

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

NOV 14 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	GEN Docket No. 90-314
	)	ET Docket No. 92-100
<b>Amendment of the Commission's</b>	)	
<b>Rules to Establish New Narrowband</b>	)	RM-7617, RM-7760, RM-7782,
<b>Personal Communications Services</b>	)	RM-7860, RM-7977, RM-7978,
<b>Narrowband PCS</b>	)	RM-7979, RM-7980

To: The Commission

REPLY OF RADIOFONE NATION-WIDE PAGING SERVICES, INC.

Radiofone Nation-wide Paging Services, Inc. (Radiofone Nation-wide), through counsel, submits this Reply to the November 3, 1994 Oppositions of Puerto Rico Telephone Company (PRTC) and PageMart, Inc. in the above-captioned dockets. These Oppositions were submitted in response to the Petition for Partial Reconsideration filed by AirTouch Paging (AirTouch).

Radiofone Nation-wide was an applicant in both the nationwide and regional narrowband PCS auctions, but did not win a license in either auction. Radiofone, Inc., an affiliate of Radiofone Nation-wide, provides private carrier paging and common carrier paging services in various parts of the country.

Radiofone Nation-wide is interested in obtaining narrowband PCS response channels and leasing the capacity to other mobile services providers -- regardless of whether or not Radiofone or its affiliate provides paging service in the response channel service areas. Radiofone Nation-wide is aware of at least one switch manufacturer that can provide the software to process the calls on multiple paging systems, and route the calls accordingly.

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Radiofone Nation-wide therefore supports AirTouch's Petition for Partial Reconsideration requesting the Commission to eliminate the eligibility requirements for response channels. Radiofone Nation-wide partly opposes the Oppositions of PRTC and PageMart.

**Eligibility Requirements for Response Channels  
Should Be Eliminated**

AirTouch requests the Commission to eliminate the response channel eligibility restrictions. AirTouch Petition at 4. Radiofone Nation-wide agrees with AirTouch's request, because the elimination of eligibility restrictions could result in more efficient use of the spectrum.

Without eligibility restrictions, the response channels could be used by many more mobile services providers. The existing eligibility restrictions allocate one paging provider per response channel. As noted by American Paging, Inc. in Comments filed in PP Docket No. 93-253 on September 16, 1994, the number of paging carriers on VHF, UHF, 929 MHz and 931 MHz "clearly dwarfs" the eight unpaired response channels in each market. By permitting any one response channel licensee, such as Radiofone Nation-wide, to make response channel capacity available to other paging providers, many paging carriers could make use of one response channel. Thus, by eliminating the eligibility restrictions, the Commission could provide even more opportunities for existing paging providers to upgrade their systems through the use of response channels.

Additionally, by permitting entities such as Radiofone Nation-wide who may not have a paging or narrowband PCS presence in a

specific market to obtain response channels and lease them to others, the Commission would be resolving the inefficiencies of providing market area licensed response channels to existing paging carriers whose service areas have been patched together in a manner unrelated to market area contours. Under the existing rules, if an existing paging provider becomes a response channel licensee, major portions of the response channel service area (i.e., the BTA or MTA) may go unused if the paging provider's service area only minimally overlaps the BTA or MTA. Thus, inefficient use would be made of the limited response channel capacity. If, instead, the Commission were to permit entities such as Radiofone Nation-wide to obtain response channel licenses and lease capacity to others, such entities could provide service throughout the BTA or MTA, as the market demand dictates. Thus, more efficient use could be made of the response channels and their corresponding service areas.

In sum, by permitting entities such as Radiofone Nation-wide to obtain response channel licenses and lease capacity to others -- regardless of whether they provide mobile services in areas that overlap the response channel service areas -- the Commission would be making response channels available to more mobile services providers throughout the entire BTA or MTA response channel service area.<sup>1</sup> This result is consistent with PageMart's request that

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<sup>1</sup> If the Commission were to eliminate the eligibility requirements for the licensees of the response channels, Radiofone Nation-wide would not oppose the adoption of AirTouch's suggestion that the use of the response channels be limited to pairing with paging or narrowband PCS channels authorized under Parts 22, 24 or 90 of the Commission's Rules. AirTouch Petition for Partial Reconsideration at 7-8. However, Radiofone Nation-wide submits

adequate return-link spectrum be available for incumbent paging firms and that such spectrum be utilized efficiently. PageMart Partial Opposition at 2; see generally AirTouch Petition at 9 (removing the restriction will enable existing operators to use the response channels to their fullest extent).

However, PRTC and PageMart both oppose the elimination of eligibility restrictions. PRTC Opposition at 6; PageMart Partial Opposition at 4. PRTC asserts that if the eligibility requirement were eliminated, local paging licensees would have to compete against large national PCS licensees for the response channels. PRTC Opposition at 6. PRTC overlooks the fact that even if the eligibility requirement were kept intact, local paging licensees will have to compete against large national paging companies that have a local presence. Also, PageMart asserts that the elimination of eligibility restrictions will lead to speculation, strategic bidding to deny incumbent paging companies access to response channels, and anticompetitive bidding by potential narrowband competitors. PageMart Partial Opposition at 4-5. Both PageMart's and PRTC's assertions amount to nothing more than complaints about the use of auctions to award licenses. Speculation and strategic bidding were issues addressed in the development of the auction design for narrowband PCS. Thus, PageMart's and PRTC's assertions, at best, are made in the wrong docket, and should be disregarded.

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that nothing in the record in this proceeding requires that a use restriction translate into a restriction on who the licensees must be.

By eliminating the eligibility restrictions, the Commission would permit the auction process to determine who values the response channels the most -- existing paging providers, new narrowband PCS licensees, or other entities who want to lease capacity on those channels. See Second Report and Order (Implementation of Section 309(j) of the Communications Act - Competitive Bidding), 9 FCC Rcd. 2348, 2349-50 (1994) (awarding licenses to those who value them the most will encourage growth and competition and result in rapid deployment of new technologies and services); AirTouch Petition at 5 (the auction is "designed to get licenses in the hands of those who value them most highly"). Market demand then will determine who should have access to those response channels. See AirTouch Petition at 8 ("decisions . . . regarding optimal usage are best left to market forces").

Radiofone Nation-wide therefore respectfully requests the Commission to eliminate the eligibility restrictions by replacing Section 24.130(a) of the Commission's Rules, 47 C.F.R. § 24.130(a), with the following:

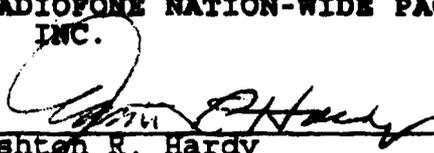
(a) For the channels listed in paragraphs (b) and (c) of this section, licensees are limited to a maximum of two response channels within the same geographic area until two years after the date of initial license grant. Licenses for paging response channels are not counted toward the multiple ownership restrictions of Section 24.101.

**CONCLUSION**

For the foregoing reasons, Radiofone Nation-wide respectfully requests the Commission to grant AirTouch's request to eliminate the eligibility requirements for response channels.

Respectfully submitted,  
**RADIOFONE NATION-WIDE PAGING,  
INC.**

By:

  
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Dated: November 14, 1994

**CERTIFICATE OF SERVICE**

I, Ashton Hardy, hereby certify that on this 14th day of November, 1994, I caused to be sent by U.S. mail, postage pre-paid a copy of the foregoing "Reply of Radiofone Nation-wide Paging Services, Inc." to the following:

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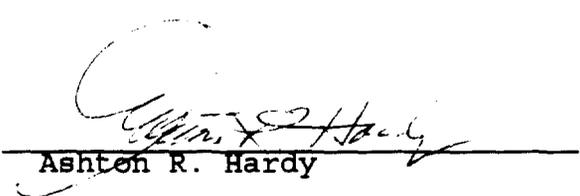
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