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

In the Matter of )  
 )  
Amendment of )  
Section 90.631 )  
Of the Commission's Rules )  
To Eliminate the Trunked )  
System Five-Year Loading )  
Requirement )

RM-8387

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To: The Commission

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

JOINT STATEMENT  
OF THE  
INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.  
AND  
COUNCIL OF INDEPENDENT COMMUNICATION SUPPLIERS

The Industrial Telecommunications Association, Inc. ("ITA") and the Council of Independent Communication Suppliers ("CICS"), pursuant to the Federal Communications Commission's Public Notice dated November 16, 1993, hereby respectfully submit this Statement responsive to the Petition for Rule Making filed by the American Mobile Telecommunications Association, Inc. ("AMTA") in the above-referenced matter.

I. PRELIMINARY STATEMENT

1. The Industrial Telecommunications Association, formerly the Special Industrial Radio Service Association, Inc., is a non-profit association organized under the laws of the District of Columbia. ITA is the Commission's certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 800/900 MHz frequency "pools." ITA also coordinates

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channels from the general access pool for those entities (a) eligible to become Industrial/Land Transportation licensees, (b) wishing to expand trunked systems, or (c) consolidating conventional systems into a trunked system. ITA coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated to the Special Industrial Radio Service and the enumerated 800/900 MHz frequency "pools."

2. ITA enjoys the support of a membership that includes more than 9,000 licensed two-way land mobile radio communications users and the following trade associations:

- Alliance of Motion Picture and Television Producers
- American Mining Congress
- Associated Builders & Contractors, Inc.
- Florida Citrus Processors Association
- Florida Fruit & Vegetable Association
- National Aggregates Association
- National Agricultural Aviation Association
- National Food Processors Association
- National Propane Gas Association
- National Ready-Mixed Concrete Association
- National Utility Contractors Association
- New England Fuel Institute
- United States Telephone Association

3. The Council of Independent Communication Suppliers is an unincorporated association of entities engaged in serving the needs of private radio eligibles, particularly those located in small and rural communities throughout the United States. CICS' membership is open to SMR operators, radio dealers, equipment suppliers, and consultants. CICS was formed to provide these entities a voice in

the policy-making process governing use of the electromagnetic spectrum, especially spectrum allocated to the private land mobile radio services. CICS is an independent membership market council of the Industrial Telecommunications Association, Inc. ("ITA").

## II. STATEMENT

4. AMTA's Petition for Rule Making, if ultimately implemented, would remove the requirement for trunked 800 MHz and 900 MHz systems licensed before June 1, 1993, SMR as well as non-SMR, to load their systems to 70 mobile units per channel within five years of the date of initial licensing. As AMTA has noted in its petition, the Commission, by the express wording of Section 90.631(b), only enforces this rule in cases where all of the available channels are assigned within a system's geographic area.

5. One of the justifications cited by AMTA for eliminating the loading requirement is that, as a result of the recent frenzy of SMR application filings, there are many rural areas of the country in which SMR category channels are rapidly being depleted. As a result, under Section 90.631(b), the Commission will now have to enforce the loading standards in many rural areas that were long assumed to be immune from channel "take-back" actions. AMTA's petition notes that rural SMR licensees have tended to provide an interconnected-oriented service, rather than an "urban-focused, dispatch-oriented" service. As a consequence, rural SMR licensees

may not be in a position to satisfy the loading standard contained in Section 90.631(b).

6. In the past, as long as a surplus of SMR category channels remained available in rural areas, SMR licensees had no reason to be concerned that the FCC might take back unloaded channels. In the current environment, as SMR channels become depleted in a given area, SMR licensees are at risk of losing some of their assigned channels.

7. As a general matter, ITA and CICS are sympathetic to the concerns raised in AMTA's petition. With the increasing market pressure upon SMR licensees to make intensive use of their assigned channels, there may no longer be a need to apply loading standards to licensees who are genuinely striving to provide a bona fide communications service. As AMTA's petition suggests, however, it appears that at least some percentage of recent licensees may have secured their licenses with the primary intention of selling their assigned channels for a quick profit, rather than offering a legitimate communications service.

8. Unfortunately, there would appear to be no way to restrict the benefits of AMTA's petition to those SMR licensees who are genuinely interesting in providing a useful communications service. The petition would benefit equally both legitimate providers of SMR service and those licensees who are simply

speculating in channels. ITA and CICS have no desire to make it easier for opportunistic speculators to reap profits from the quick sale of their channels. At the same time, however, ITA and CICS do think it is important to offer relief to rural SMR licensees who are in danger of losing channels that are vital to their communications service.

9. On balance, with one major qualification, ITA and CICS support the underlying purpose of AMTA's petition. ITA and CICS note that, as drafted, the petition would apply to all of the channels licensed to an SMR, regardless of the service category to which the channels are allocated. ITA and CICS believe it is important to point out that, after loading their initial complement of assigned channels, SMR licensees may have obtained additional channels from the Industrial/Land Transportation, Business or General categories within their original license term.<sup>1</sup> ITA and CICS do not support any effort to insulate from channel "take-back" actions those channels that SMR licensees may have obtained through inter-category sharing.

10. ITA and CICS believe that AMTA's petition may well be appropriate in the context of SMR systems licensed to use SMR category channels. On the other hand, the FCC should continue to

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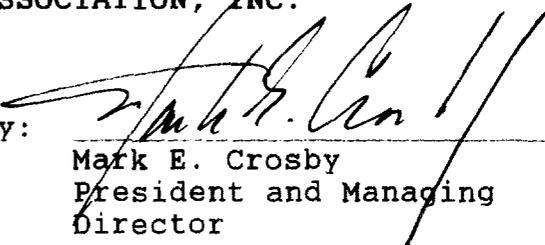
<sup>1</sup> These non-SMR category channels are available to fully loaded SMR systems for future expansion under the inter-category sharing provisions of Section 90.621(g), in situations where the SMR category channels are depleted.

require SMR systems licensed before June 1, 1993 that obtain non-SMR channels via inter-category sharing to justify, by adherence to the channel loading standards, the continued use of inter-category channels. If an SMR system licensed for Industrial/Land Transportation, Business or General category channels is not loaded to a level of 70 mobile units per channel at the end of its initial license term, it should not be permitted to retain "unloaded" non-SMR channels. SMR licensees who obtain access to non-SMR channels should either have to fully use those channels or make them available for use by other eligible applicants. The channels are too valuable to other eligible Part 90 entities to allow them to languish, in an under-utilized capacity, as part of an SMR system that is not fully loaded.

11. In summary, ITA and CICS support the thrust of AMTA's petition insofar as it relates strictly to SMR category channels. ITA and CICS oppose any effort to eliminate channel "take-backs" for non-SMR category channels assigned to SMR systems through the inter-category sharing provisions of Section 90.621(g).

WHEREFORE, THE PREMISES CONSIDERED, the Industrial Telecommunications Association, Inc. and the Council of Independent Communication Suppliers respectfully submit this Statement and urge the Federal Communications Commission to act in accordance with the views expressed herein.

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Date: December 16, 1993

CERTIFICATE OF SERVICE

I, Gail L. Burns, do hereby certify that on the 16th day of December 1993, I forwarded to the parties listed below a copy of the foregoing Statement of the Industrial Telecommunications Association, Inc. and the Council of Independent Communication Suppliers, by first-class mail, postage pre-paid:

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