

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

In the Matter of	)	
	)	
Promotion of Competitive Networks	)	WT Docket No. 99-217
In Local Telecommunications Markets	)	
	)	
Wireless Communications Association	)	
International, Inc. Petition for Rulemaking	)	
to Amend Section 1.40000 of the	)	
Commission's Rules to Preempt Restrictions	)	
on Subscriber Premises Reception or	)	
Transmission Antennas Designed to	)	
Provide Fixed Wireless Services	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications Act	)	
of 1996	)	
	)	
Review of Sections 68.104, and 68.213 of	)	CC Docket No. 88-57
the Commission's Rules Concerning	)	
Connection of Simple Inside Wiring to the	)	
Telephone Network	)	

**PETITION FOR RECONSIDERATION**

Verizon Wireless, pursuant to Section 1.429 of the Federal Communications Commission's ("FCC" or "Commission") Rules,<sup>1</sup> hereby respectfully submits its petition for reconsideration of one aspect of new FCC Rule Section 64.2300 adopted in the

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<sup>1</sup> 47 C.F.R. § 1.429.

above-captioned proceeding.<sup>2</sup> Verizon Wireless maintains that contracts granting carriers the exclusive right to locate commercial mobile radio services (“CMRS”) transmitters in multiple tenant environments (“MTEs”) do not raise the same type of anticompetitive concerns that led the Commission to adopt Section 64.2300.

Accordingly, Verizon Wireless requests that the FCC reconsider and amend the rule to exclude services offered by CMRS providers.

## I. DISCUSSION

In adopting Section 64.2300, the Commission was concerned that exclusive access arrangements in MTEs could serve as an obstacle to facilities-based competitive entry into the local telecommunications market. The Commission determined that access to an MTE could be a facility essential to providing traditional local exchange services. The Commission therefore found that exclusive access arrangements prohibit facilities-based entry into an MTE and could allow local exchange providers to either create or maintain market power. Accordingly, the Commission adopted Section 64.2300 to prevent common carriers from maintaining or obtaining bottleneck control over access or essential facilities needed to provide facilities-based local exchange service.<sup>3</sup>

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<sup>2</sup> Section 64.2300 provides that “No common carrier shall enter into any contract, written or oral, that would in any way restrict the right of any commercial multiunit premises owner, or any agent or representative thereof, to permit an other common carrier to access and serve commercial tenants on that premises.

<sup>3</sup> Promotion of Competitive Networks in Local Telecommunications Markets, *First Report and Order*, WT Docket No. 99-217, FCC 99-217 (released October 25, 2000) (“*First Report*”) at 14-20.

Section 64.2300 does not make sense in the context of CMRS, because the rationale used by the Commission to justify application of Section 64.2300 to non-CMRS local exchange competitors does not apply to CMRS providers.<sup>4</sup> In general, CMRS providers do not need or require access to any particular building in order to provide service within a building or to its tenants. Rather, in order to provide services to the tenants of a particular building, CMRS providers use transmitters which may be located either on the building or in adjacent areas. In most instances, CMRS providers do not require access to building space or wiring in order to reach tenants located within a building. As such, even if a CMRS provider may be denied access to one particular building, the carrier could still provide service to the building's tenants by using a nearby transmitter.<sup>5</sup>

Because CMRS providers cannot affect competition by entering into exclusive access arrangements with building owners, there is no credible reason to extend the provisions of Section 64.2300 to CMRS providers. Verizon Wireless therefore requests that the Commission reconsider and amend Section 64.2300 to exclude CMRS common carriers.<sup>6</sup>

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<sup>4</sup> In applying new Section 64.2300 to all common carriers, the FCC does not appear to have considered the merits of extending the rule to CMRS providers. Thus, the Commission neither cited any wireless comments nor discussed any wireless perspective in adopting the rule. *First Report*, at 13-20. Indeed, the record does not contain any evidence that CMRS providers are using exclusive access arrangements to restrict competition.

<sup>5</sup> Building owners may wish to restrict access due to space, radio frequency emissions, aesthetic or other concerns.

<sup>6</sup> Verizon Wireless takes no position with respect to the merits of Section 64.2300 with respect to non-CMRS common carriers.



## II. CONCLUSION

In general, CMRS providers do not require access to a building space or wiring in order to provide CMRS service to tenants located in the building. Accordingly, the Commission's rationale for prohibiting common carriers from entering into exclusive access contracts does not apply to CMRS providers. For this reason, the Commission should reconsider and amend Section 64.2300 to exclude CMRS common carriers.

Dated: February 12, 2001

Respectfully submitted,

Verizon Wireless

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Certificate of Service

I hereby certify that on this 12<sup>th</sup> day of February 2001, copies of the foregoing "Petition for Reconsideration" in WT Docket No. 99-217 were sent by first-class mail the following:

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