

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Year 2000 Biennial Regulatory Review	)	WT Docket No. 01-108
- Amendment of Part 22 of the	)	
Commission's Rules to Modify or	)	
Eliminate Outdated Rules Affecting	)	
the Cellular Radiotelephone Service	)	
and other Commercial Mobile Radio	)	
Services.	)	
_____	)	

**COMMENTS OF THE WIRELESS CONSUMERS ALLIANCE, INC.**

Wireless Consumers Alliance, Inc. ("WCA") submits these comments with respect to the Commission's *Notice of Proposed Rulemaking (Notice)* in the above captioned matter. The Communications Act requires the Commission to review its rules every two years and "repeal or modify" rules that are "no longer necessary as the result of meaningful economic competition between providers."<sup>1</sup> The Commission seeks comments concerning whether certain provisions of Part 22 of its rules should be discarded or modified because of changes in technology, competition and other factors. We believe that the proper balance between competition and regulation will not be achieved by some of the proposals in the *Notice*. The public interest requires the Commission to reject the proposals in the *Notice* to eliminate analog service, or emasculate it to the point where it is worthless. The Commission should increase, not reduce, the

---

<sup>1</sup> 47 U.S.C. § 161.

amount of information provided to the public and the Commission about coverage and grade of service. Finally, the Commission should reject the plan for CTIA to take over the administration of SIDs for administrative purposes and, by the way, permit a carrier to use multiple SIDs, which opens the door to an even more consumer abuse, and require that the assigned SID be transmitted throughout the carrier's assigned MSA or RSA.

## I.

### INTRODUCTION

Consumers should not be left to rely on the beneficence or the long run self interest of the CMRS carriers, particularly in the face of abundant historical evidence of predatory misconduct and misrepresentation. Effective competition depends on removal of barriers to new entry – a component which is not available in this market because of the restriction on use and availability of spectrum. Thus, competition should be viewed as a partial alternative to monopoly regulation and CMRS providers must still be subject to regulatory safeguards.

The *Notice* proposes to do away with some vital rules based on the misplaced notion that consumers have choices and can freely move from one carrier to another. This is simply not true. Carriers offer the same miserable grade of service at the same inflated prices and employ the same misleading marketing tactics to lock in consumers to long term contracts with hidden cancellation fees. In fact, CMRS carriers behave just as one would expect in an oligopoly market. At the present time, consumer interests are being harmed by marketplace failure and more controls are required – not less.

## II.

### THE ELIMINATION OF ANALOG SERVICE IS NOT IN THE PUBLIC INTEREST

There are multiple assaults on analog service in the *Notice*. If these rule changes are adopted, it is all but certain that analog service will effectively disappear in urban areas. It is also sure that analog will continue to be the standard in rural areas. This means that the effectiveness of the use of cellular systems in connection with safety of life will be severely compromised.

**A. The adverse impact on consumers who have analog only phones.**

As have been noted in many other proceedings, approximately 67% of the consumers purchased their phones and service for safety and security reasons. “Safety and Security” was the basis for the massive advertising campaigns by the cellular industry over the last decade. Just before the advent of dual mode phones, the cellular industry mounted an enormous marketing campaign to sell analog only phones to seniors for their safety. The cellular industry thereafter lead the effort to place its discontinued analog only phones with agencies who use them to help people at risk, such as battered women. Large numbers of analog only phones were recycled to provide 911 only service to groups who needed to be able to reach emergency services. So add to the 41.9 subscribers approximately 20 million non-subscribers who rely on 911 only analog service for their safety.

The *Notice* assumes that there has been a decline in the popularity of analog service because “new subscribers increasingly choose digital service.”<sup>2</sup> We respectfully suggest that the decline is due to the fact that: (1) a consumer cannot buy an analog only phone in urban areas and, (2) cellular carriers in metropolitan areas will not accept new customers with such phones. The *Notice* also assumes that consumers can afford to abandon their analog equipment because of the declining cost of new equipment and the discounts offered by carriers to purchase such

equipment.<sup>3</sup> Such “low cost” and “discounts” are an illusion because they are available only to consumers who sign two year contracts which contain hidden, substantial cancellation penalties. These factors are not sufficient to require the 41.9 million subscribers who have analog phones to purchase new equipment. At the very least, carriers who wish to discontinue analog service should be required to replace *all* analog phones with dual mode phones which are equal to or better than the analog phone replaced based on original purchase price. This replacement obligation should include all the 911 only phones without regard to source or cost.

**B. The adverse impact on consumers who travel to and from rural areas.**

We submit that the death of urban analog service will result in “nationwide service” which excludes rural areas. This means the rural subscriber will be effectively shut out when attempting to roam into urban areas. Conversely, the urban subscriber will no longer have the ability to stay in contact when traveling in rural areas. In fact, analog service covers most of the country and it make no sense to dismantle this system from a public interest perspective.

**C. The elimination of channelization requirements means the elimination of analog**

---

<sup>2</sup> Notice § 26.

<sup>3</sup> Notice § 24.

The *Notice* states that “we are proposing to remove the channelization requirements, including the designation of control and communication channels [and] we also propose to remove the rule requiring that analog emissions be transmitted only on the communication channels.”<sup>4</sup> This proposed rule change will permit carriers to convert control channels into voice channels. Analog systems will not work without control channels. By reducing the number of control channels, a carrier can easily reduce the grade of analog service to an unusable level. For example, if the 21 analog control channels were converted to control and voice channels and scattered around the system, the resulting service would be less than adequate – it would be useless. This is an unworkable alternative to elimination of analog service. We would rather see the Commission discontinue analog service altogether than adopt this alternative with its false promise.

### III.

#### **THE COMMISSION SHOULD CONTINUE TO ASSIGN SIDs FOR EACH MSA/RSA**

The Commission assigns system identification numbers (SIDs). The cellular handset uses the SID to determine whether or not it should scan on the A side or the B side.<sup>5</sup> The table in the handset uses the SID to tell the subscriber whether or not he/she is in the “home” or “roaming” mode. We are concerned by that portion of proposed Section 22.941 (a) that says “[e]ach cellular system must have at least one SID that is associated uniquely with it”. Does this mean that a carrier may have more than one SID (other than SIDs belonging to other cellular systems)? If so,

---

<sup>4</sup> *Notice* § 41.

<sup>5</sup> The proposed rule change for Section 22.941 which states that the “cellular phone transmits the programmed SID” must be a misprint because this is not correct.

this would enable carriers to slice and dice their systems to provide service to customers over less than their assigned MSA or RSA. This, we submit, is not in the public interest. We would require each carrier to have a unique SID which is transmitted throughout its MSA or RSA.

#### IV.

#### **MORE, NOT LESS, INFORMATION IS REQUIRED**

The *Notice* proposes to eliminate the requirement that consumers be provided with service area information and that the Commission be given information concerning lack of system capacity. The premise in the *Notice* is that these requirements are unnecessary because competition provides consumers with a choice. This premise, as stated above, is false.

Two of the biggest consumer complaints relate to misinformation concerning coverage and poor grade of service. After AT&T Wireless established its “One-rate” plan in New York City, there was an acknowledged lack of system capacity to handle the new subscribers. Presumably, AT&T reported that fact to the Commission in writing “explaining how it plans to increase capacity” as required by section 22.901. However, based on current news reports, the problems persist. It is the consumers who suffer. They are attracted to the service based on promises of coverage and statements that the grade of service provided will be “just like your regular telephone.” In fact, the wireless carriers know exactly where their coverage is and carefully track the grade of service from cell site to cell site. If consumers were given this information they could make informed decisions and the marketplace would restrain and prod private management to do a better job. Instead, we have this shell game where consumers purchase phones which can only be used on a single system and are locked into long contracts with hidden penalties for early termination.

## CONCLUSION

The basic premise used to support the proposed rule changes is that the CMRS market is competitive – it is not. Even competition is imperfect. Competition should be regarded as a supplement to regulation – not a replacement for regulatory oversight of the use of the public’s airwaves.

We submit that the elimination or undermining of analog service is very ill advised. The reasons given are not sufficient to set aside the public interest in maintaining this service. The elimination of disclosure and reporting requirements sends the wrong message – consumers are entitled to more information, not less. The provision of information concerning service area and grade of service fosters efficiency and competition. The Commission should reject the rule changes which affect analog service, the disclosure and reporting requirements and should retain control over the use and assignment of SIDs.

July 2, 2001

Respectfully submitted,

---

Carl Hilliard  
Wireless Consumers Alliance  
P.O. Box 2090  
Del Mar, California 92014  
(858)509-2938  
(858) 509-2937  
carl@wirelessconsumers.org