



Consumer Federation of America

April 15, 2004

The Honorable Michael Powell, Chairman
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Subject: 800 MHz Spectrum Realignment – Docket No. WT 02-55

Dear Mr. Chairman:

We are writing to urge skepticism towards Verizon's professed willingness to bid \$5 billion for the 1.9 GHz spectrum at issue in the 800 MHz spectrum realignment proceeding. This so-called "bid" does nothing to advance the cause of eliminating public safety radio interference, and appears to be yet another anti-competitive tactic aimed at delaying a vote on this urgent matter.

Regardless of motive, however, the Verizon "bid" should be considered non-qualifying because it would unduly concentrate the wireless market horizontally and would represent a significantly increased threat to consumers' hopes that wireless competes against landline telephone monopolies. In short, since this "bid" would ultimately lead to less aggressive competition between wireless and wireline telephone companies and inflated prices to consumers, we believe it is inconsistent with the Commission's mandate under the Communications Act and must therefore be rejected.

Any dominant wireless company's bid for spectrum should be subjected to the same scrutiny that would be applied for a review of a merger in the wireless market. Spectrum is a necessary input for this marketplace, and should accordingly be treated like the acquisition of other product inputs.

Since Verizon is the largest wireless firm in the industry, with a national market share of nearly 25% (and the wireless market is in the upper range of moderate concentration with an HHI of approximately 1620), virtually any merger involving Verizon and another wireless provider would violate the merger guidelines. For example, a merger between Verizon and a firm with a mere 2% market share would violate the merger guidelines for both moderately and highly concentrated markets. Allowing a dominant firm such as Verizon to acquire this 1.9 GHz spectrum would have an even greater anti-competitive effect.

The Honorable Michael Powell

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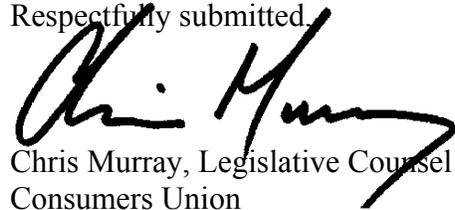
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Needless to say, the proposed Cingular/AT&T Wireless merger, which would combine the second and third largest firms in this industry, is clearly in violation of the merger guidelines. Furthermore, that transaction would eliminate another non-Bell wireless carrier, raising similar questions about loss of competition between independent wireless and wireline telephone companies. We are therefore deeply concerned about Cingular's bid for AT&T Wireless – and our concerns about Verizon's attempted acquisition of additional spectrum are no less grave. In fact, some observers believe that Verizon's bid proposal is an attempt to make Verizon the sole bidder, should this spectrum be auctioned.

Allowing dominant wireless players to strengthen their grip, either through spectrum acquisition or through merger, will increase concentration, ultimately resulting in higher prices and worse service for consumers. Regardless of Verizon's motive – whether manipulative or genuine – the public interest should govern the ultimate Commission decision about whether or not to hold an auction. Given the clear potential of anti-competitive harm and inflated prices for consumers, we do not believe the Commission could, under its public interest mandate, allow Verizon to buy this spectrum. Accordingly, Verizon's bid should be considered non-qualifying.

Further delay in adoption of this spectrum realignment poses real risks to both our Nation's emergency service providers and the public they serve. It is our hope that the Commission will not countenance obstruction by parties merely seeking to stifle competition.

Respectfully submitted,



Chris Murray, Legislative Counsel
Consumers Union



Mark Cooper, Director of Research
Consumer Federation of America

cc: Commissioner Abernathy
Commissioner Adelstein
Commissioner Copps
Commissioner Martin