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October 6, 1995

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FEDERAL COMMUNICATIONS COMMISSION
STATE OF GEORGIA

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington D.C. 20054

In Re: **Ex Parte Presentation in PR Docket No. 92-235 (Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services)**

Dear Mr. Caton:

On October 6, 1995, a copy of the attached letter was hand served to Bob McNamara and Ira Keltz of the Wireless Telecommunications Bureau. Attached is the original and copy for inclusion in PR Docket No. 92-235.

Please call me at (202) 429-7338 should you have any questions on this matter.

Sincerely,



Michael A. Lewis
Engineering Policy Advisor
Wiley, Rein & Fielding
Counsel to Motorola, Inc.

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October 6, 1995

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Mr. Robert H. McNamara
Chief, Private Wireless Division
Federal Communications Commission
2025 M Street, N.W., Room 5126P
Washington, D.C. 20554

Re: **Refarming Report and Order**

Dear Bob:

On behalf of Motorola, Inc., we hereby ask for your assistance in resolving a small error with the *Refarming Report and Order* that is proving to have a disproportionate impact on Motorola sales. The error is either typographical in nature or an unintentional misapplication of a complicated FCC policy. If you agree, we would hope that a brief erratum or order correcting the rules would be quickly issued so that Motorola can continue selling its product consistent with FCC policies and intent.

Motorola has developed low power one-way paging products designed to operate on 467.8625 MHz, 467.8875 MHz and 467.9125 MHz. Prior to the *Refarming Report and Order*, these frequencies were authorized as low power, 12.5 kHz offset channels under Section 90.267 of the FCC Rules. They are desirable channels because they are immediately adjacent to other low power channels and thus provide an unusually quiet radio environment for low power operations. Motorola has millions of dollars of existing inventory designed to operate on these particular frequencies and retuning these devices to other frequencies would be prohibitively expensive, even if appropriate spectrum could be found.

As you are aware, the *Refarming Report and Order* reclassified the 450 MHz offset channels as regularly assignable channels. These three particular channels were assigned to the Business Radio Service but were inexplicably associated with new footnote number 50 which limits their availability after August 15, 1995. As Motorola understands the rechannelization policies, however, these frequencies should not be taken out of circulation.

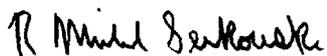
Mr. Robert H. McNamara
October 6, 1995
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Rather, they should continue to be made available for routine licensing in to eligibles in the Business Radio Service or its successor.¹

Motorola has identified this issue in its *Petition for Reconsideration and Clarification* filed on August 18, 1995. Because the Commission is unlikely to address the reconsideration petitions within the next few months, Motorola respectfully requests that the FCC address this matter on its own merits. Motorola currently has approximately 25 applications pending with the frequency coordinator because of this issue. Over the next several months, potentially hundreds of applications could be affected by this error.

Because the association of footnote 50 with these frequencies is clearly an error, we believe that an erratum would be an appropriate remedy although we leave that determination to your discretion. Please let us know if we can provide any further information.

Sincerely,



R. Michael Senkowski
Counsel to Motorola, Inc.

RMS:krrf

¹ According to paragraphs 60-63 of the *Refarming Report and Order*, the only reason for limiting the availability of 12.5 kHz channels in the 450 MHz band would be if the channel is immediately adjacent to a paging only channel that will not be narrowbanded or if it is reassigned on a primary basis to another radio service. Neither of these circumstances apply to these three frequencies.