40 cents a minute, compared with Powertel's 20 cents.

Several years ago, when the Federal Communications Commission began the licensing process for PCS, which offers feature-rich technology such as Caller I.D., Call Waiting and voice mail, AT&T was already upgrading its old analog systems to digital to provide similar features. But then, AT&T seemed to drop the ball, and only recently has it appeared to take the battle more seriously.

an aggressive bucket plan of 1,000 m for $99.99. It also sharply increase commission it pays dealers for ne tomers. It denies the suggestions o analysts that it has missed fin targets for the region and says it ma changes because "we wanted to ge petitive," says Emilio Echave, AT&T less's East Area president. Since co tion arrived, he notes, AT&T has inc its own stores in Jacksonville to fiv one and its spending on advertisin motion and marketing here by 20% The company disputes the marke estimates of Mr. Prentiss, the anal it won't provide its own figure.

AT&T's Position

AT&T's smaller rivals have cut business despite inferior network age, Mr. Echave says, "by being ve on other stuff. Now that all the eup over, let's get down to value." At th his rivals charge, their long-term is questionable, he says. "If I was other side, I would definitely be lo the economics of my decision."

He figures the players can sur you can make money at 10%" market, but even that assessmen overly sanguine. Even if a 10% sha market could guarantee profits, comer seems likely to hit that ma time soon. Incumbents BellSou AT&T still control more than 80 market. Of the new players, Powe grabbed the most new business, with PrimeCo at 5%, Nextel at 2% a too new to make a dent as Prentiss estimates.

To hear the players tell it, everything will be just fine. Both B and AT&T say they have ma customers now than in precor days because the whole pie is bigg the newcomers. "Our whole busi was built around intense comp says Michael Bennett, PrimeCo's of sales and marketing. "We around worst-case scenarios." Alltel's heavily subsidized $49 ha nickel-a-minute rates, he says. react to, and some we don't."

Nevertheless, the competitors sonville are gearing up for anot when Sprint starts up this sum ripples are being felt already. Sprint has a national marketing Tandy Corp.'s Radio Shack, Sp PrimeCo will have to drop its ow with the retailer in Jacksonville: says it expects to stay with t Sprint's long-distance customers be getting bill stuffers, and its be in line with its charges na although an aggressive short-ter tion is likely at launch.

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of May, 1998, caused a copy of the foregoing "Comments of Bell Atlantic Mobile, Inc. on Request for Deferral or Clarification" to be sent by first-class mail, postage prepaid, to the following:

Janice Myles
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Michael F. Altschul
Cellular Telecommunications Industry Association
1350 Connecticut Avenue, N.W., Suite 200
Washington, D.C. 20036

R. Michael Senkowski
Wiley Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
(Attorneys for GTE Service Corporation)

John T. Scott, III

John T. Scott, III