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PCIA Personal Communications Industry Association

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November 1, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
Room 200, 1919 M Street, NW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Ex Parte Notification
CC Docket No. 96-128

Dear Mr. Caton:

The purpose of this letter is to notify the Commission, pursuant to Section 1.1206(a)(2) of the Commission's Rules, that on October 31, 1996, Judith St. Ledger-Roty, of Reed, Smith, Shaw & McClay (on behalf of Paging Network, Inc.), Mark A. Stachiw, of AirTouch Paging, and E. Ashton Johnston, of Paul, Hastings, Janofsky & Walker, LLP (both on behalf of AirTouch Paging), Doug Glen, of PageMart II, Inc. (on behalf of PageMart II, Inc.), and Katherine M. Holden, of Wiley, Rein & Fielding (on behalf of PCIA), met with David Furth and Karen Brinkman of the Wireless Telecommunications Bureau. Mr. Stachiw and Mr. Glen participated in the meeting by telephone. The parties discussed issues raised in petitions for reconsideration of the Report and Order in the above-captioned docket, as summarized in the attached materials.

Should you have any questions regarding the matter, please call me.

Respectfully submitted,

Robert L. Hoggarth
KMH

Robert L. Hoggarth
Senior Vice President
Paging and Narrowband

RH/rg
Enclosure
cc: David Furth (w/enc.)
Karen Brinkman (w/enc.)
Judith St. Ledger-Roty (w/enc.)
Mark A. Stachiw (w/enc.)
E. Ashton Johnston (w/enc.)
Doug Glen (w/enc.)

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**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION AND OTHER MEMBERS OF THE MESSAGING INDUSTRY**

**RECONSIDERATION OF THE PAYPHONE COMPENSATION REPORT & ORDER**

The *Payphone Compensation Report & Order* fails to take into account significant factors involving the use of 800 numbers by messaging service providers, and should be reconsidered and revised.

Petitions for reconsideration were filed by PCIA, PageNet, AirTouch, and PageMart.

- The appropriate methodology for compensating payphone providers, at least in connection with 800 number messaging calls, is "calling party pays."
    - Under this scheme, the party deciding to use the payphone and who thus is the cost causer bears the responsibility for compensating the payphone provider; this approach thus is consistent with funding principles repeatedly endorsed by the Commission.
    - Requiring payphone users to deposit coins or otherwise bear the payphone compensation costs is not unduly burdensome; the *Report & Order* supplies no justification for its conclusion that such action is too burdensome on transient users.
    - Nothing in the record supports a conclusion that a calling party pays approach would result in greater transaction costs than the methodology adopted by the Commission; if anything, the carrier pays system appears likely to lead to higher overall transaction costs.
    - TOCSIA does not stand as an impediment to adoption of a calling party pays methodology.
    - Calling party pays would appear more likely to lead to a truly competitive market in payphones, as the party placing the call could evaluate the economic effects of using a particular payphone.
- The Commission's calculation of a market-based compensation rate is unreasonable and requires users of 800 numbers in connection with messaging services to pay for products or services not used.
    - Instead of providing fair compensation to payphone providers as contemplated by the Telecommunications Act of 1996, the plan adopted by the Commission will likely result in a windfall payment to payphone operators.

- The Commission has inappropriately decided that all uses of all payphones impose the same costs on all payphone providers.
    - Differences between coin and coinless payphones
    - Differences in the services provided to local users and to 800 number messaging users
- The Commission's methodology results in compensation to payphone providers for their equipment, not the calls carried by the payphone operators; this is contrary to the statute, which calls for fair compensation for the payphone *calls*.
- The market-based compensation methodology appears to be inconsistent with the policies adopted in the Commission's *First Report and Order* in CC Docket No. 96-98.

- *If* the Commission does not adopt a calling party pays approach, it should alter its system for compensating payphone providers.
    - As one alternative, the Commission should require IXCs to spread the costs of compensating payphone providers across all 800 users.
        - There are serious practical and legal problems with 800 number messaging service providers billing their customers on a per call basis.
        - This recommended approach will result in a more equitable sharing of the burden of compensating payphone providers.
    - As another alternative, the Commission could increase the subscriber line charge, since the general public benefits from accessibility to payphones.

October 31, 1996