



Department of Justice

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AT
(202) 616-2771
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JUSTICE DEPARTMENT SUES THREE FIRMS OVER FCC AUCTION PRACTICES

Coded Bids Used to Signal Competitors

WASHINGTON, D.C. – The Department of Justice today filed lawsuits against three wireless communication firms which allegedly agreed with rivals not to bid against each other in an auction conducted by the Federal Communications Commission (FCC). The auction was conducted by the FCC to sell radio spectrum licenses, which are used to provide digital personal communication services (PCS). PCS include wireless telephone services similar to cellular phone service.

The lawsuits, filed in U.S. District Court in Washington, D.C., charge Mercury PCS II, LLC, of Jackson, Mississippi; Omnipoint Corp. of Bethesda, Maryland; and 21st Century Bidding Corp. of Newport Beach, California, with using coded bids during an FCC auction to reach agreements with other bidders to stop bidding against one another for certain PCS licenses. In its complaints, the Department said the government received less money than it otherwise would have for licenses in Indianapolis, Indiana; Toledo, Ohio; and Lubbock, Texas, as a result of the agreements. Proposed consent decrees, filed today with the complaints, would settle the lawsuits.

According to the complaints, the FCC conducted an auction for more than one thousand PCS licenses covering 493 cities or regions from August 1996 to January 1997. On occasion,

each of the defendants coded the final three digits of its bids to correspond with the FCC number for a particular city or region for which the defendant wanted a license. The defendants used the codes to highlight the licenses they wanted and invite firms that had been competing for those licenses to agree to cease bidding for them, in exchange for an agreement not to bid against them in markets they wanted.

“The defendants used their coded bids for the sole purpose of inviting their rivals not to compete,” said Joel I. Klein, Assistant Attorney General in charge of the Antitrust Division. “The invitations were as clear and unmistakable as those traditionally made in person or by phone, and the resulting agreements were just as harmful. These cases should send a clear message that the Department will challenge agreements to eliminate competition, no matter how they are reached.”

As required by the Antitrust Procedure and Penalties Act, the proposed settlement, along with the Department’s Competitive Impact Statement, will be published in the Federal Register. Any person may submit written comments concerning the proposed decree within 60 days of its publication to Roger W. Fones, Chief of the Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, 325 7th Street, N.W., Room 500, Washington, D.C. 20530.

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