

July 20, 2007

VIA ELECTRONIC FILING

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentations in PS Docket No. 06-229 and WT Docket No. 06-150

Dear Ms. Dortch:

On July 19, 2007, I met with Bruce Gottlieb, legal advisor, and Connor Raso, legal intern, to Commissioner Copps on behalf of CTIA-The Wireless Association to discuss issues implicit in the design of the 700 MHz auction.

The discussion focused on construction requirements, special limitations on licensee service design, and proposals to create a public-private public safety network.

In general, I indicated that the Commission should be cautious about the imposition of special requirements as conditions on 700 MHz licenses. Because of the negative cost and efficiency consequences inevitably attending them, any special conditions should be regarded as absolutely necessary to accomplish a critical objective that would not otherwise be achieved. Retail mobile wireless indisputably is workably competitive, which leads to the conventional assumption that special conditions and their attendant costs are both unnecessary and to be avoided.

One obvious illustration of this principle involves construction requirements. With a sufficient number of firms offering service to end users, there is no reason to believe that they will not construct their systems to the maximum extent consistent with profitable operation. Regulations requiring that they build beyond the point of profitability directly and necessarily introduce internal subsidies, and with them a well-known set of distortions. One important aspect of geographic construction requirements is that they are more difficult for smaller than larger firms to absorb because larger firms enjoy the benefit of scale economies, the presence of which are not subject to serious dispute in this case. Thus, if our public policies seek to avoid unnecessarily handicapping smaller carriers, they would not impose geographic buildout requirements.

Similarly, the Commission should be reluctant to impose special requirements such as “no locking, no blocking” on particular licensees unless it is convinced that normal market mechanisms will not produce industry performance consistent with overall consumer preferences. If the Commission believes that there is a demonstrable basis for concern about market failure -- based on insufficient competition, information deficiencies, or the presence of significant externalities -- it should both explicitly address the cause of the failure and design a remedy that is the minimum necessary to overcome the perceived failure. Among other things, “locking” and “blocking” are different phenomena that should be analyzed and addressed separately, both in terms of whether each is a uniform practice of carriers and of the practical consequences of banning them. Any regulation, in addition to being narrowly focused and appropriately limited, should proceed from some calculation of its effect on overall consumer welfare.

The imposition of license conditions as a means of creating a public-private “partnership” to construct, operate, and maintain a broadband public safety network obviously would constitute the commencement of a vast and, from the Commission’s perspective, unprecedented undertaking. If, as a consequence of concluding that there is no other way to meet the requirements of the country’s myriad public safety agencies, the Commission initiates this undertaking, it should make every effort to minimize the complexity of its requirements. The possibility that the project will fall short of the Commission’s aspirations is likely to be influenced, among other things, by the extent that the license made available in the auction is encumbered with excess conditions.

Please contact me if there are any questions regarding this filing.

Respectfully submitted,

/s/ Philip L. Verveer
Philip L. Verveer
Counsel to CTIA-The Wireless Association

cc: Mr. Bruce L. Gottlieb
Mr. Connor Raso