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September 28, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: WT Docket 04-70

Dear Ms. Dortch:

On behalf of Kempner Mobile Electronics, Inc. (“Kempner”), this letter updates information contained in Kempner’s filings in the referenced docket.

In a May 3, 2004 petition to deny the proposed merger of Cingular Wireless Corporation (“Cingular”) and AT&T Wireless Services, Inc. (“AT&T”), Kempner described the legal action it had taken against Cingular for fraudulent activities that enabled Cingular to steal Kempner’s customers. Specifically, Kempner stated that it had obtained a jury verdict against Cingular for fraud and tortious interference.¹

However, in a letter filed in the referenced docket on June 10, 2004, Cingular and AT&T observed that the jury’s verdict in favor of Kempner on the tortious interference count had been set aside and set for a new trial, a point acknowledged by Kempner.²

Kempner now reports that the new trial on the tortious interference count has taken place. The jury once again returned a verdict against Cingular.

As opponents to the Cingular/AT&T merger have shown, this merger will cause an increase in market concentration that, by any reasonable measure, is off the charts – creating the nation’s largest wireless carrier that will be a whopping one-third larger than its next biggest competitor. This merger will strengthen and broaden the opportunities for Cingular to engage in the kinds of anticompetitive conduct detailed by Kempner and others. The Commission, therefore, should deny its consent to the merger.

¹ Kempner was not the only party to pursue legal action. The May 3 petition described several more suits filed against Cingular that included allegations of fraud, tortious interference, racketeering and racial discrimination.

² See July 9, 2004 Letter From Kempner’s Counsel to Marlene H. Dortch, at n. 7.

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Sincerely,

/s/

Richard S. Myers

Jay N. Lazrus

Counsel for Kempner Mobile Electronics, Inc.