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November 23, 1993

Mr. William F. Caton
Acting Secretary of Federal
Communications Commission
1919 M Street, NW
Washington, DC 20054

Re: Implementation of Sections 3(n) and 332 of the
Communications Act - Regulatory Treatment of Mobile
Services (GN Docket No. 93-252)

Dear Mr. Caton:

Transmitted herewith on behalf of American Paging, Inc. are an original and nine copies of its Reply Comments in the above-captioned proceeding.

In the event that there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


George Y. Wheeler

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Sections 3(n)) GEN Docket No. 93-252
and 332 of the Communications Act))
)
Regulatory Treatment of Mobile)
Services)

To: The Commission

REPLY COMMENTS OF
AMERICAN PAGING, INC.

American Paging, Inc., on behalf of itself and its subsidiaries (collectively "API"), by its attorneys, submits its reply comments in the above-referenced proceeding.¹

These proceedings provide a unique opportunity for the Commission to make an important break with longstanding policies and practices which will free the paging industry to implement innovative and spectrum efficient service capabilities, competitive rates and expanded availability of paging services. Reclassification of conventional paging services as private offerings is a logical and effective method for the Commission to achieve the public policy objectives of the Act.

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¹ A list of parties filing Comments in these proceedings, including the abbreviated names used for reference in these Reply Comments, is Attachment A hereto.

DISCUSSION

In our comments,² we asked that the Commission make the logical and publicly beneficial decision to reclassify the vast majority of all common carrier paging systems as private. We argued that this deregulatory step by itself would promote healthy competition, innovative service offerings, lower rates, and implementation of the newest and most promising technologies. Outdated and unnecessary regulatory requirements would no longer delay the early implementation of new service and add the cost burdens of unnecessary regulatory oversight. By creating a uniform classification for PCP and common carrier paging offerings, "like" services would be subject to "like" regulation. Another important benefit was the savings in terms of diminishing the Commission staff time and other expense of maintaining the complex regulatory structure imposed on the common carrier paging industry. With the advent of important new services like broadband and narrowband PCS, there is now every reason for the Commission to examine critically every aspect of its operations to eliminate all unnecessary expenditure of its staff and other resources and to devote these valuable resources to the launch of the new PCS industry.

Under Section 332 of the Act, the Commission has a clear right to define "...interconnected with public switched network"

² API and the other companies affiliated with Telephone and Data Systems, Inc. filed joint comments strongly supporting the Commission's initiatives implementing Sections 3(n) and 332 of the Communications Act.

consistent with its broad responsibilities under that Act. As we interpret the Budget Act, Congress did not attempt to limit the Commission's prerogatives with respect to classification or reclassification of services. We strongly disagree with those who argue that Congress intended all paging to be classified as CMS.³

We agree with NYNEX and Pagemart that all conventional paging offerings should be classified as private. NYNEX provided a definition of "interconnected service" which presents simply and clearly the unique characteristics of paging:

"... 'interconnected service' should turn on whether the service provides customers with control over access to other networks.⁴ That is, the term should be defined as the ability of the customer routinely to direct calls 'off-net,' or in other words, to a termination point or points outside the subscriber's mobile radio service network. Under the criteria proposed by NYNEX, services that provide customers limited access (i.e., access to points within their own mobile radio service networks) will not be deemed to be 'interconnected services.' If, on the other hand, the service offers customers the ability to control 'off net' access, then that service should be deemed to be "interconnected."

⁴ This definition ensures flexibility by permitting carriers to offer interconnected services in some instances and, in other instances, those same providers may offer private or "non-interconnected" services. At the same time, this balanced approach will ensure that services are classified on a service-by-service basis and, thus, that carriers offering customers the same service will be governed by the same set of rules.

The fact that paging services provide limited access i.e. only to paging terminals, means that such service offerings should not be

³ Pagenet Comments, pp. 12-13.

deemed "interconnected services" and should be classified private.

The arguments of PacTel Paging and Arch that two-way "acknowledgement" or other advanced forms of paging are somehow incompatible with a private classification for standard one-way paging services ignore the fact that different service offerings logically can have different classifications. The fact that "acknowledgement" capabilities might some day be added to a paging system should not by itself change the private classification of existing paging services provided over that system. If, and only if, a paging provider activates this capability (simultaneously implementing the new service offerings which make use of this capability) does the question arise what classification should apply to those new service offerings. We proposed in our comments that all mobile service providers should have the flexibility to provide CMS or private services, or both simultaneously. We reject as fundamentally unfair the assumption which seems to be implicit in the arguments of PacTel Paging and Arch that if any CMS offering is made, all of the services offered by that provider should also be classified CMS.

As discussed in our comments and confirmed by many commenters, the continuing right of paging providers to fair and reasonable LEC interconnection arrangements is critically important to the healthy growth of the paging industry. The reclassification of certain common carrier paging services as private

should not be permitted to result in any diminution of the established interconnection rights of Part 22 paging licensees.

CONCLUSION

We urge the Commission to classify conventional paging services as private offerings in recognition of the unique characteristics of this service including the design limitations of paging systems which preclude termination of paging communications at "off-network" locations. The revision of Sections 3(n) and 332 of the Act should not be the occasion for the Commission to repudiate important deregulatory initiatives for paging as adopted in the rules and policies of private land mobile radio services. Regulatory forbearance as applied to CMS offerings generally offers beneficial options for continued oversight with respect to services perceived by the public as fully functional elements of the public switched network. This does not mean, however, that such forbearance is the only answer. Deregulation rather than forbearance is the best method to maximize the

consumer benefits from paging services and appropriately to diminish the Commission's commitment of staff and other resources to regulatory oversight of such services.

Respectfully submitted,

AMERICAN PAGING, INC.


By s/ George Y. Wheeler
George Y. Wheeler

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Date: November 23, 1993

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Allcity Paging, Inc.	("AllCity")
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American Petroleum Institute	("API")
Ameritech	("Ameritech")
AMSC Subsidiary Corporation	("AMSC")
Arch Communications Group, Inc.	("Arch")
Association of American Railroad	("AAR")
Association of Public-Safety Communications Officials-International, Inc.	("APCO")
BellSouth Corporation, BellSouth Telecommunications, Inc., BellSouth Cellular Corp., and Mobile Communications Corporation of America	("BellSouth")
Cellular Telecommunications Industry Association	("CTIA")
Celpage, Inc., Network USA, Denton Enterprises, Copeland Communications & Electronics, Inc, and Nationwide Paging	("Joint Commenters")
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GTE Service Corporation	
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Industrial Telecommunications Association, Inc.	("ITA")
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CERTIFICATE OF SERVICE

I, Abbie Weiner, a secretary in the law firm of Koteen & Naftalin, do hereby certify that a copy of the foregoing "Reply Comments of American Paging, Inc.", was sent by first class U.S. mail, postage prepaid, on this 23rd day of November, 1993 to the offices of the following:

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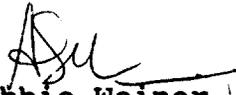
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