Before the
Federal Communications Commission
Washington, D.C.

In the Matter of	)	
	)	
	)	
Revision of the Commission's Rules	)	
To Ensure Compatibility With	)	CC Docket No. 94-102
Enhanced 911 Emergency Calling Systems	)	
	)	

COMMENTS OF OMNIPOINT COMMUNICATIONS, INC.

Omnipoint Communications, Inc. ("Omnipoint"), by its attorneys, replies to the comments filed in response to the September 17, 1998 proposal offered by the Ad Hoc Alliance for Public Access to 911 (the "Alliance") in the above-captioned docket.[1] Omnipoint is a new wireless entrant and PCS licensee that offers a range of consumer-oriented digital PCS services to several major markets, including New York, Philadelphia, Boston, and Miami. Omnipoint disagrees with the comments of Bell Atlantic Mobile, Inc. and Ameritech Mobile Communications, Inc. that digital CMRS operators should be subject to the Alliance's "strongest signal" proposal.[2]

As an initial matter, Omnipoint notes that the Alliance expressly limits its "strongest signal" proposal and the –80dBM signal strength standard to apply only to "analog cellular

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1 Comments and reply comments on the Alliance proposal were requested by the Commission Public Notice, DA 98-1936 (rel. Sept. 22, 1998).

2 Further Comments of Bell Atlantic Mobile, Inc. at 4-5 (filed Oct. 7, 1998); Comments of Ameritech Mobile Communications, Inc. at 2-3 (filed Oct. 7, 1998).

handsets," not to handsets designed according to digital PCS specifications.[3] Omnipoint has investigated the feasibility of the Alliance proposal for digital PCS GSM systems, and believes the proposal is inappropriate for this type of system. The Commission should be aware that there are multi-mode/multi-band handsets available that incorporate both digital PCS systems operating at 1900 MHz and analog AMPS systems operating at 800 MHz. It would be illogical, and totally unsupported by the record, to require such handsets to first scan the analog AMPS frequency before completing a digital 911 call. At most, should the Commission decide to adopt rules in the proceeding, any "strongest signal" requirements should apply to multi-mode/multi-band handsets only when those handsets are already operating in an analog mode, *i.e.*, where there is no compatible digital signal available. The Commission should not countenance Bell Atlantic's and Ameritech's sweeping assumptions that the Alliance's technical proposals for analog cellular systems would be at all feasible for digital PCS systems. In fact, the entire record before the Commission contains no evidence regarding digital PCS systems. Instead, the application of the –80dBM standard would seemingly contradict the Commission's prior decisions suggesting that minimum signal levels for PCS operations are best left to the PCS operator's marketing and business decisionmaking.[4]

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[3] Letter of Jim Conran, Chairman of Alliance, to Chairman William Kennard at 1 (Sept. 17, 1998). See also Letter of George Weimer, Vice President of Trott Communications Group (Aug. 19, 1998) (Engineering statement attached to Alliance proposal analyzed the issue assuming a "portable cellular telephone").

[4] *Amendment of the Commission's Rules to Establish New Personal Communications Services*, Second Report and Order, 8 FCC Rcd. 7700, n. 106 (1993) (for purposes of meeting build-out obligation, FCC "will allow licensees to individually determine an appropriate field strength for reliable service in the PCS system."), id. at n 130 (" . . . we will allow [PCS] licensees to individually determine a minimum field strength for reliable service in their PCS system, taking into account the technology employed and other relevant factors.").

Moreover, the Commission has determined not to allow 911 "strongest signal" issues to undermine the Commission's cornerstone decision that PCS carriers and equipment providers, rather than regulators, should decide PCS digital protocol and technical air interface issues:

> We emphasize that the Commission has chosen not to establish a common technical air interface for broadband PCS, nor has it chosen technical standards for digital cellular service. We have decided that the marketplace should determine which digital protocols will survive, and we do not intend to reach different conclusions in this proceeding.[5]

Bell Atlantic and Ameritech offer no plausible reason for the Commission to undo this cornerstone approach to the regulation of PCS.[6] Indeed, these commenters do not even contend that the Alliance proposal for analog cellular systems would be compatible with or appropriate for the multitude of competitive PCS air interface standards existing in the market today (e.g., GSM, TDMA, and CDMA).

Instead, Bell Atlantic and Ameritech vaguely claim that principles of CMRS regulatory parity should mandate that the Alliance proposal, if adopted, should apply to broadband PCS. Obviously, this argument is a simple ploy to draw out opposition to the Alliance proposal. However, the commenters have misunderstood the Section 332(c) CMRS regulatory parity provision: "Congress granted the Commission the flexibility to identify different classes of CMRS . . . ."[7] The many differences between Part 22 (cellular service) and Part 24 (broadband PCS) of the Commission's rules, as well as the existence of two separate rule parts, confirm that

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5 Report and Order and Further Notice of Proposed Rulemaking, CC Dkt. No. 94-102, 11 FCC Rcd. 18676, 18747 (1996).

6 *Amendment of the Commission's Rules to Establish New Personal Communications Services*, Memorandum Opinion and Order, 9 FCC Rcd. 4957, 5021 (1994) (FCC affirms its approach to provide PCS operators with maximum flexibility on technical standards to "allow PCS to develop in the most rapid, economically feasible and diverse manner.").

7 *Implementation of Section 3(n) and 332 of the Communications Act*, Second Report and Order, 9 FCC Rcd. 1411, ¶ 162 (1994).

many regulations appropriate for cellular service are not appropriate for digital PCS service. The public interest in regulatory parity is not in conflict with the Commission's decision to provide PCS operators and equipment manufacturers with flexibility to design competing market-based technical standards and products. Moreover, if cellular operators like Bell Atlantic and Ameritech are truly interested in elevating the importance of regulatory parity, the Commission should initiate such a program by obligating cellular operators to pay auction-based prices for their licenses, in the same way as PCS operators.

For these reasons, Omnipoint urges the Commission not to apply the Alliance proposal to digital broadband PCS systems.

Respectfully submitted,

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