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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
 )  
**MOBILEMEDIA CORPORATION, et al.** )  
 )  
Applicant for Authorizations and Licensee )  
of Certain Stations in Various Services )

WT DOCKET NO. 97-115

To: The Commission

**WIRELESS TELECOMMUNICATIONS BUREAU'S**  
**COMMENTS ON COMPLIANCE REPORTS**

1. The Chief, Wireless Telecommunications Bureau, by his attorneys, now comments upon the various reports concerning compliance with the Commission's Rules submitted by Mobilemedia Corporation and filed in the docket in this proceeding on December 31, 1998.

2. MobileMedia has implemented a program to ensure compliance with the Commission's Rules. Part of this program includes the filing of periodic reports with the Bureau concerning discrepancies between MobileMedia's records and the Commission's data base, as well as possible violations of the Commission's Rules by MobileMedia. Based upon its review of the reports, the Bureau agrees with MobileMedia "that none of the reported errors appears to be the kind of violation (individually or collectively) that would bring Mobilemedia's qualifications to be a licensee into question."<sup>1</sup> (In contrast, while the violations encompassed within the issues specified in the hearing designation order in this proceeding did call MobileMedia's qualifications to be a Commission licensee, the grant of

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<sup>1</sup> Letter dated December 31, 1998 from Robert L. Pettit, Esq. to the Commissioners ("Pettit Letter), p. 4.

Second Thursday relief in this proceeding would eliminate the need for further consideration of those violations).

3. Several of the violations disclosed by MobileMedia, however, are the types of violations for which the Bureau or the Commission has issued forfeitures in other cases. Those violations would include operation of unauthorized facilities, in violation of Section 301 of the Communications Act; unauthorized relocations of facilities, in violation of Section 301 of the Communications Act; and failures to file FCC Forms 489, in violation of Section 22.142(b) of the Commission's Rules. Both Mobilemedia and Arch Communications Group, Inc. (Arch) have argued that no forfeiture should be imposed in this situation because of MobileMedia's bankruptcy, the fact that the violations were voluntarily reported to the Commission, and arguments that such forfeitures would allegedly only harm innocent MobileMedia and creditors and Arch stockholders.<sup>2</sup> These arguments raise complex and difficult policy questions about reconciling the need for vigorous enforcement of the Commission's Rules with Mobilemedia's status in bankruptcy and the interest in protecting innocent creditors.

4. MobileMedia and Arch have also made it abundantly clear, however, that their highest priority is obtaining Commission approval for the Second Thursday transaction prior to February 3, 1999, when the U.S. Bankruptcy Court for the District of Delaware is

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<sup>2</sup> See Arch Reply Comments, filed November 27, 1998, pp. 7-10, MobileMedia Reply Comments, filed November 27, 1998, pp. 13-14, Pettit Letter, pp. 4-5.

scheduled to consider confirmation of MobileMedia's reorganization plan.<sup>3</sup> Indeed, both MobileMedia and Arch have argued that the Commission could grant the request for Second Thursday relief without prejudice to the Commission or the Bureau taking subsequent enforcement action based upon the violations disclosed in the compliance reports.<sup>4</sup> Under these circumstances, the Bureau believes it is appropriate for the Commission to grant the request for Second Thursday conditioned upon the Commission's or the Bureau's right to take additional enforcement action (*i.e.*, forfeitures or admonitions) based upon the violations disclosed in MobileMedia's compliance reports. Such an action would allow the parties to proceed with their transaction in an expeditious fashion while allowing the Commission and the Bureau to give due consideration to the arguments both for and against taking enforcement action. The Commission has previously conditioned assignment applications upon "whatever action, if any, the Mass Media Bureau's Enforcement Division deems necessary in light of the rule violations referred to" in the order granting the assignment application.<sup>5</sup> A similar condition would be appropriate in this case.

5. MobileMedia has opposed the imposition of such a condition because it is allegedly unnecessary and it would create an unspecified "needless uncertainty."<sup>6</sup> This argument should be rejected. The Bureau believes a condition is needed in order to explicitly preserve the

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<sup>3</sup> See, e.g., Pettit December 31 Letter, pp. 1-2.

<sup>4</sup> Arch Reply Comments, p. 11, MobileMedia Reply Comments, , pp. 13-14.

<sup>5</sup> Duchossois Communications Company of Maryland, Inc., 10 FCC Rcd 6688 (1995).

<sup>6</sup> MobileMedia Reply Comments, p. 14-15.

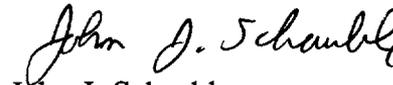
right to take enforcement action, and as noted above, a condition would be consistent with the Commission's past practice. Moreover, MobileMedia does not describe how a condition would harm its business or cause "needless uncertainty" if it already believes that the Bureau and the Commission have the ability to take enforcement action against it after the transfer. Finally, Arch has not opposed the use of a condition to ensure that the Commission and the Bureau have the authority to take enforcement action after the transfer (if such action is deemed appropriate).

6. Accordingly, the Bureau asks the Commission to grant the request for Second Thursday relief, conditioned upon the right of the Commission and the Bureau to subsequently take, if appropriate, enforcement action based upon any violations of the Commission's Rules disclosed in MobileMedia's compliance plan reports.

Respectfully submitted,

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January 26, 1999

**CERTIFICATE OF SERVICE**

I, John J. Schauble, an attorney in the Enforcement and Consumer Information Division, Wireless Telecommunications Bureau, certify that I have, by first class U.S. mail (unless otherwise indicated), this 26th day of January 1999, sent copies of the foregoing "Wireless Telecommunications Bureau's Comments on Compliance Reports" to:

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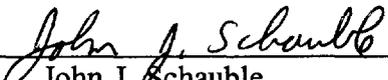
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