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BEFORE THE

Federal Communications Commission

JUL 24 1995

WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
COMMUNICATIONS SECTION

In the Matter of)
)
Amendments of Parts 15 and 90)
of the Commission's Rules)
Provide Additional Frequencies)
for Cordless Telephone)

ET Docket No. 93-235

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To: The Commission

**REPLY TO OPPOSITION
TO
PETITION FOR RECONSIDERATION**

The American Petroleum Institute ("API"), pursuant to Section 1.429(g) of the Rules and Regulations of the Federal Communications Commission ("Commission"), by its attorneys, hereby respectfully submits this Reply to Oppositions to Petition for Reconsideration in the above-styled proceeding.^{1/}

I. PRELIMINARY STATEMENT

1. API's interest and standing in this matter was addressed in its Petition for Reconsideration.^{2/} As such,

^{1/} Report and Order, 60 Fed. Reg. 21984 (May 4, 1995). (hereinafter "Order"). Oppositions to the Petition for Reconsideration were filed on July 11, 1995 by: AT&T Corporation ("AT&T"); Sony Electronics, Inc. ("Sony"); the Wireless Consumer Communications Section of the User Premises Equipment Division of the Telecommunications Industry Association ("TIA"); and Uniden America Corporation ("Uniden").

^{2/} API Petition for Reconsideration, June 5, 1995.

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we will dispense with the usual preliminary statement and refer the Commission to the Preliminary Statement in the Petition for Reconsideration. Briefly, API's members include many licensees in the Petroleum Radio Service that are deeply concerned with the ultimate consequences of the rule amendments adopted by the Commission in this proceeding. In view of these concerns, API felt compelled to submit its Petition for Reconsideration and the instant Reply to Oppositions.

II. REPLY TO OPPOSITIONS

A. Significant Issues Have Yet to Be Addressed

2. Significant issues have yet to be conclusively addressed in this proceeding. Directly contrary to TIA's assertion that the Petition does not raise any new "significant issues,"^{3/} the Petition specifically requests: (1) that cordless telephone labeling requirements be structured to reasonably meet the unique circumstances presented by the unprecedented spectrum sharing with cordless telephone users that the Order requires through new labelling requirements for cordless telephone packaging and

^{3/} TIA at ¶ 1.

devices;^{4/} or, in the alternative, (2) that the rules be amended to mandate that manufacturers design the telephones so that they automatically switch to an unused channel when they detect a PLMRS operation on that channel regardless of when the operation occurs -- prior to or during the telephone communication.^{5/} Labeling requirements of this nature for packaging were not previously considered in the matter.

B. A Request for Accurate Package Labelling

3. API is deeply concerned that the Oppositions filed clearly strain to locate a justification for not informing consumers about the true legal status of their product. TIA suggests that such labeling "would unnecessarily confuse consumers."^{6/} AT&T implies that their inherent concern for consumers is more than sufficient to negate the need for such labelling.^{7/} Sony declares that the need to get their cordless telephone products to the market quickly to meet consumer communications needs is

^{4/} Petition at ¶ 8.

^{5/} Petition at ¶ 6.

^{6/} TIA at f.13.

^{7/} AT&T at 3-4.

paramount.^{8/} Uniden pleads that current labels are adequate.^{2/} All of these excuses seek to avoid the true issue. The consumer should not expect that these cordless telephones will perform to the same standard of 900 MHz cordless telephones, cellular telephones or traditional "plug-in" telephones. The cordless telephone will be marketed on the same aisle as the other telephones, but it is the only one which, due to its unique spectrum usage will be at the center of numerous instances of harmful interference.

4. The entities that filed Oppositions represent major producers of cordless telephones; and, as such, are admittedly and understandably dedicated to selling the proposed 25 channel devices in massive quantities.^{10/} However, their desire to sell cordless telephones which share use of 15 new channel pairs in the frequency bands 44 MHz and 48/49 MHz should not override either the potential risks the public faces from harmful interference and

^{8/} Sony at p. 1-2. [API notes that Sony could simply print stick-on labels for its packaging until it is time to print new packaging.]

^{2/} Uniden at ¶ 8.

^{10/} Cordless telephone manufacturers reportedly intend to sell between 16 and 17 million of the devices annually. See, Petition for Reconsideration at ¶ 5, f.2.

compromised communications capabilities, especially during emergency conditions, or the right of consumers to understand the character of the product being marketed.

C. Frequency Agility Should Be Automatic

5. TIA submits that API "ignore[s] the fact that the cordless telephone will be frequency agile."^{11/} This statement is inaccurate. API is concerned that the use of Private Land Mobile Radio Service ("PLMRS") equipment will compromise, or be comprised, precisely at the moment when it is most needed -- during critical repair or emergency operations. TIA appears to inexplicably assume that harmful interference to either the cordless telephone user or the PLMRS operator will not occur when PLMRS operation is instituted on a channel occupied by a cordless telephone user. Harmful interference will certainly occur. And, if the cordless telephone user is not cooperative in manually changing the channel, or is not properly educated as to how to manually change channels or as to why PLMRS operations are on that channel, a timely channel change may never occur and the harmful interference will continue.

^{11/} TIA at ¶ 3.

6. The 1994 pipeline explosion at Edison, New Jersey is a primary example of how this concern could be manifested. The explosion leveled several apartment buildings and the intense heat caused by burning gas melted automobiles. Essential repair personnel, who could not utilize cellular frequencies due to overload, were reliant on low band operations to receive directions on the location of a series of critical valves and to receive instructions on how to staunch the gas flow. These valves were located in an urban area. It is entirely reasonable to assume that if the proposed 25 channel devices had been on the market for a few years prior to that episode (with 16 to 17 million units per year being sold), many cordless telephone users would have been making important telephone calls from their windows, porches, driveways and yards in response to the explosion and resulting fire. Harmful interference during this critical episode -- whose resolution took over a full day -- to either PLMRS or cordless telephone operations would be untenable, especially if such interference could have been avoided by an automatic frequency monitoring and hopping device or by education through proper and reasonable product labelling and packaging. Therefore, based on the present construction of the Order, it is entirely reasonable, and crucial, to consider and adopt one of the solutions proposed in the Petition for Reconsideration.

III. CONCLUSION

7. API is concerned that the entities which filed Oppositions are straining to find justifications for not designing cordless telephones that will avoid harmful interference to consumers, or at least provide consumers with accurate information regarding the risks of operating their cordless telephones on these frequencies. The suggestions made by API do not unfairly impinge on the business concerns of these companies, and would indeed act to better serve their customers. Redesigning the telephones would help to maintain the integrity of two-way mobile communication on these frequencies. Rejecting this recommendation would have a deleterious impact on the oil and natural gas industries' ability to safely and effectively communicate in emergency situations. Providing a warning notice on the packaging, and on the units themselves, would inform the public of the risks that they face when using these cordless telephones. It is only fair that consumers are aware of the risks imposed by products that they use with such regularity.

WHEREFORE, THE PREMISES CONSIDERED, the American Petroleum Institute respectfully requests the Federal

Communications Commission to grant the Petition for
Reconsideration.

Respectfully submitted,

THE AMERICAN PETROLEUM INSTITUTE

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Dated: July 24, 1995

CERTIFICATE OF SERVICE

I, Patricia Dunbar, do hereby certify that on this 24th day of July, 1995, copies of API's "Request for Late-Filed Reply to Opposition" and "Reply to Opposition" have been served by first-class mail, postage prepaid, upon the parties listed below:

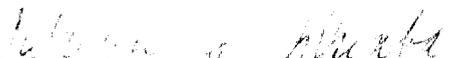
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