CTIA
Building The Wireless Future
Cellular Telecommunications Industry Association

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June 18, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, SW
12th Street Lobby, TW-A325
Washington, DC 20554

Re: *Ex Parte* Presentation
WT Docket No. 96-198

Dear Ms. Salas:

On June 18, 1999, the Section 255 Industry Coalition represented by: Randall Coleman, Vice President for Regulatory Policy and Law & Andrea Williams, Assistant General Counsel, Cellular Telecommunications Industry Association ("CTIA"); Gerard Waldron, Covington & Burling, Counsel for Business Software Alliance; Todd Lantor, Manager, Government Relations, Personal Communications Industry Association (PCIA); Derek Khlopin, Telecommunications Industry Association (TIA); and Lawrence Sarjeant, General Counsel & Julie Rhones, Senior Counsel for Legal & Regulatory Affairs, United States Telephone Association (USTA), met with Dorothy Attwood, Chief, Enforcement Division, Common Carrier Bureau, and Karen Gulick, Legal Advisor, Commissioner Tristani's office, concerning the Commission's implementation of Section 255.

At the meetings, the Section 255 Industry Coalition members discussed the following issues: 1) Ancillary Jurisdiction/Information Services; 2) Complaint Process; and 3) Readily Achievable Analysis. The substance of the Coalition's presentation is set forth in the attached document.

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Pursuant to Section 1.1206 of the Commission's Rules, and original and one copy of this letter and its attachments are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Jill K. Brunt

Attachments (1)

SECTION 255 INDUSTRY COALITION TALKING POINTS

Ancillary Jurisdiction/Information Services

- **The FCC's use of ancillary jurisdiction to reach information services when Congress has specifically distinguished between information services, telecommunications services, telecommunications equipment, and customer premises equipment as defined by Section 3 of the Communications Act; and Congress has chosen to limit Section 255 to cover telecommunications services, telecommunications equipment, and customer premises equipment.**

Complaint Process

- **The FCC should use efficient strategies for bringing the parties together to resolve Section 255 grievances. The FCC should strongly encourage a customer who has a grievance to initially contact the manufacturer or service provider. Afford manufacturers and service providers a reasonable period of time (30-60 days) to have a constructive dialogue with the consumer and take appropriate steps to try to resolve the consumer grievance prior to the FCC interjecting itself into the process.**

- **The FCC should set up a process or mechanism whereby the real party in interest is the appropriate party using the FCC's complaint process.**

- **Section 255 bars private rights of action. While the FCC may impose forfeitures, monetary damages are precluded by a complainant. The FCC would have to bring an action in Federal district court on behalf of the complainant.**

- **Discussion concerning Section 415(b) and Section 255. In view of Section 415(b) of the act, when does a cause of action accrue with respect to a Section 255 complaint?**

Readily Achievable Analysis

- **The Industry Coalition supports a broad definition of "readily achievable" that is flexible to meet the every-changing competitive telecommunications market and to keep pace with the technological advancements and innovations in telecommunications services and equipment.**

- **By revising the Communications Act and not the ADA to impose Section 255 duties, Congress intended for the Commission to tailor the readily achievable standard so that it better reflects the telecommunications market. Thus, the concept of "readily achievable" must include an analysis of a complex set of**

factors including technical feasibility, cost and practicality. The "readily achievable" analysis should not impair flexibility or impose burdensome reporting requirements and undue compliance costs.

- **The Industry Coalition supports a product-line approach whereby the focus is on a measurable outcome - does the company have products that meet the needs of persons with a broad range of disabilities, to the extent "readily achievable" within a well-defined product line?**

- **Discussion of cost recovery focused specifically on the effect of Section 255 mandates on ILECs that are under a price cap/rate regulated regime, including whether costs associated with Section 255 qualify as exogenous costs.**