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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

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MAR 8 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Biennial Regulatory Review — Amendment of )  
Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, )  
and 101 of the Commission’s Rules to Facilitate )  
the Development and Use of the Universal Li- )  
censing System in the Wireless Telecommunica- )  
tions Services )  
)  
Amendment of the Amateur Service Rules to )  
Authorize Visiting Foreign Amateur Operators to )  
Operate Stations in the United States )

WT Docket No. 98-20

WT Docket 98-188

To: The Commission

**REPLY TO COMMENTS ON PETITIONS FOR RECONSIDERATION  
FEDERAL COMMUNICATIONS BAR ASSOCIATION**

The Federal Communications Bar Association (the “FCBA”)<sup>1</sup> hereby replies to comments filed in response to petitions for reconsideration in the above-captioned proceeding. The FCBA, under the auspices of the Wireless Telecommunications Practice Committee (“WTPC”), has actively participated in this proceeding.<sup>2</sup>

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<sup>1</sup> The FCBA is a non-profit, non-stock corporation organized under the laws of the District of Columbia, and has been in existence since 1936. The FCBA’s membership consists of over 3,100 attorneys and other professionals involved in the development, interpretation and practice of communications law and policy. These Reply Comments were prepared by a task force under the direction of the FCBA’s Wireless Telecommunications Practice Committee. As in the case of other comments filed on behalf of the FCBA, the views expressed herein do not necessarily reflect the views of each and every member of the FCBA. No FCBA members who are employees of the FCC participated in the preparation and review of these Reply Comments.

<sup>2</sup> In response to the FCC’s Notice of Proposed Rulemaking, the FCBA assembled a  
(continued...)

Although the FCBA is grateful for the careful attention its comments and suggestions have received throughout this proceeding, it continues to believe that the ULS can be further improved by adoption of the proposals raised in its Petition for Reconsideration. As discussed below, the FCBA notes that there is significant support in the record for these proposed revisions.

**I. THE FCC SHOULD RECONSIDER ITS DECISION REGARDING THE REPORTING OF TAXPAYER IDENTIFICATION NUMBERS**

In its Comments, Reply Comments and Petition for Reconsideration, the FCBA urged the FCC to refine its Taxpayer Identification Number (“TIN”) reporting obligations which the FCBA believes to be overly broad, unduly burdensome, and beyond the scope and intent of the Federal Debt Collection Improvement Act of 1996

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<sup>2</sup> (...continued)  
 task force comprised of attorneys representing a variety of wireless licensees in different radio services to review the new rules, forms, and electronic filing procedures associated with the FCC’s planned transition to the Universal Licensing System (“ULS”). *Biennial Regulatory Review — Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Amendment of the Amateur Service Rules to Authorize Visiting Foreign Amateur Operators to Operate Stations in the United States*, WT Dockets 98-20, 98-188, FCC 98-25, *Notice of Proposed Rulemaking* (rel. Mar. 18, 1998) (“NPRM”). The FCBA filed Comments and Reply Comments in the rulemaking, as well as a Petition for Reconsideration following adoption of the Report and Order in this proceeding. *Biennial Regulatory Review — Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Amendment of the Amateur Service Rules to Authorize Visiting Foreign Amateur Operators to Operate Stations in the United States*, WT Dockets 98-20, 98-188, FCC 98-234, *Report and Order* (rel. Oct. 21, 1998) (“*Report and Order*”). In addition, the FCBA has worked informally with FCC staff to address other largely technical ULS transition issues.

(“DCIA”).<sup>3</sup> In particular, since applicants and licensees are the only entities “doing business with” and “receiving federal benefits” from the FCC, the FCBA and others believe that the DCIA does not mandate the collection of TIN information from officers, directors, and other non-controlling entities. Collection of such information will be burdensome, difficult and in fact impossible to obtain in certain circumstances. Parties on reconsideration commenting in the proceeding concur in this view.<sup>4</sup> The FCBA further agrees with these commenters that the collection of social security numbers from officers and directors raises serious privacy concerns that the FCC has failed to justify by its unduly expansive interpretation of the DCIA.<sup>5</sup>

## **II. DIRECT INTERNET ACCESS TO THE ULS SHOULD BE ALLOWED**

Throughout this proceeding, the FCBA and other commenters have repeatedly requested that the ULS be made directly accessible through the Internet in addition to the dial-up point-to-point protocol favored by the FCC. Doing so will make the ULS easier to access and utilize by the public. While the FCBA understands the security and privacy concerns surrounding the FCC’s decision to provide point-to-point access as the means of ULS connectivity, the FCBA reiterates its view that Internet access utilizing browser encryption technology provides a level of security acceptable to most users. Again, the FCBA is not requesting that the FCC eliminate its point-to-point

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<sup>3</sup> Debt Collection Improvement Act of 1996, PL 104-134, 110 Stat. 1321 (1996) (codified at 31 U.S.C. § 3701).

<sup>4</sup> BellSouth Petition for Reconsideration at 7; WinStar Comments on Petitions for Reconsideration at 5.

<sup>5</sup> *Id.*

architecture; rather, the FCBA urges the FCC to allow users to choose the access technology that best suits their needs. Such choice is not unlike the millions of choices made by consumers every day when deciding whether to use the Internet to purchase goods and services. Again, there is support in the record for allowing this option.<sup>6</sup> In this regard, the FCBA notes that the ULS is the only new electronic filing system recently launched or proposed by the FCC that does not provide for direct Internet access.<sup>7</sup>

### III. THE FCC SHOULD PERMIT REINSTATEMENT APPLICATIONS

As part of its effort to consolidate and conform its wireless license application rules, the FCC, despite an overwhelming majority of adverse comments, has chosen to eliminate reinstatement procedures for license renewal applications in all wireless services.<sup>8</sup> In its place, the FCC has adopted a draconian and probably unenforceable policy of automatically canceling licenses where renewal applications are not timely filed irrespective of a licensee's record of past performance or public service.

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<sup>6</sup> BellSouth Petition for Reconsideration at 10-11; Association of American Railroads Comments on Petitions for Reconsideration at 7-8; UTC Comments on Petitions for Reconsideration at 3-4; WinStar Comments on Petitions for Reconsideration at 5-6.

<sup>7</sup> For example, comments in most rulemaking proceedings (including this one) can be made electronically using the Internet. In addition, tariffs may be electronically filed with the Common Carrier Bureau via the Internet as can requests for equipment approval and applications for experimental license authority filed with the Office of Engineering and Technology. Furthermore, the FCC recently adopted a Report and Order in which it announced that it anticipates allowing license applications to be made electronically with the Mass Media Bureau by means of the Internet. See *1998 Biennial Regulatory Review — Streamlining of Mass Media Applications, Rules and Processes, Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, MM Dockets No. 98-43 and 94-139, FCC 98-281, *Report and Order* at ¶ 14 (rel. Nov. 25, 1998).

<sup>8</sup> *Report and Order* at ¶ 96.

While the FCBA understands the FCC's desire to conform its application rules, the preferred method for achieving consistency with respect to reinstatement is to provide for it uniformly to all the wireless services — not to eliminate it altogether. Accordingly, the FCBA reiterates its request that the FCC establish a presumption that reinstatement applications filed within 30 days of license expiration will be granted if the authorized station has been constructed and is operating in accordance with FCC rules. For reinstatement requests made more than 30 days after license expiration, the FCC should consider any extenuating circumstances presented by the licensee and should not automatically cancel any license where doing so would be inconsistent with the public interest. There is support in the record for this rule revision.<sup>9</sup>

#### **IV. THE FCC SHOULD PROVIDE A GRACE PERIOD FOR LICENSEES AND APPLICANTS EXPERIENCING TECHNICAL DIFFICULTIES WITH THE ULS**

The FCBA has publicly commended the FCC on numerous occasions for the many significant improvements to wireless license application processes that will be achieved by transitioning to the ULS. The FCBA is also hopeful that the FCC will continue in its willingness to enhance the capabilities of the ULS in response to public concerns and suggestions. Nevertheless, the FCBA is confident that the FCC would agree that because of the ULS's relative sophistication and complexity, technical difficulties are not only likely to occur, but are probably unavoidable. Indeed, as the FCC's own records attest, the ULS has experienced periodic outages since it was first

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<sup>9</sup> Comments of the Association of American Railroads at 5; Comments of WinStar at 8.

launched, and ULS users continue to experience difficulties at their end as they attempt to integrate the ULS into existing local networks and computer facilities of every conceivable variation. Accordingly, the FCBA reiterates its request that the FCC afford a 24-hour grace period to applicants and licensees experiencing technical difficulties with the ULS. Parties seeking such relief should be asked to explain the nature of the difficulties encountered, which should both eliminate frivolous abuses of such relief as well as document legitimate technical issues that may warrant further attention and resolution. Again, the record supports favorable action on this reconsideration request.<sup>10</sup>

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<sup>10</sup> American Association of Railroad's Comments on Petition for Reconsideration at 7; UTC Comments on Petition for Reconsideration at 4; WinStar Comments on Petition for Reconsideration at 6-7.

**V. CONCLUSION**

For the foregoing reasons, and in consideration of the reasons cited in its Petition for Reconsideration, the FCBA urges the FCC to reconsider its decision in the *ULS Report and Order*.

Respectfully submitted,

FEDERAL COMMUNICATIONS  
BAR ASSOCIATION

By:   
Lawrence Roberts, President

By:   
Wireless Telecommunications  
Practice Committee

Luisa L. Lancetti  
Mark D. Schneider  
Peter M. Connolly  
Co-Chairs

William J. Sill  
Christine M. Crowe  
Brian W. Higgins

March 8, 1999

**CERTIFICATE OF SERVICE**

I, Wilma J. Cartwright, hereby certify on this 8th day of March, 1999 caused a copy of the foregoing to be served by first class U.S. Mail, postage prepaid, to the following:

Thomas Sugrue, Chief\*  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
TW-A325, Room 3C207  
Washington, DC 20554

Steve Weingarten, Chief\*  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
TW-A325, Room 3C207  
Washington, DC 20554

D'Wana Terry, Chief\*  
Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
TW-A325, Room 3C207  
Washington, DC 20554

Roger Noel, Chief\*  
Licensing and Technical Analysis Branch  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
TW-A325, Room 3C207  
Washington, DC 20554

David Furth, Esq.\*  
Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
TW-A325, Room 3C207  
Washington, DC 20554

Romona Melson, Deputy Chief\*  
Policy and Rules Branch  
Public Safety and Private Wireless Division  
Federal Communications Commission  
445 Twelfth Street, SW  
TW-A325, Room 3C207  
Washington, DC 20554

Leonard Raish  
Mitchell Lazarus  
Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17th Street, 11th Floor  
Arlington, VA 22209

Robert J. Miller  
Nicole S. Batten  
Gardere & Wynne, L.L.P.  
1601 Elm Street, Suite 3000  
Dallas, TX 75201

William B. Barfield  
Jim O. Llewellyn  
BellSouth Corporation  
1155 Peachtree Street, NE, Suite 1800  
Atlanta, GA 30309-2641

C. Claiborne Barksdale  
BellSouth Corporation  
1100 Peachtree Street, Suite 910  
Atlanta, GA 30309-4599

David G. Frolio  
BellSouth Corporation  
1133 21st Street, NW  
Washington, DC 20036

Mary McDermott, Senior Vice President  
Personal Communications Industry Association  
500 Montgomery Street, Suite 700  
Alexandria, VA 22314

The American Radio League, Incorporated  
225 Main Street  
Newington, CT 06111

Timothy R. Graham  
Joseph M. Sandri, Jr.  
Barry J. Ohlson  
WinStar Communications, Inc.  
1146 19th Street, NW, Suite 200  
Washington, DC 20036

Jeffry A. Brueggeman  
U S WEST Communications, Inc.  
1020 19th Street, NW, Suite 700  
Washington, DC 20036-6101

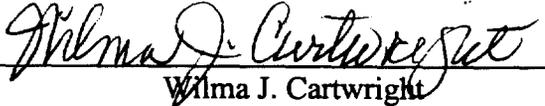
Thomas J. Keller  
Lisa M. Higginbotham Fowlkes  
Verner, Liipfert, Bernhard, McPherson &  
Hand Chtd.  
901-15th Street, NW  
Suite 700  
Washington, DC 20005

Jeffrey L. Sheldon  
Thomas E. Goode  
UTC  
1140 Connecticut Avenue, NW  
Suite 1140  
Washington, DC 20036

Christopher D. Imlay  
Booth, Freret, Imlay & Tepper, P.C.  
5101 Wisconsin Avenue, NW, Suite 307  
Washington, DC 20016-4120

Philip L. Verveer  
Angie Kronenberg  
Sophie J. Keefer  
Wilkie, Farr & Gallagher  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20036-3384

\* By Hand

  
Wilma J. Cartwright