EX PARTE OR LATE FILED

July 16, 1996

Building The Wireless Future

CTIA

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Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: ***Exparte* Presentation** ET Docket No. 93-62
(Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation)

Dear Mr. Caton:

On Tuesday, July 16, 1996, Ms. Jo-Anne Basile, Vice President, External and Industry Relations, of the Cellular Telecommunications Industry Association sent the attached information to Ms. Jackie Chorney, Legal Advisor to Chairman Hundt, concerning Radio Frequency emissions.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and the attachment are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

K. D Simão

Karen Denise Simao

Attachment

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June 24, 1996

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: ***Exparte*** Docket No. 93-62
(Guidelines for Evaluating the Environmental Effects
of Radio Frequency Radiation)

Dear Mr. Caton:

On Friday, June 21, 1996, CTIA, represented by Ms. Jo-Anne Basile, Vice President, External and Internal Relations; AT & T Wireless, represented by Ms. Candy Castle, Director, External Affairs and Mr. Chuck Eger, Senior Counsel, Motorola Corporation, met with Mr. David Wye, Technology Advisor, Wireless Telecommunications Bureau, and Dr. Robert Cleveland Jr., Environmental Scientist, Office of Engineering and Technology, via conference call. The discussion concerned the Commission's pending decision in the referenced proceeding. The views expressed in this meeting reflect the positions of the parties as previously filed in this docket.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter is being filed with your office for inclusion in the referenced docket. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

KDSimão

Karen Denise Simao

1) To avoid unnecessary speculation regarding material not relevant to the exposure requirements of the proposed regulation, we recommend that when outlining the exposure requirements reference should be made to the specific section of source material. For example:

EXPOSURE REQUIREMENTS

A. MAXIMUM PERMISSIBLE EXPOSURE -- Occupational Exposures

1. MPEs

[INSERT MPE Chart]

2. References

- NCRP Report No. 86 (1986), Section 17.4.1
- ANSI C95.1 (1992), Section 4.1.1

B. MAXIMUM PERMISSIBLE EXPOSURE -- General Population

1. MPEs

[INSERT MPE Chart]

2. References

- NCRP Report No. 86 (1986), Section 17.4.2
- ANSI C95.1 (1992), Section 4.1.1

2) The proposed order needs to address how the new guidelines affect equipment currently in the field. We would suggest that the order incorporate language such as the following:

- This regulation does not reflect concernregarding the safety of existing equipment and should not be so interpreted.

- This regulation applies to covered equipment placed into service after August 8, 1996, as follows:

  - - For previously type approved equipment, no further action will be deemed required by the manufacturer unless specifically requested by the FCC, in which event manufacturer shall demonstrate and certify compliance with this regulation;

  - - For all type approvals the manufacturer shall demonstrate and certify compliance with this regulation.

- This regulation does not apply to covered equipment already in service.

3) The proposed order should reflect the FCC's preeminent authority over state and local jurisdictions in the regulation of RF emissions as reflected in Section 704 of the Telecommunications Act of 1996.

For example, the order could include language similar to the Chairman's March letter to the Mayor of San Diego on this topic.

4) To mitigate potential public concern that the FCC's adoption of "processing guidelines" rather than "safety standards" may not sufficiently protect public health, the preamble of the proposed order could emphasize that these guidelines combine those specific portions of the present exposure standards recommended -- through a consensus process -- by federal agencies. Suggested language:

> "These FCC specified processing guidelines incorporate specific elements of current guidelines on RF emissions and reflect the consensus judgment of the federal agencies

charged with the protection of the public health and the environment."

5) The FCC is the federal agency charged with prescribing rules for RF emissions. When questions arise requiring expert interpretation beyond the resources of the Commission, the FCC should rely on either or both the IEEE SCC-28 subcommittee or the recently formed committee revising the NCRP guidelines.

6) To assure continued public confidence in the regulatory process, the preamble language could state:

> "It should be noted that the fundamental parameters of radio frequency exposure (SAR and SA) have not changed. MPE limits are derived from SAR criteria. The proposed tightening of MPE limits above 1.5 Ghz does not arise from a fundamental change in RF safety criteria, but from a precautionary desire for more rigor in the derivation of factors which allow MPE limits to be derived from SAR limits. Ongoing research and improvements in RF dosimetry will result in increased knowledge of the relationship between MPE and SAR, and future relaxation of the revised MPE limits should not be ruled out if the improved data base supports it."

Neither the Communications Act nor the FCC Rules use the term "modulation interference." Different technologies use different modulation schemes, and we are not mandating a modulation scheme for PCS. We do consider modulation part of the "emission" over which we have authority under the Communications Act. Therefore, we would not agree with a statement that "Section 704(a) does not preempt states and cities from regulating antenna placement on the grounds of radio frequency modulation."

5. *To what extent has the Congress and FCC preempted the City of San Diego from regulating the placement, construction and modification of PCS facilities on the basis of alleged interference to hearing aids, electric wheelchairs, pacemakers, automobile brakes, automobile brakes, automobile airbags, and other devices?*

Section 704 of the 1996 Act expressly preempts local governmental regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions. 47 U.S.C. § 332(c)(7)(B)(iv). We already have guidelines in place for evaluating the environmental effects of radiofrequency radiation from FCC-regulated transmitters and facilities and specific limits on PCS emissions, power and field strength. See 47 C.F.R. Part 1, Subpart I, and 47 C.F.R. Part 24, Subpart E. The PCS rules that protect against rf hazards are based on a standard adopted in 1992 by the American National Standards Institute ("ANSI"). See Second Report & Order, GEN Docket No. 90-314, 8 FCC Rcd 7700, 7780 ¶¶ 191-92 (1993); 47 C.F.R. § 24.52.

Section 704 of the 1996 Act also states that the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 U.S.C. § 332(c)(7)(B)(i). This section establishes procedures for action (and appeal of such action) on requests for authorization to place, construct, or modify personal wireless service facilities. Id. § 332(c)(7)(B)(ii), (iii), (iv).

6. *Do Federal Agencies have sole jurisdiction to regulate wireless communications technologies with respect to:*

   a. *radio frequency interference*
   b. *modulation interference*
   c. *low frequency electromagnetic field interference*