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

In the Matter of	)	
	)	
Automatic and Manual Roaming Obligations	)	WT Docket No. 00-193
Pertaining to	)	
Commercial Mobile Radio Services	)	

COMMENTS OF VERIZON WIRELESS

Dated: January 5, 2001

Verizon Wireless

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SUMMARY

Verizon Wireless opposes adopting any form of automatic roaming requirement for any segment of the commercial mobile radio services ("CMRS") market. Verizon Wireless agrees that the Commission should not impose an automatic roaming rule unless it determines that market forces alone are not sufficient to ensure the widespread availability of competitive roaming services. Competition is strong in the CMRS marketplace and will continue to get stronger. This competition exerts a downward pressure on roaming rates and ensures that all carriers that wish to enter into an automatic roaming agreement can do so on terms that are not unreasonably discriminatory. As such, Verizon Wireless does not believe there is any need for the Commission to impose any additional roaming regulations.

Verizon Wireless does not believe CMRS providers discriminate unreasonably in roaming negotiations with other carriers. For its part, Verizon Wireless does not reject requests for roaming agreements where technologies are compatible. While the roaming terms Verizon Wireless negotiates with other carriers vary, these variances result from market conditions such as the need to fill a coverage gap, the volume of traffic, and whether Verizon Wireless pays more to the carrier than it receives in roaming charges. These variances are entirely reasonable and not unlawful.

Verizon Wireless does not believe that local and regional CMRS providers are at a disadvantage in negotiating automatic roaming agreements. In fact, nationwide CMRS providers rely more on roaming agreements than smaller carriers. As a result, often the smaller carriers are in a more advantageous bargaining position than the larger carrier in roaming negotiations.

Adopting an automatic roaming requirement would harm competition. Such a requirement would have a chilling effect on the downward movement in roaming rates and eliminate a key element of CMRS competition. In addition, an automatic roaming requirement would result in huge administrative burdens for the Commission and the industry.

Verizon Wireless believes that an automatic roaming requirement is unnecessary because the Commission already has the authority to resolve roaming disputes. In particular, the Section 208 complaint process provides a vehicle for considering any allegations that a CMRS provider engaged in unjust or unreasonable acts or practices or in unreasonable discrimination.

Verizon Wireless believes that the Commission should use this proceeding to declare that CMRS providers can lawfully deny "in-market" roaming requests. Allowing licensees in the same market to roam on other licensees' systems creates disincentives to build out networks and strains the remaining analog capacity on existing networks.

If the Commission does adopt an automatic roaming requirement, and it should not, it should continue to allow affiliates the ability to offer more favorable terms to other affiliates. Any finding that such arrangements are unlawful would have a chilling effect on roaming rates and would eliminate the competitive advantages carriers have sought to create by making acquisitions or entering into strategic alliances.

Finally, Verizon Wireless supports maintaining the current manual roaming requirement. Although no longer frequently relied upon, the manual roaming requirement does not impose significant costs on carriers and provides a potentially valuable benefit to subscribers.

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Verizon Wireless hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("FCC" or "Commission") on November 1, 2001. In the NPRM, the Commission seeks comment on whether to adopt an automatic roaming rule that would apply to Commercial Mobile Radio Service ("CMRS") systems and whether to eliminate the manual roaming requirement that currently applies to those systems. As discussed below, Verizon Wireless opposes any automatic roaming requirement and supports maintaining the manual roaming requirement.

I. DISCUSSION

A. The Commission should not adopt an automatic roaming rule.

In the NPRM, the Commission seeks comment on whether to adopt an automatic roaming rule for CMRS providers. The Commission states that it will not adopt such a requirement if it determines that competition in the CMRS marketplace has eliminated the means or the economic incentive for CMRS providers to discriminate unreasonably in providing roaming services.[1]

Verizon Wireless opposes any automatic roaming requirement. Verizon Wireless agrees that the Commission should not impose an automatic roaming rule unless it determines that market forces alone are not sufficient to ensure the widespread availability of competitive roaming services.[2] Competition is strong in the CMRS marketplace and will continue to get stronger.[3] This competition exerts a downward pressure on roaming rates and ensures that all carriers that wish to enter into an automatic roaming agreement can do so on terms that are not unreasonably discriminatory. As such, Verizon Wireless does not believe there is any need for the Commission to impose any additional roaming regulations.

Verizon Wireless is one of a growing list of CMRS providers that competes on a nationwide basis. As the Commission recognized in the Fifth Report, "the process of carriers building nationwide footprints continues to be a significant trend in the mobile telephone sector."[4] At the end of 1999, five carriers had nationwide CMRS footprints: AT&T Wireless, Nextel, Sprint PCS, Bell Atlantic Mobile (now Verizon Wireless) and

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1 NPRM at 7-9.

2 *See id,* at 8.

3 *See* Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, *Fifth Report,* FCC 00-289 (released August 18, 2000) ("Fifth Report"), at 4-5 (concluding that the CMRS industry continues to benefit from the effects of increased competition).

4 *Id.*, at 5.

VoiceStream Wireless.[5] Last year, Cingular Wireless (combining the wireless assets of SBC and BellSouth) joined that group.

The trend towards nationwide CMRS competition has increased the importance of automatic roaming agreements. Thus, in order for a carrier to compete effectively on a nationwide basis, it must offer ubiquitous mobile service at the lowest possible cost. Because no single carrier has 100% nationwide CMRS coverage, carriers rely on automatic roaming agreements to provide seamless nationwide service.

Automatic roaming agreements are also needed to provide seamless coverage in some markets where a carrier has a network presence. This is because many CMRS subscribers continue to use older technology cellular handsets. These handsets cannot be programmed to enable subscribers to roam onto preferred carriers' networks when away from the home market.[6] Rather, these cellular phones are programmed only to roam on the A or B cellular network, depending on the home market of the subscriber, and must be manually re-programmed to roam onto the other network. As a result, subscribers that use older phones may roam onto a competing providers' network, even though the carrier has a network in the same market.[7] Thus,

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[5] *Id.,* at 10.

[6] Newer technology digital handsets can be programmed with "preferred roaming lists" or "PRLs." Using PRLs, a carrier can lower roaming costs by ensuring that its subscribers roam onto its networks in other markets or onto the networks of carriers with which it has favorable roaming agreements.

[7] By way of illustration, Verizon Wireless is the A-side cellular provider in Connecticut, and the B-side provider in New York. Because some cellular subscribers in Connecticut use older cellular handsets, these subscribers' phones are programmed to roam onto the A-side cellular provider's network in New York rather than onto Verizon Wireless' B-side system.

Verizon Wireless relies on automatic roaming agreements to provide ubiquitous coverage to subscribers, even where it has a network presence.

Contrary to what some might perceive, nationwide CMRS providers are more dependent on automatic roaming agreements than other CMRS providers. Indeed, although Verizon Wireless has the most ubiquitous CMRS network in America, it is a net payer on its roaming agreements. Thus, Verizon Wireless pays more for its customers to roam on other carriers' networks than it receives in roaming payments from other carriers. As a result, and because of the intense price and coverage competition among nationwide CMRS providers, there is enormous pressure on Verizon Wireless and on all nationwide CMRS providers to reduce roaming rates. As the Commission notes in the Fifth Report, this competitive pressure has caused a reduction in roaming rates in the past year or two.[8] Consistent with the Commission's findings, Verizon Wireless has seen a decline in automatic roaming rates over the past several years. Thus, an analysis of the roaming amounts payable and receivable for Verizon Wireless in December of 2000 compared to what was payable and receivable in December of 1999 reveals a decline in roaming costs from between 5 and 64 percent.[9] These numbers, together with the data included in the Commission's Fifth Report, demonstrate that CMRS competition is indeed working to exert downward pressure on roaming rates.

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8 Fifth Report, at 20.

9 The data analyzed is derived from raw billing numbers with four of Verizon Wireless' largest roaming partners. These amounts are subject to adjustment in the settlement process and therefore may not reflect the final actual roaming rates.

Competition has also ensured and will continue to ensure that all carriers will be able to negotiate automatic roaming agreements. Competition forces carriers to constantly search for new sources of revenue. Thus, even where Verizon Wireless does not need an automatic roaming agreement to fill a coverage gap, Verizon Wireless is always willing to enter into automatic roaming agreements with other carriers in order to produce additional revenues (assuming, of course, that the requesting carrier's technology is compatible). Therefore, Verizon Wireless' policy is not to deny any request for an automatic roaming agreement, so long as the agreement does not seek to allow "home roaming" – allowing subscribers of a competing carrier in a particular market to roam onto the network of another carrier in the same market.[10]

Verizon Wireless believes that the decline in roaming rates over the past several years demonstrates that competition in the CMRS marketplace is working to reduce automatic roaming rates. In addition, competition is also working to ensure that all carriers that want to enter into an automatic roaming agreement can do so. As such, Verizon Wireless does not believe there is any basis for the Commission to adopt an automatic roaming requirement.

1. CMRS carriers do not engage in unreasonable discrimination in negotiating roaming agreements.

As part of the Commission's examination of the need for an automatic roaming requirement, it seeks comment on whether providers engage in unreasonable discrimination with respect to the prices and terms of roaming agreements. It also asks

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[10] The FCC calls this type of roaming arrangement "in-market roaming."

whether any particular class of carriers is especially likely to refuse to enter into roaming agreements.[11]

As noted above, outside of the home roaming scenario, Verizon Wireless does not reject requests for roaming agreements where technologies are compatible. Given carriers' need to produce revenues, Verizon Wireless believes the competitive marketplace will continue to ensure that all carriers that want a roaming agreement can have one.

While roaming agreements are generally available to all carriers, the roaming terms Verizon Wireless negotiates with other carriers vary depending on the competitive factors present in a negotiating circumstance. For example, Verizon Wireless might offer more favorable roaming terms where an agreement is needed to fill a coverage gap, where the roaming partner is likely to send a high volume of roaming traffic onto Verizon Wireless' network, or where Verizon Wireless pays more to the carrier than it receives in roaming charges. These variances in the roaming terms negotiated are dictated by market forces. As such, Verizon Wireless believes that any discriminatory roaming terms that exist in the market are entirely reasonable and therefore not unlawful.

2. Local and regional CMRS providers are not at a disadvantage in negotiating automatic roaming agreements.

In the NPRM, the Commission seeks comment on whether carriers with a nationwide footprint have an incentive to deny automatic roaming agreements to their

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[11] NPRM, at 8-9 (¶ 18).

local or regional competitors. If so, the Commission asks whether an automatic roaming rule should be fashioned to reach only these larger providers.[12]

As discussed above, competition and the need to produce revenues will ensure that nationwide providers like Verizon Wireless do not deny roaming agreements to smaller local or regional carriers. In making its inquiry into the effect of size and geographic scope on roaming negotiations, the Commission appears concerned that larger carriers have bargaining power and might use that power to prevent smaller carriers from competing on a nationwide basis. As explained above, however, nationwide carriers are more dependent on roaming agreements than any other carriers. Indeed, it stands to reason that if nationwide carriers like Verizon Wireless are net payers, then the smaller local and regional carriers are net receivers of roaming payments. The nationwide carriers, therefore, have every incentive to negotiate roaming agreements on reasonable terms with smaller local and regional carriers.

For example, assume a local or regional carrier is the A-side cellular licensee in a market near a major urban cellular market. In this case, the A-side cellular carrier in the major market will have a strong incentive to have a roaming agreement in place with the smaller carrier so that the larger carrier's customers can seamlessly roam in adjacent areas. Moreover, in this example, because it likely has more subscribers, the major market A-side carrier is likely to send significantly more roaming traffic to the smaller market than the smaller carrier will send to the major market. As such, the larger carrier will be a net payer with a strong incentive to negotiate the lowest possible

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[12] *Id.*, at 9 (¶¶ 19-20).

roaming rate with the smaller carrier. In this scenario, one which is fairly common, it is the smaller carrier that wields the bargaining power and it is the smaller carrier that is more likely to resist negotiating lower roaming rates.

Verizon Wireless believes that the market reality is that larger, nationwide carriers have the greatest incentive to enter into roaming agreements and lower roaming costs. As such, smaller carriers are well situated to negotiate automatic roaming agreements with larger, nationwide carriers. Accordingly, while Verizon Wireless believes there is no reason to adopt any automatic roaming requirement, there is absolutely no basis for a requirement that is imposed only on the larger, nationwide carriers.

3. An automatic roaming requirement would harm CMRS competition.

The Commission seeks comment on the costs an automatic roaming requirement would have on carriers and on competition.[13] Verizon Wireless believes that the most significant costs such a rule would have would be to reduce incentives to lower roaming rates, to remove an important facet of CMRS competition, and to increase substantially the administrative burden on the FCC and the industry.

An automatic roaming requirement would likely have a chilling effect on roaming rates. If a carrier knows that a lower negotiated roaming rate will have to be made available to all other carriers, the carrier may elect not to negotiate the lower rate for

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[13] *Id.*, at 10 (¶¶ 22-23).

fear that the lower rate will ultimately reduce the carrier's revenues.[14] As a result, an automatic roaming requirement would likely bring an end to the reductions in roaming charges that carriers and customers have enjoyed over the past several years.

An automatic roaming rule would also have a chilling effect on other facets of CMRS competition. Today, CMRS providers compete in all aspects of the business, including price (for home minutes, roaming minutes and long distance), coverage area, customer service, and technology. Negotiating automatic roaming agreements affects several of these categories of competition. Thus, a good roaming agreement will lower overall costs, improve coverage areas, and reduce customer service problems associated with roaming. An automatic roaming requirement, however, would likely result in the postalization of roaming rates, terms and conditions. All carriers would get the exact same roaming deals, regardless of their competitive position. Thus, adopting an automatic roaming requirement would eliminate a key element of CMRS competition by substantially reducing carriers' ability to distinguish themselves from their competitors through the roaming deals they negotiate.

Finally, an automatic roaming rule would almost certainly result in huge administrative costs for both the industry and the Commission. Under an automatic roaming rule, carrier A would be able to force carrier B to extend to carrier A a lower

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[14] The only way to avoid this scenario would be to define the term "similarly situated" broadly enough to allow carriers to continue to differentiate roaming terms based on market conditions. However, the more broadly the Commission defines "similarly situated," the less effect the adopted rule will have on the status quo. Thus, the better course would be to decline to adopt any automatic roaming requirement.

automatic roaming rate that carrier B negotiated with carrier C, if carrier A can establish that it is "similarly situated" with carrier C. Given the level of competition in the market and the natural tendencies of firms to lower costs and to maintain revenue streams, the Commission almost certainly will be inundated by disputes concerning whether carriers are indeed "similarly situated." Verizon Wireless believes the result would be that the Commission would become the arbitrator of roaming negotiations much as the states and the Commission have become the arbitrator of interconnection negotiations under Section 251 and 252 of the Communications Act. Resolving such disputes would impose substantial administrative costs on both the Commission and the carriers. Such heavy-handed Commission involvement is not necessary and would not be beneficial in the context of roaming negotiations among competitive CMRS providers.

4. The Commission can resolve roaming disputes through the Section 208 complaint process.

The Commission seeks comment on whether there are adequate remedies under existing law, such as Sections 201, 202, 208 and 251 of the Communications Act ("the Act"),[15] to address allegations of unreasonable or unreasonably discriminatory conduct relative to automatic roaming agreements. As discussed above, Verizon Wireless believes that market conditions will ensure that carriers do not engage in unreasonable discrimination -- in violation of Section 202 of the Act -- or engage in any unreasonable acts or practices – in violation of Section 201 of the Act -- in the context of negotiating automatic roaming rates. However, in the event that a carrier believes unlawful activity has occurred, Section 208 of the Act gives the Commission ample authority to resolve such claims. As such, Verizon Wireless believes there is no need for the Commission to adopt additional rules or enforcement mechanisms in this proceeding.

5. The Commission should find that it is reasonable for carriers to deny other carriers "in-market" roaming agreements.

The Commission seeks comment on whether any automatic roaming rule should require a carrier to enter an automatic roaming arrangement on a non-discriminatory basis with a facilities-based competitor in the same market ("in-market" roaming).[16] Although Verizon Wireless opposes any automatic roaming requirement, it does believe the Commission should clarify in this proceeding that carriers may lawfully deny requests for in-market roaming agreements. As noted above, the only type of automatic roaming agreement requests that Verizon Wireless seeks to resist are in-market roaming requests. This is because Verizon Wireless believes that allowing the customers of other licensees in the same market to roam onto Verizon Wireless' network allows such licensees to benefit from the network investment made by Verizon Wireless and removes incentives for the licensees to construct their own networks.

In addition, Verizon Wireless is concerned that in-market roaming may cause severe disruptions to Verizon Wireless' own analog customers. This is because competing carriers often do not operate using a digital technology that is compatible with Verizon Wireless' digital technology. As a result, other licensee's subscribers roaming on Verizon Wireless' network must often rely on Verizon Wireless' analog

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[15] 47 U.S.C. §§ 201, 202, 208, 251.

[16] NPRM, at 11 (¶ 27).

capacity to obtain service. In many markets, however, Verizon Wireless does not have sufficient analog capacity to support in-market roamers. Verizon Wireless does not believe it should have to divert investment away from superior digital technology in order to accommodate in-market roamers from a competing carrier. Indeed, such a requirement would put Verizon Wireless at a competitive disadvantage.

For these reasons, Verizon Wireless believes that the Commission should clarify that denying requests for in-market roaming arrangements is *per se* reasonable and not a violation of the Act or the Commission's rules.

6. Carriers should be allowed to offer more favorable roaming terms to their own affiliates.

In the NPRM, the Commission asks whether providers should be permitted to offer roaming agreements to affiliates on different terms and conditions than to non-affiliates or whether agreements favorable to affiliates constitute unlawful behavior.[17] Verzion Wireless is not entirely sure what the Commission means by roaming agreements with affiliates, however, for purposes of these comments, Verizon Wireless will presume that the Commission is referring to the practice of offering lower roaming rates to subscribers when they roam on the networks of other licensees controlled by the same company. Assuming this practice is what the Commission intended, Verizon Wireless believes that companies should be permitted enter into more favorable roaming agreements with affiliates.

Requiring companies to make the roaming rates offered to affiliates available to all other carriers would eliminate the competitive advantage carriers have been trying to obtain and would have a chilling effect on roaming rates. One way nationwide carriers have sought to lower roaming costs and thereby lower nationwide rates is by acquiring or otherwise affiliating with other carriers to build a nationwide footprint. If the Commission were to require carriers to make the rates charged to affiliates for roaming generally available, the Commission would eliminate one of the primary benefits carriers have sought to obtain by making acquisitions or by entering into strategic alliances. In addition, a requirement that such rates be made generally available would almost certainly stop the steady decline in roaming rates seen over the past several years.

B. The Commission should retain the manual roaming requirement.

The Commission seeks comment on the continued utility of the manual roaming requirement. In particular, the Commission asks whether the manual roaming requirement should be eliminated.[18] Verizon Wireless believes that the manual roaming requirement should be retained. Although the proliferation of automatic roaming arrangements has caused a steady decline in customers' reliance on manual roaming, the availability of manual roaming in the rare circumstances where automatic roaming does not exist is a benefit to customers and does not impose a significant detriment to carriers. Accordingly, Verizon Wireless believes the manual roaming requirement is in the public interest and should be retained.

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[17] *Id.*, at 11 (¶ 28).

[18] *Id.*, at 12 (¶¶ 31-32).

II. CONCLUSION

Verizon Wireless believes that competitive market conditions will continue to ensure that automatic roaming arrangements are available to carriers that want them and that roaming rates will continue to steadily decline. As such, Verizon Wireless opposes adopting any automatic roaming rule. Verizon Wireless believes, however, that the manual roaming requirement is in the public interest and should be retained.

Dated: January 5, 2001

Respectfully submitted,

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