

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Petition for Rulemaking Regarding Exclusivity) RM No.11497
Arrangements Between Commercial Carriers and)
Handset Manufacturers)

To: The Commission

**COMMENTS
OF
CORR WIRELESS COMMUNICATIONS, LLC**

Corr Wireless Communications, LLC ("Corr"), by its attorneys, hereby offers these comments supporting the petition of the Rural Cellular Association to prohibit exclusivity arrangements between handset manufacturers and commercial mobile carriers. Indeed, Corr believes that merely prohibiting exclusive arrangements may not be sufficient to ensure the wide and fair distribution of critical equipment. The Commission should require handset manufacturers to make equipment available to large and small carriers on a non-discriminatory basis.

As a Tier III carrier, Corr has experienced first-hand the difficulties of acquiring access to the widest variety of the latest handset models. The present distribution scheme, even without exclusivity agreements, places companies like ours at the end of the line when it comes to getting new models. Often we are a year to two years behind the majors in getting access to new models

from manufacturers. This severely crimps our ability to compete with the majors on handset devices, even though we are otherwise able to present consumers with an attractive alternative on price, coverage, flexibility of service, and customer service. The Commission has long recognized that competition is the best way to deliver goods and services to the American consumer at the highest quality and the lowest price. Unfortunately, the current handset distribution paradigm effectively eliminates the ability of smaller carriers to compete on goods. By the simple laws of economics, the consumer must suffer because he or she is being deprived of effective competition.

This problem is likely to become even more competitively crippling as new devices designed to take advantage of open networks appear on the scene. We, the Commission, and others anticipate that opening wireless networks to access from a plethora of devices not controlled by the carriers will generate a flood of new devices that deliver new and hitherto undreamed of functionality to consumers, much as the *Carterfone* decision spawned a whole new industry of feature-rich communications devices capable of connecting to the PSTN. However, if manufacturers are permitted to enter into exclusive arrangements with carriers like the iPhone deal, the benefits of "open access" will largely be lost. The carriers -- particularly carriers who have purchased 700 MHz C Block spectrum subject to open access provisions -- will have effectively restricted true open access by hogging the best, newest and most popular handset devices for themselves. Such arrangements in the 700 MHz C Block might well be deemed a violation of the open access rule. In the broader CMRS context, these arrangements plainly limit consumer choices and dampen competition to the detriment of the public interest.

Further exacerbating the problem is the obligation of CMRS carriers to introduce new hearing aid compliant product lines. Corr finds itself hampered in its ability to secure HAC-

compliant devices that meet its own quality standards, which meet the FCC requirements, and which meet consumer demands. The number and percentage of HAC models which small carriers must offer will grow inexorably under the Commission's strict -- and strictly enforced -- rules mandating diversity of choice for consumers with hearing issues. The problem is that Corr and other Tier III carriers cannot properly meet these obligations unless they themselves have access to a broad diversity of choice from the manufacturers. Exclusivity agreements serve to impede our ability to obtain the breadth of models needed to comply with these rules.

Exclusive arrangements also make it difficult for smaller carriers to provide E-911 service. As the Commission has seen in the context of revisiting the E-911 accuracy rules (PS Docket No. 07-114), one of the best potential long-term solutions to delivering high accuracy E-911 service in rural areas is the wide distribution of Assisted GPS handsets (A-GPS). These handsets overcome the difficulty that network solution GSM carriers have historically confronted in trying to meet E-911 accuracy standards where there are few cells. These devices are starting to roll out now but supply is largely limited to the largest carriers either by exclusivity deals or simply because the large carriers are favored customers of the manufacturers. This leaves smaller carriers, as usual, at the end of the line, despite the fact that it is these carriers who often serve the most rural areas with the largest need for A-GPS. Given the persistent and across-the-board inability of the market to cause the wider distribution of these products, regulatory intervention is needed.

While the current situation prevails, not only the hearing impaired but *all* consumers who rely on E-911 capability or who simply want access to a decent choice of communications products are suffering. As a Tier III carrier, Corr is in the untenable position of having to obey FCC-imposed mandates to provide hearing-aid compliant handsets and having to deliver highly

accurate E-911 location service (which in our case requires access to A-GPS handset devices), but with no way of compelling the manufacturers to sell it the equipment it needs to meet these requirements. The Commission cannot continue to impose obligations on carriers while denying them the tools needed to comply with those obligations at the most fundamental level. Corr therefore strongly supports RCA's petition for a rulemaking to address these issues and recommends adoption of appropriate rules at the earliest possible date to redress them.

Respectfully submitted,

Corr Wireless Communications, LLC

By _____/s/_____

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