

**STATEMENT OF COMMISSIONER**  
**MICHAEL J. COPPS**  
**CONCURRING**

June 26, 2003

*RE: Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services.*

Congress requires the Commission annually to “review competitive market conditions with respect to commercial mobile services” and “include in its annual report an analysis of those conditions,” in order to perform an “analysis of whether or not there is effective competition.” I believe that the Commission could do far better. The Report’s contains insufficient data. Much of the limited data included are unverifiable and are derived from sources with a stake in the outcome of our determination. And the Commission does not establish any standard for determining when “effective competition” exists or even to define what “effective competition” is. These problems leave the Report vulnerable to the charge of being results-oriented, and mean that the hard and good work of the Commission’s staff is underutilized.

The limited data that we do have show that in urban areas wireless prices are dropping and carriers are expanding their networks. That’s great news, and I believe that better data and a better standard for analyzing this data would yield results that would show that in many areas the competition that characterizes the wireless market is something to strive for as the FCC pursues wireline competition policy. But half of the country is still served by three or fewer competitors. And one quarter of all US counties have two or fewer competitors.

In this context, and because we need the ability to analyze competition changes if wireless mergers occur, the nature and sources of our data trouble me, especially in the Enron era, when the use of hard to verify corporate data and Wall Street analysts’ reports is under close scrutiny. The Report is largely based on unverified corporate press releases and advertisements, surveys conducted by industry lobbying organizations, unverified Wall Street analysts’ reports that may be influenced by the stock holdings of those analysts’ firms, SEC filings that are not designed for this purpose, and newspaper reports.

I believe that the Commission must gather more independent, verified data to do its job effectively. But the Commission does not gather any of its own data for this report. To their credit, our staff recognized the natural limitations of its data sources and generated some creative solutions to counteract a subset of the inadequacies of the publicly available sources. For instance, this year’s Report was improved by data from the Number Resource Utilization/ Forecast (“NRUF”) database and the ULS Database. Using these new sources of information, aside from strengthening the integrity of the Report, underscores the reliability and utility of data directly collected by the FCC, as

opposed to data generated by interested parties. But FCC-collected data is just not available for most of the critical questions the Report addresses.

This year the Commission staff also tried to gather more information through a NOI that asked for more data from our licensees. But as the Report states, the Commission did not receive from licensees any new data on subscribership, ARPU, usage, churn, or pricing, or maps of their coverage areas. In other words, we asked industry to help us with our effort and they said “no.”

If industry will not assist us in this effort, I believe that the Commission has a responsibility to contract with outside, independent researchers to gather the following data. First, we need independent data on wireless prices. We currently have no pricing data at all on smaller markets, and rely instead on pricing in the most competitive, biggest markets as a proxy for the least competitive, smallest markets. This does not make sense. Second, we need reliable data on the number of competitors in various markets. Today we treat an entire county as served by a company if that company advertises that they serve any part of the county, even just a highway skirting the edge of a county. We say that consumers in a county have two competitors to choose from even if the service areas of those competitors don't overlap at all in the county. Again, this does not make sense. Third, we need independent, annual data on quality of service. Quality of service, price and investment are three critical indicia of competition, and we need to understand all three. Specifically, we need data on dropped calls, service unavailability, and poor connections. Without this basic information, the Commission cannot make conclusions on competition that withstand scrutiny.

I am not alone in thinking that we must improve. In April, the GAO released a report that found that the Commission does not gather any data on call quality despite its importance to consumers. The GAO Survey states that the Commission must begin to include quality of service analysis in its competition report and that “[d]ata sources other than consumer surveys would be useful in assessing the extent of mobile phone quality problems; however, these data were either not available or were of limited usefulness because they were not collected systematically.” I share the GAO's broad concern that our data collection is inadequate and that we should make data on call quality available to this public. If it is somehow too financially burdensome on the Commission to gather adequate data, we should explain our plight to Congress and ask for the needed budget resources. But this is too important to ignore.

In considering the benefits of a more comprehensive and intensive data gathering effort, I also want to note that the British regulatory agency gathers far more information for the benefit of its wireless consumers than does the FCC. While I am not at this time suggesting that we should follow OFTEL's practice of requiring licensees to submit reports, as part of its ongoing monitoring of competition in the British wireless industry, OFTEL conducts quarterly surveys of mobile phone users. OFTEL has used the information it collects on network performance and other factors to determine whether there is effective competition among carriers. We should find a way to gather similar

data. If this is somehow too financially burdensome on the Commission, we should explain our plight to Congress and ask for the needed budget resources.

I also believe that we must establish a definition of “effective competition” and a standard for determining when such competition exists. How can we do the job Congress gave us without doing so? Admirably, the Report includes a long list of possible indicia of competition, including price, expansion of networks, investment levels, churn, quality of service, subscriber growth, usage rates, and ARPU. But merely listing possible relevant areas of inquiry is far different from having a rigorous method of determining whether current market characteristics mean that there is adequate competition. We don’t say whether one factor is more important than another, how they relate to each other, or whether regional differences matter at all in the overall competitive determination. Without more rigor, without an articulated “effective competition” standard, the Report is of limited use in providing an analytically solid foundation for Commission or Congressional action.

Without adequate data and without a clear explanation of how we determine adequate competition, I cannot support the reasoning contained in this item, and must only concur in the result. I do want to thank the Wireless Bureau staff, however, for another fine job this year. They work hard, and do good work with the resources they have. The report is very important, and your work is very important, which is why I focus so much on it every year. Thank you.