



CTIA

Building The Wireless Future™
Cellular Telecommunications & Internet Association

October 30, 2001

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

Re: Ex Parte Presentation
CC Docket No. 01-14

Dear Ms. Salas:

On October 30, 2001, Rick Ekstrand, Chairman of the Board of CTIA and President and CEO of Rural Cellular Corp., along with Steve Berry, Senior Vice President of Government Affairs, and Diane Cornell, Vice President for Regulatory Policy, of CTIA, met with Monica Desai, Legal Advisor to Commissioner Martin. The parties discussed elimination of both the spectrum cap and the Commission's cellular cross-interest rules.

In particular, the parties discussed how the spectrum cap and the cellular cross-interest rules impair competition in rural as well as urban areas. Mr. Ekstrand discussed how these constraints make it difficult for carriers to do the kind of advance planning they need to raise the capital necessary to expand their coverage footprints and build out their networks to better serve their customers. For example, he explained that the geographic differences between the Basic Service Area (BSA) and Basic Trading Area (BTA) license areas created many undue complications as his company attempted to expand its coverage footprint because of the adverse impact of the spectrum cap constraints. He also emphasized that competition is vigorous in rural areas, as well as urban areas, because of nationwide pricing and advertising. In addition, PCS carriers have been aggressively building out across America; data relied on in the last spectrum cap order was that 86% of the nation was still served by cellular carriers as of December 1998, but by year end 2000 that figure was 70%, indicating that PCS had grown to 30% of market in just two years. Accordingly, market conditions indicate that it is no longer appropriate to discriminate between cellular and PCS carriers by applying the cellular cross-interest rule in any market. To the extent a proposed transaction presents competition concerns, antitrust review can best address those issues. Additional prophylactic mechanisms like the spectrum cap and cross-interest rules are no longer necessary.

The parties also indicated that, if the Commission believes internal processing guidelines are necessary to analyze transactions once the spectrum cap is lifted, it should look to the merger guidelines that have an established and successful track record at the Department of Justice and as part of the FCC's past competitive analyses, as well as factors the FCC considers important to its public interest jurisdiction.

