

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of:)
)
Implementation of Section 6002(b) of the)
Omnibus Budget Reconciliation Act of 1993) WT Docket No. 04-111
)
Annual Report and Analysis of Competitive)
Market Conditions With Respect to)
Commercial Mobile Services)

To: The Commission

COMMENTS OF METROCALL HOLDINGS, INC.

Metrocall Holdings, Inc. (“Metrocall”), by its attorneys, hereby submits comments on the Notice of Inquiry (“NOI”), issued on March 24, 2004, in the above-captioned proceeding.¹ In support hereof, the following is respectfully submitted.

I. Introduction

In the NOI, the Commission solicits information and data in order to evaluate the state of competition in the Commercial Mobile Radio Service (“CMRS”) industry, for its ninth annual report on CMRS competition.² To that end, the Commission seeks comment on a number of matters pertaining to CMRS competition.³ Metrocall’s comments focus on two issues: (1) the structure of the CMRS marketplace as it pertains to paging service;⁴ and (2) the availability of paging spectrum, and its effect as a possible barrier to entry for potential competitors.⁵

¹ In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Notice of Inquiry, FCC 04-38, WT Docket No. 04-111 (rel. March 24, 2004).

² Id. at ¶ 1.

³ Id.

⁴ Id. at ¶ 8.

⁵ Id. at ¶ 25.

Regarding the structure of the CMRS marketplace, Metrocall submits that, due to the wide range of available CMRS products and services, and the interchangeable nature of them, the relevant product market encompasses the general mobile telecommunications market in the U.S. That market consists of various types of interconnected wireless services, including: cellular telephony, personal communication service (“PCS”), specialized mobile radio (“SMR”), and paging. The data show that paging customers utilize other CMRS services as substitutes for paging, and, during the past five years, have been rapidly switching to other services. Consequently, there is no distinct market for paging services.

Regarding the availability of paging spectrum, the evidence shows that potential competitors have various avenues of obtaining access to paging spectrum, including participating in the FCC’s periodic paging auctions, and leasing spectrum from incumbent paging providers. Hence, access to paging spectrum does not constitute a barrier to entry for potential competitors.

II. Statement of Interest

Metrocall is a CMRS licensee with facilities throughout the United States. Metrocall, the second largest paging and messaging carrier in the United States,⁶ provides various wireless services throughout the country, including one-way and two-way paging and messaging services. Metrocall has been an active participant in many FCC proceedings pertaining to CMRS paging and messaging issues.

⁶ Metrocall and Arch Wireless, Inc. (“Arch”) have recently proposed a merger of their two companies, and the required regulatory filings by Metrocall and Arch are currently pending before the Commission and the U.S. Department of Justice.

In the NOI, the Commission seeks comment from CMRS industry members⁷ on matters pertaining to, inter alia, policies that promote facilities-based competition among CMRS providers.⁸ As a facilities-based CMRS provider, Metrocall's business will be impacted by changes to the Commission's CMRS competition policies. Accordingly, Metrocall has standing as a party in interest to file comments in this proceeding.

III. There is No Distinct Product Market for Paging Services

The Commission seeks comment on the structure of the CMRS product market.⁹ In soliciting comment on that issue, the Commission notes that the CMRS marketplace is becoming increasingly integrated, and that many CMRS service offerings "are virtually indistinguishable by most consumers."¹⁰

The mobile services to which the Commission specifically refers in the NOI as "indistinguishable" include cellular telephony, broadband PCS, and SMR,¹¹ but not paging. Metrocall submits that paging is also a service that customers have found to be interchangeable with other CMRS services.

The Commission has consistently considered paging service to be part of a broader marketplace for mobile data services.¹² Events of the past few years in the paging industry have only reinforced that conclusion. Based on the competitive trends in the CMRS marketplace, stand-alone paging service simply does not exist as a distinct

⁷ See NOI at ¶ 6.

⁸ Id. at ¶ 4.

⁹ Id. at ¶¶ 7, 9.

¹⁰ Id. at ¶ 7.

¹¹ Id.

¹² See, e.g., Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Seventh Report, FCC 02-179 (rel. July 3, 2002) at 66-68 ("Seventh Report"); Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Eighth Report, FCC 03-150 (rel. July 14, 2003) at ¶¶ 141-42 ("Eighth Report").

product market. Rather, the relevant CMRS product market encompasses the general mobile telecommunications market in the U.S.

A. Paging Service

Traditional commercial paging service consists of one-way data communications sent to a mobile device that alerts the user when it arrives. There are three types of basic paging services: (1) tone-only service, which emits a tone to alert the user that someone is trying to reach him or her; (2) numeric service, where a telephone number is displayed on the paging unit's screen; and (3) alphanumeric service, which displays a text message and/or telephone number on a paging unit's screen. Two-way paging (usually referred to as "messaging") allows subscribers to send and receive messages. Messaging allows subscribers to send and receive text messages, and obtain customized information such as stock quotes, sports scores, and weather reports.

B. Consumers Freely Substitute Among Wireless Mobile Services

The Commission specifically requests information on customer behavior in the mobile telecommunications market, *i.e.*, the ability and inclination of customers to purchase or change a CMRS service or service provider, and how that influences the CMRS market structure.¹³ CMRS customers are looking for a service that will allow them to be accessible while away from a landline telephone; paging is but one of many such services from which they may choose.

The interchangeable nature of paging service *vis a'vis* other CMRS services is illustrated by the fact that paging carriers are losing customers due to competition from providers of other CMRS services. As stated by the Strategis Group, a well known telecommunications market research firm: "Facing competition from cellular/PCS

service, one-way paging has become less attractive for many users.”¹⁴ Indeed, the number of customers utilizing paging services has fallen dramatically since its peak in 1999. In 1999, there were an estimated 45.8 million to 52.5 million paging units in service (“UIS”) in the U.S.¹⁵ The number of UIS declined to 18 million in 2001;¹⁶ in 2002, the UIS declined to 14.1 million;¹⁷ and, by the end of 2003, there were approximately only 12 million UIS in the entire U.S.¹⁸

Telecommunications market analysts also note that “the proliferation of low-cost mobile phone service extinguished growth in one-way paging,”¹⁹ and “[t]he traditional [paging] industry has been, and continues to be, in a steep decline as a result of migration of customers to substitute services through broadband wireless providers, primarily cellular and PCS providers.”²⁰ Subscribership and pricing trends bear out those analyses, and further show that growth in mobile telephone subscribership has grown inversely with the decline in paging subscribership.²¹ While paging subscribership has declined by roughly 75 percent since 1999, mobile telephone subscribership has nearly doubled, from 86 million UIS at the end of 1999, to more than 155 UIS today.²² During that same period, prices for mobile phones have dropped by 27.5 percent,²³ and the

¹³ See NOI at ¶ 44.

¹⁴ See “State of U.S. Paging and Advanced Messaging Industry,” the Strategis Group, 2001 (“Strategis Report”) at 1.

¹⁵ See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Fifth Report, FCC 00-289 (rel. Aug 18, 2000) (“Fifth Report”) at 56 (citing two estimates: 45.8 million and 52.5 million UIS).

¹⁶ See Seventh Report at 66.

¹⁷ See Eighth Report at ¶ 19.

¹⁸ See “Why Carriers Must Push New Services, Subscriber Gear,” Wireless Data News (January 30, 2004).

¹⁹ See Strategis Report at 7.

²⁰ See “The Chapter After Chapter 11,” JP Morgan North American Equity Research (Jan. 9, 2004).

²¹ See Fifth Report at 58. At least one study has shown that the purchase of a cellular phone is one of the main reasons paging customers discontinue service. Id.

²² See www.wow-com.com (current number of mobile telephony subscribers); Fifth Report at 9 (number of mobile telephony subscribers at year-end 1999).

²³ See “Paging Firms Will Merge,” Washington Post (Mar. 30, 2004).

average monthly charge for mobile telephony/data services dropped by nearly one-third.²⁴

Paging carriers are losing thousands of units every month to competition from bundled voice and data services offered by mobile telephony providers who routinely provide data services as part of a “one price” package.²⁵ Because services such as voice, voice mail, and caller ID functions now contained in most mobile phone packages duplicate the need that has historically been met with pagers, the paging industry has declined with the rise of mobile phones.²⁶ The evidence shows that CMRS customers have been increasingly utilizing mobile telephony and other wireless services as substitutes for traditional paging services.

One such substitutable service, on which the Commission specifically seeks comment, is short message service (“SMS”).²⁷ SMS’ functionality, the ability to send and receive alphanumeric messages over a cellular or PCS phone, is similar to that of paging. And, as illustrated by the table below, it is offered by the top U.S. mobile telephony providers at very low rates. Low cost is one of the main reasons customers retain paging service,²⁸ and the economical cost of SMS is one reason that its subscribership has grown, while paging subscribership has decreased.²⁹ Consequently, SMS competes directly with paging.³⁰

²⁴ See “Wireless Industry Spurs Upgrade Trend,” Markets Wireless (Oct. 24, 2003).

²⁵ See “Paging Splits as Carriers Find Niche or Expand Beyond Core,” RCR Wireless News (May 26, 2003).

²⁶ See Strategis Report at 16-17.

²⁷ See NOI at ¶ 38.

²⁸ See, e.g., Seventh Report at 68.

²⁹ See “SMS Pushes Paging to Extinction,” Network World Fusion (Jan. 7, 2002); “Pagers on the Way Out,” Geek.com (Dec. 10, 2001). Available at www.geek.com/news/geeknews/2001dec.

³⁰ See Strategis Report at 17.

It is estimated that by the end of 2007, there will be approximately 75 million SMS subscribers in the U.S.³¹ SMS was introduced in the U.S. in 2000, during the time when paging began its precipitous decline.³² By the end of 2002, most of the large mobile telephony providers offered SMS, and the growth rate was rapid.³³ During the same period, paging subscriber rates declined substantially.³⁴

Today, all of the large mobile phone carriers provide SMS at inexpensive rates. The six largest mobile telephony carriers have an estimated total of 33.2 million SMS subscribers; nearly three times the total number of paging UIS in the U.S.

Company	SMS Monthly Charges ³⁵	SMS Subscriber Base
Verizon Wireless	\$2.99 for 100 messages \$3.99 for 200 messages \$7.99 for 300 messages	6.5 million ³⁶
Cingular Wireless	\$2.99 for 100 messages \$5.99 for 250 messages \$9.99 for 500 messages	8 million ³⁷
AT&T Wireless	\$1.99 for 25 messages \$4.99 for 100 messages	5 million ³⁸
Sprint PCS	\$15.00 per month for Vision services (including SMS)	6.7 million ³⁹
Nextel	\$5.00 for 300 messages \$9.00 for 1000 messages	2.6 million ⁴⁰
T-Mobile	\$2.99 for 300 messages	4.4 million ⁴¹

³¹ See "IDC Projects Strong Growth in Wireless SMS and IM with Market Opportunities Varying by Segment" (May 23, 2003). Available at www.idc.com.

³² See Seventh Report at 68.

³³ See Eighth Report at ¶ 145.

³⁴ Id. at ¶ 141.

³⁵ The SMS monthly charges for the listed carriers are found at Eighth Report at E-2.

³⁶ See "Strigl Sees Enterprise, Consumer Data Success," Telephony Online (Sept. 9, 2003).

³⁷ See "SMS Challenges in the U.S. Marketplace," Billing World and OSS Today (May 2002).

³⁸ See "Sprint to Offer Video, 3D Games for Cell Phones," CNET News.com (January 9, 2004).

³⁹ See "Factbox – U.S. Wireless Competitive Landscape," Quote.com : Reuters (February 17, 2004)

⁴⁰ See "Nextel and RIM Announce Enterprise Java Developer Contest for Blackberry 6510," Press Release (June 10, 2003).

⁴¹ See "T-Mobile USA, Global Wireless Data Conference," (Dec. 10, 2003), Slide 7.

As cellular telephony providers have developed better service networks and more data features with affordable prices, the difference between a cellular plan and a paging plan (a cellular plan typically runs approximately \$10 - \$20 per month more than a pager plan) are becoming negligible, and consumers view these products as interchangeable.⁴²

C. Paging Will Continue to be Interchangeable With Other CMRS Services

For the foreseeable future, paging carriers will continue to face competition from providers of data-only applications, which offer e-mail, Internet access, and other services such as personal digital assistants (“PDAs”) and Blackberries.⁴³ Analysts project that the number of one-way paging units will continue to “decline steadily . . . led largely by migration of one-way users to either advanced messaging units or handsets with paging or SMS capabilities.”⁴⁴

The Commission states that mobile data customers in the U.S. are expected to continue to avail themselves of mobile telephone services that include text messaging and similar offerings, in addition to traditional paging.⁴⁵ As noted by the Commission, there are a “multitude of mobile data services, service providers, and pricing plans and devices available to customers.”⁴⁶

Data-only services are also interchangeable with voice services, as illustrated by the fact that services such as SMS, email, and Internet access can be delivered over voice platforms that include cell phones and PCS devices, as well as laptop computers and Blackberries.TM Those services are provided over networks operated by cellular, PCS,

⁴² See Network World Fusion (Jan. 7, 2002).

⁴³ See Eighth Report at ¶¶ 131-134.

⁴⁴ See Strategis Report at 37.

⁴⁵ See Fifth Report at 58.

⁴⁶ Id. at ¶ 127.

SMR, satellite, and paging carriers.⁴⁷ Accordingly, Metrocall agrees with the Commission's statement in the NOI that "mobile voice and mobile data services are no longer clearly separate services in the CMRS industry."⁴⁸ Paging is but one interchangeable service within the overall CMRS market.

IV. Access to Paging Spectrum is Not a Barrier to Entry

The Commission requests information concerning whether potential competitors have access to sufficient spectrum, and whether lack of spectrum may be a significant barrier to entry in the CMRS industry.⁴⁹ Metrocall submits that a significant amount of paging spectrum exists, and access to spectrum is not a barrier to entry for potential paging competitors.

For example, potential paging providers may participate in the FCC's periodic auctions to obtain licenses for exclusive paging frequencies. The paging licenses offered at auction have large geographic service areas: Economic Areas ("EAs") and Major Economic Areas ("MEAs").⁵⁰ During the period of 2000-2003, the Commission held three paging auctions, which provided plenty of opportunities for competitors to enter the market.⁵¹

There is no shortage of paging licenses or paging spectrum. During the most recent paging auction held in May 2003, the Commission offered 10,202 licenses for

⁴⁷ Id. at ¶¶ 131-134; 180-181.

⁴⁸ See NOI at ¶ 7.

⁴⁹ See NOI at ¶ 25.

⁵⁰ See Lower and Upper Paging Auction Closes, DA 03-1836 (rel. May 30, 2003) ("Paging Auction Public Notice").

⁵¹ See wireless.fcc.gov/auctions.

bid.⁵² Ninety-six bidders won 2,832 of the licenses offered, leaving 7,370 paging licenses available for future auctions.⁵³

Moreover, paging licensing costs are quite low. During the most recent auction, the average winning bid for an EA license was \$1,130.⁵⁴

Another option for potential entrants is to acquire spectrum from existing paging licensees. Paging licensees, and licensees in other wireless services, may assign their licenses to other entities, subject to FCC approval and other regulations.⁵⁵ Paging licensees who have won geographic licenses in the FCC's spectrum auctions may partition or disaggregate their licenses, so that new entrants need only obtain the amount of spectrum or geographic coverage that they need.⁵⁶

Additionally, the FCC recently promulgated rules to permit spectrum leasing for most types of CMRS services, including paging.⁵⁷ Because the spectrum leasing rules have been in effect for only a short period of time, it is too early to provide accurate data as to whether new entrants have, or will, effectively utilize leasing as a means to enter the paging market. Nonetheless, spectrum leasing provides an additional, cost-effective avenue to spectrum access which should help to ease entry for potential paging carriers.⁵⁸

⁵² See Paging Auction Public Notice.

⁵³ Id.

⁵⁴ Id. at Attachment A.

⁵⁵ See 47 C.F.R. § 1.948.

⁵⁶ See 47C.F.R. § 22.527.

⁵⁷ See Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, FCC 03-113 (rel. Oct. 6, 2003) ("Secondary Markets Order").

⁵⁸ Id. Since lessees would not need to acquire a license, entrants avoid the costs associated with bidding and/or license assignment. Entrants can obtain spectrum quickly because leasing avoids the FCC's assignment process, and lessees obtain only as much spectrum as they need for their particular businesses. Id. at ¶ 45.

