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July 10, 2003

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Jonathan S. Adelstein, Commissioner
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Re: Repeal of Section 52.31 of the Commission's Rules Regarding
Commercial Mobile Radio Service Local Number Portability; Telephone
Number Portability: RM _____, CC Docket No. 95-116

Dear Sirs and Madam:

The Commission's original LNP ruling in 1996 found that the agency had authority to impose LNP on CMRS carriers. Bell Atlantic Mobile, Inc. appealed and the case was voluntarily dismissed when the Commission agreed to temporarily forbear and entered into a stipulation so that a later challenge could be pursued. The Commission's authority to impose LNP was again raised in the recent appeal of the FCC's denial of Verizon Wireless' forbearance petition and the FCC fully responded on the merits that it had sufficient authority from Congress. On June 6, 2003, the Court affirmed but did not reach the jurisdictional question. The U.S. Court of Appeals for the District of Columbia Circuit ruled that the issue involving FCC authority over CMRS LNP needed to be raised in the context of a petition to rescind.

On June 16, 2003, CTIA, AT&T Wireless, Inc., Cingular Wireless LLC and ALLTEL (the "Petitioners") filed an Expedited Petition for Rulemaking to Rescind the CMRS LNP Rule

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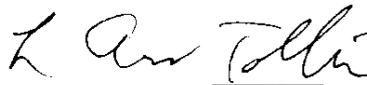
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challenging the FCC's statutory authority to impose LNP on CMRS carriers. Time is of the essence because: (1) the looming November 24, 2003 deadline imposes upon the Petitioners the need to begin hiring personnel to staff porting centers, deploying hardware and software to support the porting process, and negotiating and implementing service level or interconnection agreements; and (2) there must be sufficient time for the Court to decide the case on an expedited basis. The Petitioners have done everything possible to urge the FCC to dispose of the petition expeditiously so the jurisdictional issue can be decided once and for all by the Court. To date, the Petitioners have not been able to obtain any information about when the FCC expects to act. It should be a relatively straightforward matter to resolve the petition given the FCC's often stated position that it has implied authority to impose LNP obligations on CMRS carriers.

The Petitioners are merely seeking their day in court. The FCC previously agreed that it would not object to a subsequent challenge to its authority over CMRS LNP, but the Court of Appeals ruled that the parties could not stipulate to the timing of judicial review. Because of the urgency of this matter, Petitioners will soon be forced to consider filing a *writ of mandamus* with the Court of Appeals. This step will only be taken as a last resort. Judicial review should not be subverted by inaction. The public interest resides in a definitive ruling by the Court on the expanse of the FCC's authority. Such a course will protect the integrity of the Commission's processes.

Respectfully submitted,

**CELLULAR TELECOMMUNICATIONS &
INTERNET ASSOCIATION
CINGULAR WIRELESS LLC
AT&T WIRELESS SERVICES, INC.
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