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August 8, 2008

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-B204
Washington, DC 20554

Re: Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, WT Docket No. 05-265; Notice of *ex parte* presentations

Dear Ms. Dortch:

This is to inform you that on Wednesday, August 6, 2008, the undersigned, counsel for Leap Wireless International, Inc. (“Leap”), and Timothy Powers, Principal of Artemis Strategies, also representing Leap, along with Robert J. Irving, Jr., Senior Vice President and General Counsel of Leap, met separately with Aaron Goldberger, Legal Advisor to Chairman Kevin Martin and Bruce Gottlieb, Legal Advisor to Commissioner Michael Copps regarding the above-captioned proceeding. In each of these meetings, participants discussed the positions that Leap raised in its petition for reconsideration and other filings in this proceeding. Leap emphasized the importance of automatic roaming for consumers and explained the need to eliminate the exception for in-market or home roaming articulated in the *Roaming Order*.¹

The in-market exception eviscerates the fundamental common carrier obligations contained in Sections 201 and 202 of the Communications Act and will prevent many consumers (including many individuals who are under-served by the dominant carriers such as Verizon and AT&T) from receiving seamless nationwide wireless service. Based on recent news accounts suggesting that the Commission may soon act on the pending petitions for reconsideration, Leap strongly urged the Commission to eliminate the in-market exception altogether or, at a minimum, place the burden on the host carrier to justify any denial of automatic roaming in the event the

¹ See Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, WT Docket No. 05-265, *Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 15817, 15835–36 (¶¶ 48–51) (2007) (“*Roaming Order*”).

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Commission decides to maintain the in-market exception. The Commission should also allow for a substantial period of time before abandoning the automatic roaming rule for any licensed areas. Any order on reconsideration that does not incorporate these features would not cure the defects in the *Roaming Order* and would be inadequate to ameliorate the anticompetitive effects that the in-market exception is likely to cause—and many consumers will likely suffer as a result.

Please contact me if you have any questions.

Very truly yours,

- /s/ -

James H. Barker

cc: Aaron Goldberger
Bruce Gottlieb