

September 27, 2017

James Arden Barnett, Jr.

T (202) 344-4695
F 202.344.8300
jbarnett@venable.com

Filed Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Cell Command, Inc.'s Response to Department of Justice Comments in Response to Further Notice of Proposed Rulemaking in Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities – GN Docket 13-111

Dear Ms. Dortch:

We write on behalf of Cell Command, Inc. (formerly Try Safety First) (“Cell Command”) to respond to the August 28, 2017 comments submitted by the Department of Justice’s Office of Legal Policy (“DOJ”) in the above-referenced proceeding, which were posted to the Commission’s online docket on September 18, 2017. We appreciate that DOJ recognizes the serious public safety threat caused by contraband wireless devices in federal, state, and local correctional facilities, as well as DOJ’s acknowledgement that Managed Access Systems “may be prohibitively expensive, particularly in those locations where only one provider is available and market competition cannot assist in driving down costs.” DOJ Comments, at 2. We are also encouraged that DOJ “support[s] the Commission’s decision to continue to explore the possibility of disabling contraband cell phones.” *Id.*

However, DOJ’s position on whether state and local correctional facilities may be legally authorized to employ cell phone jamming technology is misguided. DOJ contends that, while 47 U.S.C. § 333 “generally prohibits ‘willfully or maliciously’ interfering with an authorized station’s radio communications,” the statute purportedly “does not necessarily preclude the Commission’s authorization of justifiable law enforcement use of targeted jamming to prevent inmates from using contraband cellphones to further their legal activities.” DOJ Comments, at 3, n. 5. This argument is legally incorrect and contrary to the Commission’s long-standing interpretation of Section 333 and its regulations.

Indeed, the Commission’s position on the use of cell phone jamming technology by state and local law enforcement is unequivocal – such use is, without exception, illegal:

Secretary Dortch
September 27, 2017
Page 2

We again warn the public that it is illegal to use a cell phone jammer or any other type of device that blocks, jams or interferes with authorized communications. This prohibition extends to every entity that does not hold a federal authorization, including state and local law enforcement agencies. ... Federal law provides no exemption for use of a signal jammer by school systems, police departments, or other state and local authorities. ***Only federal agencies are eligible to apply for and receive authorization.***

FCC Enforcement Advisory No. 2014-05, Public Notice, DA 14-1785 (Dec. 8, 2014), at 1, 2 (emphasis added) (available at https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1785A1.pdf) (last accessed September 21, 2017).

The Commission's "Frequently Asked Questions" page covering cell phone jammers poses the following question from a local government official, and the following response from the Commission:

- 18. I am a local government official and I would like to ensure compliance with laws that prohibit cell phone use at certain times or in certain places. May a cell phone jammer be used in this context?**

No. The Communications Act does not exempt state or local government officials from the prohibition on jammers. Similarly, state and local school systems are also prohibited from using cell phone jammers. Use of cell phone jammers poses an unacceptable risk to public safety.

Jammers cannot be marketed or operated in the United States, except in the very limited context of authorized, official use by the federal government. See 47 U.S.C. § 302a(c); 47 C.F.R. § 2.807(d).

FCC, "GPS, Wi-Fi, and Cell Phone Jammers, Frequently Asked Questions (FAQs)," at 7 (available at <https://transition.fcc.gov/eb/jammerenforcement/jamfaq.pdf>) (last accessed September 21, 2017).

The Commission has elaborated on the risk to public safety posed by cell phone jamming technology that supports the prohibition of its use:

Secretary Dortch
September 27, 2017
Page 3

Jammers are more than just a nuisance; they pose an unacceptable risk to public safety by potentially preventing the transmission of emergency communications. Cell phone jammers do not distinguish between social or other cell phone conversations and an emergency call to a family member or a 9-1-1 emergency responder. Similarly, GPS and Wi-Fi jammers maliciously disrupt both routine and critical communications services. Jammers could also block more than just cell phone calls; these devices could disrupt important communications services that operate on adjacent frequencies, or worse, they could disrupt all communications within a broad frequency range.

Id. at 2. See also FCC, Jammer Enforcement, at 1 (available at <https://www.fcc.gov/general/jammer-enforcement>) (last accessed September 21, 2017) (cell phone jamming technologies “pose serious risks to critical public safety communications, and can prevent [individuals] from making 9-1-1 and other emergency calls. Jammers can also interfere with law enforcement communications.”).

It is for these reasons that the Commission routinely denies requests from state and local correctional facilities to test cell phone jamming technology. For example, in 2009, the District of Columbia Department of Corrections (“D.C. DOC”) requested special temporary authority to “host a demonstration of jamming equipment designed to block wireless telephone calls by prisoners” in a D.C. jail. See 24 F.C.C. Rcd. 2060, 2060 (Feb. 18, 2009) (Exhibit 1 hereto). The D.C. DOC represented that the demonstration would be “brief” and “entail directional jamming that [would] not affect authorized wireless communications transmitted outside the established test area of the D.C. Jail.” *Id.* (quoting D.C. DOC’s Request). Citing Section 333 of the Communications Act – the same provision that DOJ contends does not bar the FCC from authorizing state and local authorities to use jamming technology – the Commission *denied* the request, concluding that Section 333 does, in fact, prohibit such use. See *id.* at 2060-61. This conclusion was “consistent with past actions by the Commission’s Wireless Telecommunications Bureau; Office of Engineering and Technology; and Enforcement Bureau addressing the permissibility of the sale or use of cell phone jamming equipment.” *Id.* at 2061.

The Commission denied a similar request for special temporary authority by CellAntenna Corporation (“CellAntenna”) to test cell phone jamming technology at the Pine Prairie Correctional Center in the State of Louisiana. In its request, CellAntenna contended that its demonstration was scheduled to “last no longer than 15 minutes” and, like D.C. DOC’s proposal, would use “directional jamming that can be operated so that its impact is limited to a jail or prison, without interfering with other cellular phones or lines of communication beyond the walls of the

Secretary Dortch
September 27, 2017
Page 4

correctional facility, or otherwise outside the established test area.” 24 F.C.C. Rcd. 3246, 3246 (Mar. 17, 2009) (Exhibit 2 hereto). Unlike D.C. DOC’s request, Cell Antenna contended that LCS Corrections Service, Inc. (“LCS”), which operated the Pine Prairie Correctional Center, was “under contract with the federal government to house federal inmates” and, therefore, its request fell “within the explicit federal exemption” that permitted jamming. *Id.* at 3247-48. The South Carolina Department of Corrections filed comments supporting CellAntenna’s request arguing, as DOJ intimates in its recent comments, “that the legislative history of Section 333 indicates that Congress never intended to prohibit the Commission from authorizing jamming in all circumstances.” *Id.* at 3247.

The Commission disagreed and denied the request because it was undisputed that CellAntenna was “not a *federal entity* subject to any statutory exemption.” *Id.* at 3248 (emphasis added). “Moreover, the Louisiana Department of Public Safety and Corrections list[ed] Pine Prairie as a ‘*local facility*’ and LCS houses *state* prisoners from other jurisdictions (*e.g.*, Alabama Department of Corrections) at the Pine Prairie facility.” *Id.* (emphasis added). Therefore, the federal exemption did not apply, and Section 333 prohibited the use of cell phone jamming technology at the local facility. *Id.* at 3248-49.

As these authorities confirm, the DOJ’s contention that the Commission could authorize state and local correctional facilities to utilize cell phone jamming technology is contrary to the express provisions of the Communications Act and established Commission precedent thereunder.

Additionally, the Commission has recently indicated that, as a matter of public policy, it is opposed to the position on jamming advanced by DOJ in its comments. On September 6, 2017, Communications Daily reported that FCC Chairman Ajit Pai is unlikely to pursue rules that would allow jamming in correctional facilities, and the article noted that Commissioner Michael O’Rielly is adamantly opposed to any legalization of jamming technologies. *See* Howard Buskirk, *FCC Seen Unlikely to Allow Cell Jamming in Prisons Despite DOJ Stance*, Comm. Daily, Vol. 37, No. 172, Sep. 6, 2017, at p. 3. Indeed, Commissioner O’Rielly has made it “crystal clear” that “no matter how this proceeding moves forward, [he] will not support or approve of any form of jamming technologies.” *In the Matter of Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, FCC 17-25, GN Docket No. 13-111 (Mar. 24, 2017), Statement of Commissioner O’Rielly, at 2.

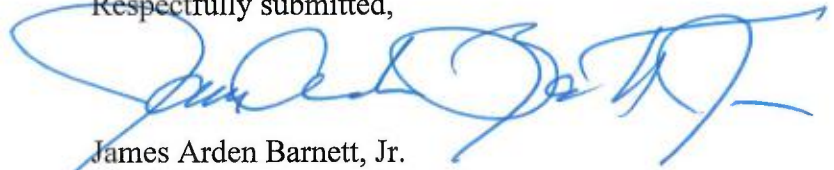
Further, in addition to being illegal at the state and local level, cell phone jamming technology is not an effective nor pragmatic solution to the serious public safety risk posed by contraband wireless devices, as the technology is both over-inclusive and under-inclusive. Indeed, jamming, on the one hand, has the real potential to stretch beyond the walls of the prison or jail to interfere with lawful wireless communications, as the FCC has repeatedly recognized. *See, e.g.*, FCC, “GPS, Wi-Fi, and Cell Phone Jammers, Frequently Asked Questions (FAQs),” at 7 (“Signal

Secretary Dortch
September 27, 2017
Page 5

jammers do not respect property lines, and federal law provides no exception that allows for the private or commercial use of a jammer.”), 8 (“[J]ammers, even if carefully targeted, create risks of interference outside their intended zone of operations and can thereby disrupt critical communications by public safety providers, as well as the legitimate communications of passersby.”) (available at <https://transition.fcc.gov/eb/jammerenforcement/jamfaq.pdf>) (last accessed September 21, 2017). On the other hand, jamming technology is incapable of disabling all functionality of a contraband wireless device in the hands of inmates – such as Wi-Fi access, e-mail access, notes functionality, and camera functionality – any of which could still be used to further criminal enterprises from within prison walls even if cell phone jamming is employed. *See* Cell Command, Inc.’s Reply Comments in Response to the Commission’s Further Notice of Proposed Rulemaking, at 11 (filed July 17, 2017).

What the correctional community is seeking is a solution that disables all functionality on a wireless device, i.e., a technology that turns the device into “a brick”—and it does so in seconds. *See id.* at 2-3. Such technology is the only pragmatic and effective solution to the public safety threat caused by contraband wireless devices. Continuous wave beacon technology is the only technology available today that provides this comprehensive solution to completely disable all functionality of all wireless devices, while still permitting a user to connect to 911 emergency services pursuant to the Commission’s rules. *See* Cell Command, Inc.’s Comments in Response to the Commission’s Further Notice of Proposed Rulemaking, at 16-19 (filed June 19, 2017). For these additional reasons, the DOJ’s advocacy of cell phone jamming technology is, put simply, misguided.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "James Arden Barnett, Jr.", written over a horizontal line.

James Arden Barnett, Jr.
Rear Admiral USN (Retired)

Enclosures

cc: Charles Mathias

Exhibit 1

To Cell Command, Inc.'s Response to DOJ's August 28, 2017 Comments

24 FCC Rcd. 2060 (F.C.C.), 24 F.C.C.R. 2060, 2009 WL 413546

Federal Communications Commission (F.C.C.)
Letter

MR. DEVON BROWN

DA 09-354
February 18, 2009

****1 *2060** Mr. Devon Brown

Director
District of Columbia Department of Corrections
1923 Vermont Ave., N.W.
Washington, D.C. 20001

Dear Mr. Brown:

The Commission has received your letter, dated February 2, 2009, requesting authorization for the District of Columbia Department of Corrections (DCDOC) to host a demonstration of jamming equipment designed to block wireless telephone calls by prisoners.¹ For the reasons set forth below, we must deny the request.

The DCDOC letter states that the brief demonstration will take place on February 20, 2009 at the D.C. Jail.² The DCDOC letter indicates that "the demonstration will entail directional jamming that will not affect authorized wireless communications transmitted outside the established test area of the D.C. Jail."³ In further support of the request, DCDOC explains that "wireless telephones present a serious threat to public safety and the security of correctional environments."

We are cognizant of the substantial threat to public safety posed by the use of contraband mobile phones by inmates in prisons and other correctional facilities. We also note that members of Congress have expressed an interest in modifying the Communications Act to authorize the Commission to consider petitions for waiver to permit the installation of devices "for the sole purpose of preventing, jamming, or interfering with wireless communications within the geographic boundaries of a specified prison, penitentiary, or correctional facility."⁴ However, based on the information provided in the DCDOC letter and consistent with past Commission staff interpretations, we find that the proposed jamming would violate both the Communications Act of 1934, as amended, ("Communications Act") as well as the Commission's rules. Specifically, Section 333 of the Communications Act prohibits willful or malicious interference with "any radio communications of any station licensed or authorized by or under the Act or operated by the United States Government."⁵ In addition, Section 302 of the Communications Act, and Section 2.803(a) of the Commission's rules prohibit the manufacture, importation, ***2061** marketing, sale or operation of devices deliberately designed to jam or disrupt wireless communications.⁶

As noted above, our denial of the request is consistent with past actions by the Commission's Wireless Telecommunications Bureau; Office of Engineering and Technology; and Enforcement Bureau addressing the permissibility of the sale or use of cell phone jamming equipment. For example, on June 25, 2005, these Bureaus jointly released a Public Notice to make clear that the sale or use of transmitters designed to prevent, jam or interfere with cell phone communications was unlawful as a violation of both the Communications Act and our rules.⁷ In 1999, the Office of Engineering and Technology and the Compliance and Information Bureau issued a similar Public Notice stating that: "[t]here are no provisions in the FCC's rules that permit the operation of any device intended to interfere with cellular

communications.”⁸ Further, the Enforcement Bureau recently issued a citation to a company for marketing jamming equipment and stated that “there is no ... exemption allowing the marketing or sale of unauthorized radio frequency devices to state and local law enforcement agencies.”⁹ Because we find the proposed jamming at the D.C. Jail would be inconsistent with both the Communications Act and the Commission's rules, we deny your request.¹⁰

****2** For the foregoing reasons, the DCDOC request is denied. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

Sincerely,

James D. Schlichting
Acting Chief
Wireless Telecommunications Bureau

Footnotes

- 1 Letter from Devon Brown, Director, District of Columbia Department of Corrections, to Michael Copps, Acting Chairman, Federal Communications Commission at 1 (February 2, 2009) (“DCDOC Letter”).
- 2 *Id.*
- 3 *Id.*
- 4 Safe Prisons Communications Act, S. 251, 111th Cong. § 2(b)(1)(a) (2009); *see also*, Safe Prisons Communications Act, H.R. 560, 111th Cong. § 2(b)(1)(a) (2009).
- 5 47 U.S.C. § 333.
- 6 *See* 47 U.S.C. § 302a(b); 47 C.F.R. § 2.803(a).
- 7 *See* Sale or Use of Transmitters Designed to Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States, *Public Notice*, 20 FCC Rcd 11134 (EB, OET, WTB 2005). We note that on January 2, 2009, the Wireless Telecommunications Bureau issued a grant of Special Temporary Authority to DCDOC to test jamming equipment that did not fully consider all relevant legal issues discussed herein and therefore has no precedential value. *See* Letter dated January 2, 2009 from Joel D. Taubenblatt, Deputy Chief, Wireless Telecommunications Bureau, to Mr. Devon Brown, Director, District of Columbia Department of Corrections, DA 09-3.
- 8 *See* Office of Engineering and Technology and Compliance and Information Bureau Warn Against the Manufacture, Importation, Marketing or Operation of Transmitters Designed to Prevent or Otherwise Interfere with Cellular Radio Communications, *Public Notice*, 15 FCC Rcd 6997 (OET, CIB 1999).
- 9 *See* Letter dated May 27, 2008 from Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Monty Henry, DPL Surveillance Equipment, File No. EB-08-SE-203, DA 08-1202 at 3.
- 10 Aside from the legal grounds described above requiring denial of the request, we note that the DCDOC letter does not include the technical information that must be submitted with an STA request. *See* 47 C.F.R. § 1.931. For example, the letter does not include the frequency band(s) on which the proposed jamming would take place; the power levels to be used; or the antenna location, gain, or orientation.

24 FCC Rcd. 2060 (F.C.C.), 24 F.C.C.R. 2060, 2009 WL 413546

Exhibit 2

To Cell Command, Inc.'s Response to DOJ's August 28, 2017 Comments

24 FCC Rcd. 3246 (F.C.C.), 24 F.C.C.R. 3246, 2009 WL 700884

Federal Communications Commission (F.C.C.)
Letter

MR. HOWARD MELAMED

WT Docket No. 09-30
DA 09-622
March 17, 2009

****1 *3246** Mr. Howard Melamed
CEO, CellAntenna Corporation
12453 NW 44th Street
Coral Springs, FL 33065

Dear Mr. Melamed:

The Commission has received your letter, dated March 3, 2009, requesting special temporary authorization for CellAntenna Corporation ("CellAntenna") to conduct a demonstration of equipment designed to block unauthorized wireless telephone calls by prisoners at the Pine Prairie Correctional Center in Pine Prairie, Louisiana ("Pine Prairie").¹ For the reasons set forth below, we must deny the request.

CellAntenna states that the demonstration will take place on March 20, 2009, and will last no longer than 15 minutes.² CellAntenna also states that the operator of the Pine Prairie Correctional Center, LCS Corrections Services, Inc. ("LCS"), is under contract with the federal government to house federal inmates.³ In addition, CellAntenna indicates that the demonstration will use "directional jamming that can be operated so that its impact is limited to a jail or prison, without interfering with other cellular phones or lines of communication beyond the walls of the correctional facility, or otherwise outside the established test area."⁴

***3247** On March 13, 2009, CTIA -- The Wireless Association ("CTIA") filed a petition to deny the STA Request.⁵ CTIA argues, *inter alia*, that the proposed demonstration is prohibited by Section 333 of the Communications Act.⁶ On March 16, 2009, the South Carolina Department of Corrections ("SCDC") filed comments arguing, *inter alia*, that the legislative history of Section 333 indicates that Congress never intended to prohibit the Commission from authorizing jamming in all circumstances.⁷

On February 18, 2009, the Bureau issued a letter denying a similar request from the District of Columbia Department of Corrections ("DCDOC") for authorization to host a demonstration of jamming equipment designed to block wireless telephone calls by prisoners.⁸ The Bureau found that the proposed jamming demonstration would violate the prohibition in Section 333 of the Communications Act of 1934, as amended ("Communications Act"), against willful or malicious interference with "any radio communications of any station licensed or authorized by or under th[e] Act or operated by the United States Government."⁹ In addition, the Bureau found that the proposed jamming would violate Section 302 of the Communications Act and Section 2.803(a) of our rules which prohibit the manufacture, importation, marketing, sale, or operation of devices deliberately designed to jam or disrupt wireless communications.¹⁰ The Bureau also noted that its denial of DCDOC's request was consistent with past actions by the Bureau, the Office of Engineering and Technology, and the Enforcement Bureau.¹¹

****2** CellAntenna argues that the Bureau's reasoning in the *DCDOC Request Letter* is inapposite because LCS, the operator of Pine Prairie, is under contract with the federal government to house federal inmates and thus LCS and CellAntenna would fall within the ***3248** explicit federal exemption from application of Section 302.¹² CellAntenna further argues that lawful acquisition of jamming equipment by a federal entity "would be meaningless if deployment of the equipment was barred by Section 333, [and thus] that provision cannot preclude the demonstration."¹³ We disagree. It is undisputed that the party seeking the STA in order to conduct the test of jamming equipment, CellAntenna, is not a federal entity subject to any statutory exemption.¹⁴ Further, publicly available records indicate that LCS is a privately held company¹⁵ and has represented itself before the Commission in license applications as a private corporation.¹⁶ Moreover, the Louisiana Department of Public Safety and Corrections lists Pine Prairie as a "local facility"¹⁷ and LCS houses state prisoners from other jurisdictions (*e.g.*, Alabama Department of Corrections) at the Pine Prairie facility.¹⁸

We are cognizant of the substantial threat to public safety posed by the use of contraband mobile phones by inmates in prisons and other correctional facilities. We also note that members of Congress have expressed an interest in modifying the Communications Act to authorize the Commission to consider petitions for waiver to permit the installation of devices "for the sole purpose of preventing, jamming, or interfering with wireless communications within the geographic boundaries of a specified prison, penitentiary, or correctional facility."¹⁹ However, based on the information provided in the STA Request,²⁰ we find that our holding in the *DCDOC Request Letter* is equally applicable here -- the proposed jamming at the Pine Prairie Correctional ***3249** Center would be inconsistent with both the Communications Act and the Commission's rules.²¹ Accordingly, we deny the STA Request.

In addition, the Petition to Deny of CTIA -- The Wireless Association, filed on March 13, 2009, is granted to the extent discussed herein. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

Sincerely,

James D. Schlichting
Acting Chief
Wireless Telecommunications Bureau

Footnotes

- 1 Letter from Howard Melamed, CEO, CellAntenna Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (Mar. 3, 2009) ("STA Request").
- 2 *Id.*
- 3 *Id.* at 3.
- 4 *Id.* at 2. On March 10, 2009, the Wireless Telecommunications Bureau ("Bureau") released a Public Notice informing the public that it had received the STA Request, making the request available for public inspection, and designating the proceeding as "permit-but-disclose" in accordance with the Commission's *ex parte* rules. Wireless Telecommunications Bureau Receives Request from CellAntenna Corporation for Special Temporary Authority to Demonstrate Radio Frequency Jamming Equipment, *Public Notice*, WT Docket No. 09-30, DA 09-570 (WTB Mar. 10, 2009). The Commission has received submissions from a number of parties arguing that the proposed demonstration is prohibited by Section 333 and requesting that the STA Request be denied. *See* Comments of Jack Daniel (filed Mar. 13, 2009); *Ex Parte* Letter from Christopher Guttman-McCabe, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 11, 2009); Comments of the Association of Public Safety Communications Officials-International, Inc. (filed Mar. 13, 2009) (arguing that the proposed demonstration would be illegal and expressing concern that cell jamming could block legitimate 911 calls and potentially interfere with public safety communications in adjacent bands); *see also* Comments of Wayne Cornick (filed Mar. 13, 2009) (arguing that approval of STA Request will lead to widespread use of poorly made jamming devices); Comments of Edward Kerley (filed Mar. 17, 2009) (arguing that the STA Request should be denied); Comments of D. Maples (filed Mar. 13, 2009) (same); Comments of Nick Ruark (filed Mar. 16, 2009) (same); Comments of John C. Swift (filed Mar. 13, 2009) (noting that use of cell jammers

will cause interference to public safety communications); Comments of National Emergency Numbering Association (filed March 17, 2009) (in particular, expressing concern over the potential of wireless jamming technology for the blocking of 9-1-1 calls). We have also received comments from one party asserting that Section 333 would not necessarily prohibit the demonstration, and requesting that action on the STA Request be deferred pending further examination of Section 333 and CellAntenna's submission of additional technical information. Comments of the South Carolina Department of Corrections (filed Mar. 16, 2009).

Petition to Deny of CTIA -- The Wireless Association (dated Mar. 13, 2009) ("CTIA Petition to Deny").

Id. at 3-6. CTIA also requests that the Commission initiate an investigation and enforcement action against CellAntenna for alleged violations of the Communications Act. *Id.* at 11-19. Such a request is not properly raised in the context of the CellAntenna's STA Request and we do not address it here.

Comments of the South Carolina Department of Corrections at 3.

Letter from James D. Schlichting, Acting Chief, Wireless Telecommunications Bureau, Federal Communications Commission, to Devon Brown, Director, District of Columbia Department of Corrections, 24 FCC Rcd 2060 (Feb. 18, 2009) ("*DCDOC Request Letter*").

Id. at 1 (citing 47 U.S.C. § 333).

Id. at 1-2 (citing 47 U.S.C. § 302a(b); 47 C.F.R. § 2.803(a)).

Id. at 2; *see also* Sale or Use of Transmitters Designed to Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States, *Public Notice*, 20 FCC Rcd 11134 (EB, OET, WTB 2005); Office of Engineering and Technology and Compliance and Information Bureau Warn Against the Manufacture, Importation, Marketing or Operation of Transmitters Designed to Prevent or Otherwise Interfere with Cellular Radio Communications, *Public Notice*, 15 FCC Rcd 6997 (OET, CIB 1999); Letter from Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Monty Henry, DPL Surveillance Equipment, File No. EB-08-SE-203, DA 08-1202 at 3 (May 27, 2008) (issuing a citation to a company for marketing jamming equipment).

STA Request at 2-3. Section 302 states that it "shall not be applicable...to devices...and systems for use by the Government of the United States or any agency thereof." 47 U.S.C. § 302a(c).

STA Request at 3.

See also CTIA Petition to Deny at 5 (noting that CellAntenna, the entity requesting special temporary authority and holding the demonstration is a private corporation, and thus would not be subject to a statutory exemption).

See LCS Corrections wins Bureau of Prisons Pact, Baton Rouge Advocate, Feb. 1, 2007 (noting that LCS is the nation's fifth-largest privately owned and operated corrections company).

According to the Commission's licensing records, there are several Part 90 (Industrial/Business Pool) licenses held in some form of the name "LCS." In particular, WPPC577 is held by LCS Corrections Services, Inc. and includes authorization for a transmitter site at 1133 Hampton Dupre Road, Pine Prairie, Louisiana, which corresponds to the address of Pine Prairie Correctional Center.

See Louisiana Department of Public Safety and Corrections, Corrections Services, Local Facilities, available at <http://www.doc.louisiana.gov/view.php?cat=3&id=15> (last visited Mar. 13, 2009) ("*LA DPSC Local Facilities*").

See ADOC continues inmate transfers to Louisiana, *Press Release*, Mar. 17, 2006, available at <http://www.doc.state.al.us/archivenews.asp?year=2006> (last visited Mar. 13, 2009) (indicating that the Alabama Department of Corrections is transferring additional inmates to the Pine Prairie Correctional Center in Pine Prairie, Louisiana).

Safe Prisons Communications Act, S. 251, 111th Cong., § 2(b)(1)(a) (2009); *see also* Safe Prisons Communications Act, H.R. 560, 111th Cong., § 2(b)(1)(a) (2009).

We note that it was recently reported that the proposed demonstration would take place at a correctional facility run by LCS in Basile, Louisiana (Southern Louisiana Correctional Center), not at Pine Prairie. *See* Paul Kirby, *South Carolina Calls CTIA, APCO Filings on Cellphone Jamming "Misleading"*, TR Daily, Mar. 17, 2009. Southern Louisiana Correctional Center is listed as a "Local Facility" on the Louisiana Department of Public Safety and Corrections' website and is listed as an "Out of State Facility" on the Alabama Department of Corrections' website. *See LA DPSC Local Facilities*; Alabama Department of Corrections, ADOC Addresses, available at <http://www.doc.state.al.us/facaddr.asp> (last visited Mar. 17, 2009).

In this regard, we find SCDC's comments unpersuasive given the statutory language itself. We also note that although CellAntenna provides some technical information regarding the parameters of its proposed demonstration, its showing falls short of the requirements set forth in our rules. *See* 47 C.F.R. § 1.931.

24 FCC Rcd. 3246 (F.C.C.), 24 F.C.C.R. 3246, 2009 WL 700884