

July 22, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, D.C. 20554

**Re: Ex Parte Presentation
WT Docket 03-128**

Dear Ms. Dortch:

On Thursday, July 22, 2004, Andrea Williams, Assistant General Counsel, CTIA, Lori Messing McGarry, Director of Policy, CTIA, and Andy Lachance, Director and Regulatory Counsel, Verizon Wireless met with Mr. Paul Margie, Spectrum and International Legal Advisor to Commissioner Michael Copps regarding the status of the Nationwide Programmatic Agreement and concerns regarding Sprint's and CTIA's proposed language regarding the industrial/commercial area and rights of way exemptions. Attached is a brief summary of that discussion.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being electronically filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Andrea D. Williams

Andrea D. Williams
Assistant General Counsel

cc: Paul Margie



Summary

- Commissioner Copps is very reticent to adopt the Nationwide Programmatic Agreement without clear, legal definitions, particularly the definition of a commercial area as it pertains to the industrial/commercial area exemption.
- Commissioner Copps' office has received mixed reviews from the SHPO community regarding their support for the Nationwide Programmatic Agreement ("NPA"), particularly the concept of exempting certain industrial/commercial areas and rights-of-way from Section 106 review. Apparently, some SHPOs have indicated that they oppose the concept and the NPA. There is concern that these SHPOs will not embrace the NPA, and consequently neither will NCSHPO.
- The proposed NPA submitted by the ACHP's Communications Tower Working Group to the FCC is the product of a three-year negotiation process among the affected stakeholders. Similar to any negotiation process, the proposed NPA is the result of compromises, both by the industry and SHPOs in order to reach a consensus. While there are some SHPOs who remain recalcitrant in their opposition and their interpretation of the ACHP's rules, CTIA and Verizon Wireless emphasized that the ACHP's Working Group provided ample opportunities for SHPOs to participate in the process. In fact, the Working Group held lengthy discussions and carefully considered their views in its efforts to reach consensus among the various stakeholders.
- Verizon Wireless noted that the goal of this three-year negotiation process was to develop a uniform, clear, streamlined process for reviewing communications towers on or near historic properties, not to evade industry's obligations under the NHPA, ACHP, and the FCC's rules. While the proposed NPA was not as uniform, clear and streamlined as Verizon Wireless had hoped, there are several provisions, specifically the rights of way and industrial/commercial area exemptions, that will provide some relief from systemic delays in the siting of wireless facilities. These two categorical exclusions are very important to wireless carriers, and are necessary for carriers' support of the NPA.
- CTIA and Verizon Wireless noted that the concept of exempting certain industrial/commercial areas and rights of way from Section 106 review has been on the table since day one of this negotiation process. Claims that this is a new issue are unfounded. The issue has been thoroughly vetted, and the proposed language offered by Sprint and CTIA to address the rights of way and industrial/commercial area exemption is supported by the ACHP and NCSHPO.
- There was discussion regarding the *ex parte* letter filed by the National Historic Trust. CTIA noted that the industry viewed it as an attempt to rehash issues that have been discussed exhaustively, thoroughly considered, and has already resulted in industry concessions. To revisit these issues again is futile and only delays moving forward with the adoption and implementation of the NPA.

