

EX PARTE OR LATE FILED

April 5, 1999

Ms. Magalie Roman Salas
 Office of the Secretary
 Federal Communications Commission
 The Portals
 445 Twelfth Street, S.W.
 12th Street Lobby, TW-A325
 Washington, D.C. 20024

RECEIVED
 APR 06 1999
 FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Re: Ex Parte Presentation
 CC Docket No. 94-102

Dear Ms. Salas:

Both CTIA and WirelessConsumers Alliance were verbally invited by the Commission's staff to submit proposed rule language to solve the problem of "dead spots" in wireless coverage for 911 calls. The request to us was to submit language which would be non-technology specific and broad enough to incorporate both CTIA's Automatic A/B Roaming plan and the Alliance's Strongest Signal proposal. Both proposals use the signal strength of the forward control channel to select the system to handle the 911 call. Strongest Signal will select the system with the strongest forward control channel. Automatic A/B Roaming will remain on the subscribed to system unless there is no signal from the forward control channel on that system.

CTIA submitted its proposed rule change on March 2, 1999. This proposal would require all new "analog cellular mobile stations" (analog only) to be equipped with Automatic A/B Roaming/Intelligent Retry¹ for 911 service, beginning with mobile stations manufactured on and after November 15, 2000. Only 1,350,000 new analog only cellular stations are expected to be manufactured during the year 2001, which represents about 5 percent of the total new wireless handsets forecast for production during that year. In the year 2002, only 480,000 analog only cellular mobile stations are expected to be manufactured, which is 2 percent of the total forecast for that year. No analog cellular mobile stations are expected to be manufactured after the year

¹ "Intelligent Retry" means that if the call did not go through on the strongest forward control channel, the handset would then attempt to place the call on the second strongest forward control channel. The handset thinks that the call went through when it receives assignment of a voice channel and returns SAT. This happened in both the Spielholz and Lechuga situations but all the caller hears is "dead air: ("lock-in"). Intelligent Retry is a prescription for lock-in and increases the probability of failure to connect the call.

2002. In sum, the CTIA proposal will cover only 1.8 million mobile stations, does not incorporate Strongest Signal, and will cease to be of any significance two years after its effective date.

In contrast to the trifling number of mobile stations covered by the CTIA proposal, our suggested rule (as does Strongest Signal) includes all mobile stations “when operating in the analog mode,” e.g. analog only, dual mode, trimode.² We would require implementation of the proposed change six months after the effective date of the rule.³ In the year 2000, more than 10 million new analog and multimode mobile stations with analog capacity are expected to be manufactured. That number remains fairly constant during the five-year forecast through the end of 2004. While there are no numerical predictions beyond the year 2004, multimode mobile stations with analog capacity are expected to be manufactured well beyond that date. “[W]hile most of the country’s large cities have digital networks, some surrounding suburbs and most rural areas aren’t covered.”⁴ Most users who travel outside of their calling area will rely on multimode phones with analog capacity. Analog cellular will continue to be in place in many suburban and almost all rural areas for the foreseeable future. A case in point is CommNet, which provides cellular services to 56 markets in a nine-state region that covers 500,000 square miles. The president of CommNet, Arnold Pohn, has been quoted as saying that the economics of providing service in rural areas favors analog service and PCS digital coverage would be “too limited” to succeed.⁵

The Alliance has shown that dead spots are a pervasive problem – especially in suburban and rural areas. For users with access to analog systems, this problem will be almost completely solved by the adoption of Strongest Signal but hardly helped at all by Automatic A/B Roaming. Nevertheless, we incorporated the “benefits” of Automatic A/B Roaming in our proposed rule. These benefits are attributed by CTIA to a consumer preference⁶ to stay on the subscribed to

² Our letter of January 13, 1999 sets forth **the rule language previously proposed for Strongest Signal and Strongest/Adequate Signal**. The proposed change to OET-53 (OST Bulletin No. 53) covers “[a]ny mobile station [which] is able to place and receive calls in any cellular system.” **Dual mode and trimode phones** fall within this definition and **are included**.

³ The engineering reports from Trott, which are on file with the Commission, state that Strongest Signal can be accomplished with a simple software change which can be inserted in the handset manufacturing cycle within 6 months.

⁴ *Wall Street Journal*, 2/1/99.

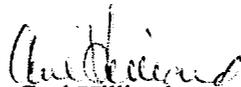
⁵ *WirelessWeek*, 12/29/98.

⁶ The Alliance previously proposed a compromise (Strongest/Adequate Signal) which would retain the 911 call on the subscribed to system as long as a good channel of communication was available over that system. This would be accomplished by setting a threshold signal level of

system, even with a degraded channel, for a variety of reasons. It is clear however, that nobody would prefer to stay on the selected system if the available channel of communication could not carry a voice conversation or was so weak that it was subject to lock-in. Thus, we proposed, in the rule we submitted, that the consumer be given the ability to choose between the functional equivalent of Strongest Signal and be able to step down to the functional equivalent of Automatic A/B Roaming. This gives the user more flexibility than the flat choice of either Strongest Signal or Automatic A/B Roaming and solves the problem of lock-in. The ability of the consumer to select and change these settings at the handset is an absolute prerequisite to an effective rule.

After three years of ponderous opposition to Strongest Signal, CTIA has finally acknowledged the problem of dead spots and now responds with a proposal for an ineffectual rule which would cover only 1.8 million mobile stations and would be completely obsolete by the end of the year 2002. This response clearly reveals a stratagem by CTIA which is indifferent to the acknowledged need to solve the problem of not being able to reach 911 because of dead spots in coverage. This indifference is underscored by the wireless industry's tactics of stall and delay which have prevented Commission action on Strongest Signal for three and one half years. During that period of time, 40 million mobile stations have been manufactured without the benefits to life and property which would have been achieved by Strongest Signal. During the next five years, 55 million new phones will be manufactured which would be covered by our proposed rule. Very respectfully, further delay in adopting Strongest Signal is not in the public interest.

Sincerely,


Carl Hilliard

cc: **Commission**

Mr. Ari Fitzgerald, Legal Assistant to Chairman Kennard
Mr. Paul Misner, Chief of Staff and Legal Assistant to Commissioner Furchtgott-Roth
Mr. William Trumpbour, Assistant to Commissioner Furchtgott-Roth
Mr. Dan Connors, Legal Assistant to Commissioner Ness
Mr. Peter Tenhula, Legal Assistant to Commissioner Powell
Ms. Karen Gulick, Legal Assistant to Commissioner Tristani

Wireless Telecommunications Bureau

Mr. Thomas Sugrue, Chief of the Bureau
Mr. Jim Schlichting, Deputy Chief
Mr. John Cimko, Chief, Policy Division

-80 dBm from the forward control channel at the handset. Strongest Signal would kick in if this signal level was below -80 dBm.