

July 8, 2004

By electronic mail

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**RE:** AUC-04-58-B (Auction No. 58)

Dear Ms. Dortch:

By this letter, Catalyst Investors (Catalyst) comments on the procedures established by the Commission in connection with Broadband PCS Spectrum Auction No. 58, which are discussed in the Public Notice released on June 18, 2004.<sup>1</sup> Specifically, Catalyst is pleased that the Commission has enforced, without further modification, the core rules for designated entity (“DE”) participation in the auction, particularly as they relate to the combination of set-asides and bid credits. With these established rules again in place, the Commission maintains the integrity and continuity of the auction structure, which in turn is vital to financing DEs by investors such as Catalyst.

Catalyst is a private equity investment fund focused on the communications sector. We have historically backed small- and mid-sized companies, and we have a particular expertise in wireless. We have actively reviewed opportunities to invest in DEs and, given the core elements of the DE rules today, we will seek to back one or more DEs with respect to Auction No. 58.

In our view, the DE rules – with their critical blending of DE bid credits and set-asides – are the key to leveling the playing field between the DEs and the large national carriers. Indeed, these core elements of the FCC’s DE program are the foundation that allows DEs to build innovative and successful businesses in the face of the ever-increasing scale of the large national carriers and the ever-increasing consolidation of the industry, as recently evidenced with the Cingular / AT&T Wireless merger. The DE rules, structured as they are, provide a means for DEs to acquire the critical wireless licenses needed to enter the industry and succeed in the face of these challenges, just as the Commission intended. Looking forward, if it considers any

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<sup>1</sup> *Broadband PCS Spectrum Auction Scheduled for January 12, 2005, Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures*, Public Notice, DA 04-1639 (rel. June 18, 2004).

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modifications, the Commission should, if anything, consider further *augmenting* DE advantages as one response to continued industry consolidation.

In our view, the certainty associated with the current DE rules is also critical to DEs arranging financing. These rules were developed in connection with Auction No. 35 and are applicable to subsequent auctions.<sup>2</sup> As such, the rules, again with the combination of bid credits and set-asides, have a proven history of success in permitting DEs to develop viable business plans and raise the requisite financing to support those plans. Rule changes, particularly any diminishment of the DE rules, will most certainly fatally disrupt this process.

For these reasons, Catalyst encourages the Commission to resist any calls to further erode the DE rules. The very successful results of Auction No. 35 demonstrate that DEs, properly supported with DE set-asides and bid credits, will raise necessary financing and participate aggressively in these auctions, spending billions more dollars on PCS spectrum. Catalyst therefore encourages the Commission to stand by its proven method of protecting diversity and competition in the wireless communications marketplace.

Respectfully submitted,

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Brian Rich  
Managing Partner

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<sup>2</sup> See 47 C.F.R. §§ 24.229(b), 24.709(a).