

**STATEMENT OF  
COMMISSIONER KATHLEEN Q. ABERNATHY**

*Re: Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation For Consent to Transfer of Control of Licenses And Authorizations, WT Docket No. 04-70 (adopted October 22, 2004).*

I am pleased to support this decision approving the merger of AT&T Wireless Services and Cingular Wireless, because, with the conditions we have imposed, it will lead to significant consumer benefits.

One of the real success stories of the United States telecommunications market has been the competitive nature of the wireless industry. The wireless industry, and in particular the mobile wireless sector, is a shining example of what a well-functioning market can achieve when it is not hindered by unnecessary regulation. The FCC reaffirmed in its recent annual report on the state of wireless competition that the industry has continued to show significant growth despite a difficult economic environment. More specifically, the Commission found that the wireless industry continued to innovate, offered a wider variety of service offerings, and increased the availability of its services, all while reducing the prices charged to consumers. The wireless industry by all accounts is competitive, demonstrating how market-based solutions can best serve customers. Because of competition, the Commission found that 97 percent of the total population of the United States lives in a county with access to three or more different operators offering mobile telephone service, up from 95 percent in the previous year, and up from 88 percent in 2000, the first year these statistics were kept.

It is against this competitive backdrop that I reviewed the merger of AT&T Wireless and Cingular to determine if its approval would serve the public interest, convenience, and necessity. After an extensive review of data that was submitted to the Commission to determine the competitive effects of this transaction, we have concluded that competitive harm is unlikely in most mobile telephony markets, primarily because of the presence of multiple carriers that have the capacity to add subscribers and the ability to supplement their current capacity as well. More specifically, even after the merger, 97 percent of the total U.S. population will continue to live in a county with access to three or more different operators offering mobile telephone service. In addition, populations in many other counties will have access to 4, 5, 6 or even 7 or more different mobile telephone operators.

However, our careful review of the transaction did raise competitive concerns in several mobile telephony markets where our case-by-case review revealed that likely competitive harms exceed the likely benefits of the transaction. In these markets, the divestiture conditions that we are adopting should effectively ameliorate the expected harm. Therefore, with these conditions in place, in no area of the country will harm to users of mobile telephony services result from this acquisition.

I also believe that consumers are likely to recognize many benefits in the forms of efficiencies from this merger. These include improvements in service quality that will likely arise from the combination of the applicants' network operations and spectrum holdings, more ubiquitous and robust advanced services being deployed because of the additional spectrum available to the merged entity, and the ability of the merged entity to expand into previously unserved markets, among others. In the long term, it will be competitive marketplace that determines whether the merged entity is successful.

Finally, just as this transaction will benefit consumers of wireless services, I am likewise convinced that it will not undermine competition in the wireline communications market. Opponents of the transaction raise two concerns, neither of which persuades me to oppose the merger or support additional conditions. First, some parties assert that SBC and BellSouth, Cingular's corporate parents, will have the incentive and ability to discriminate against unaffiliated wireless providers. To the extent such an incentive exists, it is unchanged by the merger with AT&T Wireless — the BOCs' wireline operations *already* overlap substantially with Cingular's footprint. And, more importantly, section 202 of the Act squarely prohibits SBC and BellSouth from according Cingular preferential treatment, making further merger conditions unnecessary. I am committed to stringent enforcement of this statutory provision. Second, some parties contend that the withdrawal of AT&T Wireless as a competitor will give the BOCs undue dominance in the mass market. While the withdrawal of one wireless competitor from the marketplace may slightly reduce the competitive pressures confronting SBC and BellSouth in the short term, those LECs will face ample competition going forward from other wireless carriers, VoIP providers, CLECs, and others.

I therefore conclude that the transaction, with the conditions we adopt, will serve the public interest.