

ORIGINAL

verizonwireless

EX PARTE OR LATE FILED

Verizon Wireless
1300 I Street NW
Suite 400 West
Washington, DC 20005

August 10, 2001

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

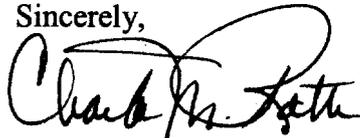
**Re: Ex Parte Presentation
CMRS Spectrum Cap Biennial Review
CC Docket No. 01-14**

Dear Ms. Salas:

On August 9, 2001 Donald Brittingham, Michael Samsoc, Chris Arfaa and the undersigned (representing Verizon Wireless) met with John Branscome, Susan Singer, Wayne Leighton, Jeffrey Steinberg, Lauren Kravetz Patrich and Heidi Kröll (of the Wireless Telecommunications Bureau). The parties discussed issues related to the above-captioned proceeding as outlined in the attached presentation, which was distributed at the meeting.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter is being filed with your office. If you have any questions concerning this submission, please feel free to contact me.

Sincerely,



Charla M. Rath
Director-Spectrum & Public Policy

Attachment

cc: Susan Singer
Wayne Leighton
Jeffrey Steinberg
Lauren Kravetz Patrich
Heidi Kröll
John Branscome

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Summary

- MARKET IS EFFECTIVELY COMPETITIVE
- SPECTRUM AGGREGATION LIMITS ARE NO LONGER "NECESSARY IN THE PUBLIC INTEREST
- NEED FOR MORE SPECTRUM IS REAL
- THE LIMITS IMPOSE SIGNIFICANT COSTS
- MECHANISMS EXIST TO PREVENT ANTICOMPETITIVE CONSOLIDATION
- COMMISSON SHOULD ELIMINATE SPECTRUM CAP AND CELLULAR CROSS INTEREST RULE



Meaningful Economic Competition Exists

- SIX NATIONAL CARRIERS

- INCREASED LOCAL COMPETITION
 - 259 Million Can Choose From 3 Carriers
 - 214 Million Can Choose From 5 Carriers
 - 133 Million Can Choose From 6 Carriers

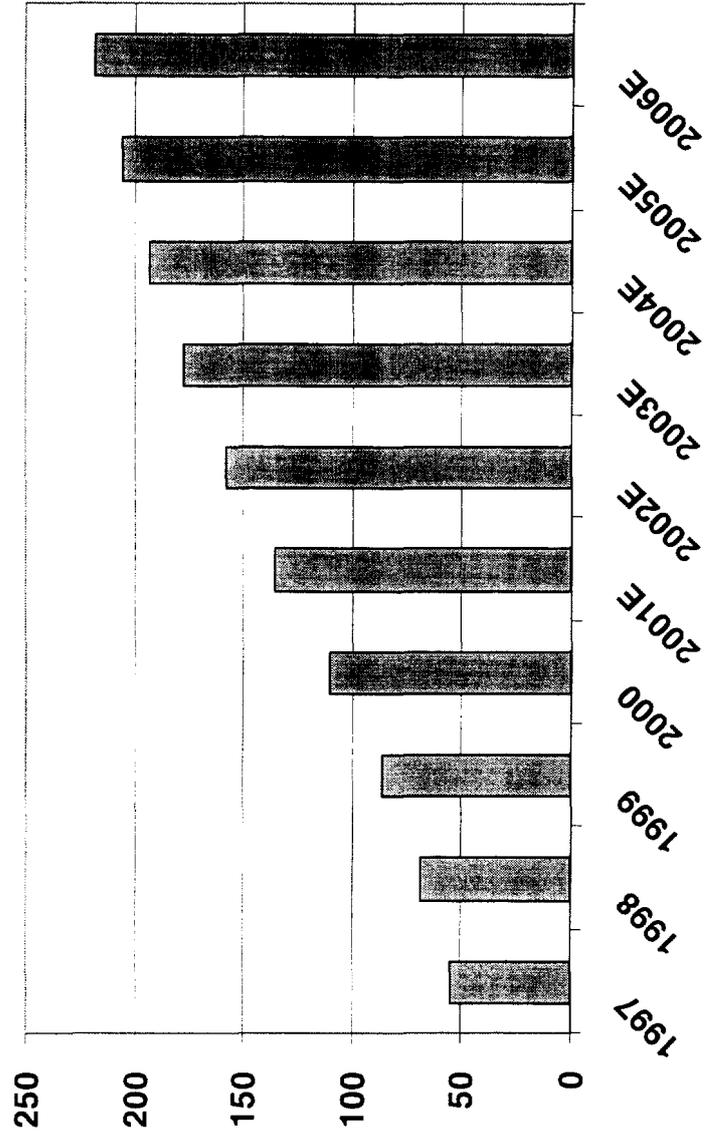
- WIRELESS PRICES HAVE FALLEN DRAMATICALLY
 - Average Bills Have Fallen More Than 50% In A Decade
 - National Pricing Plans

- NEW ENTRANTS ARE GAINING CONSIDERABLE GROUND
 - PCS Subscribership Has Tripled Since 1998
 - PCS Subscriber And Revenue Growth Rates Exceed Cellular Rates

- WIRELESS IS BECOMING A MEANINGFUL ALTERNATIVE TO WIRELINE SERVICE }

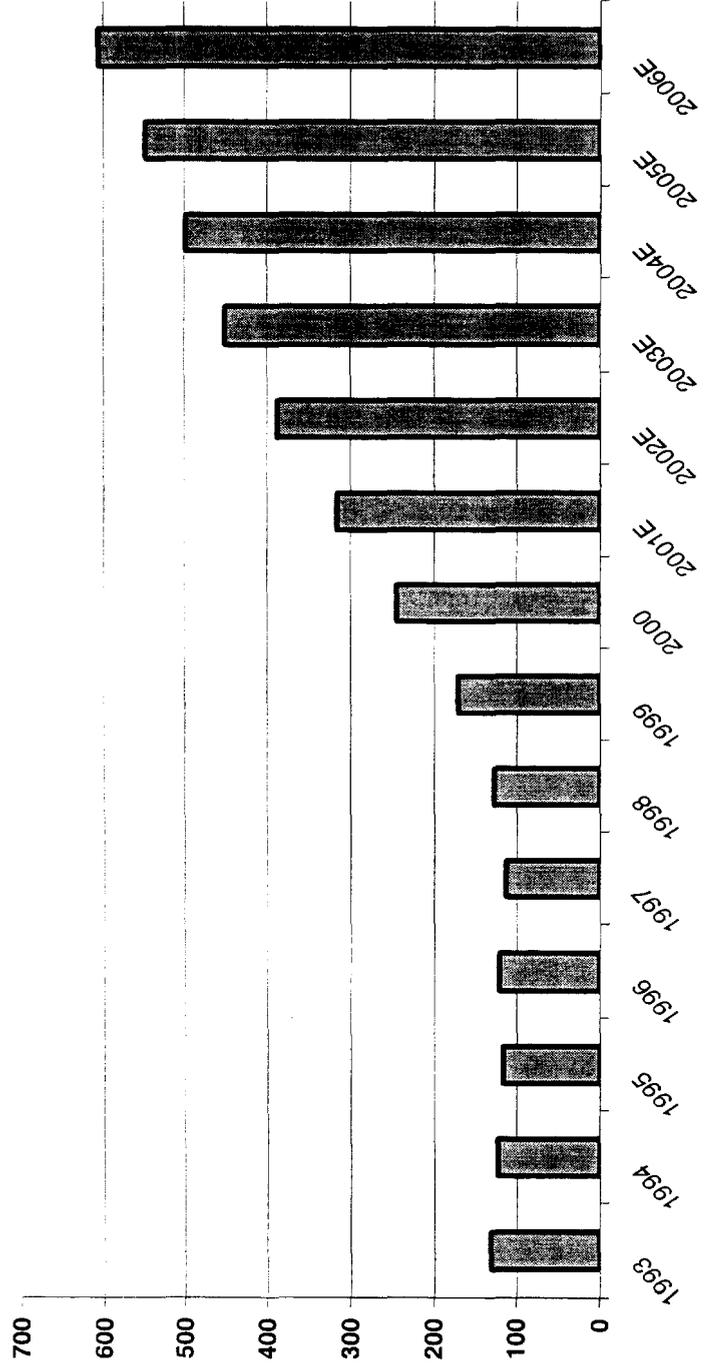


U.S. Wireless Subscribers (M)





Average MOU/ Customer





Section 11 Of The Act Requires Complete Elimination Of Spectrum Aggregation Limits

- ORIGINAL PURPOSE OF THE CAP WAS TO TO ENCOURAGE NEW ENTRY
- COMMISSION'S CURRENT PUBLIC INTEREST OBJECTIVES ARE TO PROMOTE COMPETITION, INNOVATION AND THE RAPID DEPLOYMENT OF ADVANCED SERVICES
- RECENT MARKETPLACE CHANGES MAKE IT OBVIOUS THAT THESE RULES ARE NO LONGER NECESSARY TO ACHIEVE COMMISSION GOALS
 - Aggregation Limits Are "No Longer Necessary In The Public Interest" Due To Existence Of "Meaningful Economic Competition"
- COMMENTERS FAVORING RETENTION OF THE CAP FAIL TO PROVIDE LEGAL RATIONALE



Section 332 Of The Act Requires Complete Elimination Of Spectrum Aggregation Limits

- SECTION 332 (OBRA) ESTABLISHED A FRAMEWORK THAT RELIES ON COMPETITION RATHER THAN GOVERNMENT INTRUSION TO ACHIEVE PUBLIC INTEREST GOALS
- FCC DETERMINED "AS A PRINCIPLE OBJECTIVE THE GOAL OF ENSURING THAT UNWARRANTED REGULATORY BURDENS ARE NOT IMPOSED UPON ANY CMRS PROVIDERS" (Second CMRS Report)
- RAISING THE CAP IGNORE SECTION 332 REASONING



Cellular Cross Interest Rule Creates Regulatory Imparity

- ELIMINATION OF THE RULE WILL CREATE REGULATORY PARITY AMONG CMRS SERVICES
- PCS AND SMR ARE NOT SUBJECT TO 'CROSS INTEREST' RESTRICTIONS
- FORCES CELLULAR INCUMBENTS TO BUY PCS SPECTRUM
 - Distorts market forces that would otherwise value all CMRS spectrum equally



Need for More Spectrum is Real

- VERIZON WIRELESS HAS THE MOST SOPHISTICATED MOBILE NETWORK IN INDUSTRY
- ENORMOUS GROWTH IN MOBILE VOICE AND NARROWBAND DATA
- TO MEET THE DEMAND FOR VOICE ALONE, CARRIERS MUST DOUBLE THE CAPACITY OF THEIR SYSTEMS EVERY 2 - 4 YEARS
- ANALYSTS PREDICT THAT DATA USAGE WILL EXCEED VOICE USAGE BY 2005

Limits Impose Significant Costs On Carriers

- THE CAP IS IMPOSED ON ONLY A SUBSET OF SPECTRUM, CONSTRAINING COMPETITORS' ABILITY TO COST-EFFECTIVELY COMBINE BLOCKS OF SPECTRUM
- THE CAP AND CROSS INTEREST LIMITS DISTORT CARRIERS' INPUT DECISIONS
- BY DISADVANTAGING THE MOST SUCCESSFUL CARRIERS, THE CAP MAY HINDER COMPETITION
- "HALF" MEASURES OR PARTIAL MEASURES WOULD ONLY FURTHER DISTORT THE MARKET



Mechanisms Exist To Prevent Anticompetitive Consolidation

- DOJ REVIEW IS SUFFICIENT
 - Process designed to evaluate all potentially harmful consolidations not just CMRS mergers
 - Does not prejudice a proposed merger

- FCC EXERCISES REVIEW PURSUANT TO SECTION 310(d)

Waiver Process Is Insufficient

- WAIVER CURES "PROBLEM" CREATED BY UNNECESSARY RULE
- NEED FOR WAIVER ELIMINATES MOST ACQUISITION DISCUSSIONS
- CREATES UNCERTAINTY AND SUBSTANTIAL DELAY
 - No Guarantee That Waiver Will Be Granted
 - FCC Has No Obligation to Act in a Timely Manner
- FORCES CARRIERS TO DIVULGE BUSINESS PLAN
- CASE-BY-CASE REVIEW WASTES COMMISSION RESOURCES



Conclusion

- THE CAP AND CROSS INTEREST RULES ARE NOT NEEDED TO PREVENT THE LOSS OF COMPETITIVE CMRS MARKETS
- THE CAP AND CROSS INTEREST RULES ARE NO LONGER NEEDED TO PROMOTE NEW ENTRY
- THE COSTS OF THE SPECTRUM AGGREGATION RULES FAR OUTWEIGH THEIR PURPORTED BENEFITS
- BOTH RULES MUST BE REPEALED IN THEIR ENTIRETY