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

In the Matter of	)	
	)	
Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation	)	ET Docket No. 93-62
	)	
	)	

To: The Commission

COMMENTS OF AMERITECH MOBILE COMMUNICATIONS, INC.

Ameritech Mobile Communications, Inc. (Ameritech), pursuant to Rule Section 1.429, hereby submits its comments on the petitions for reconsideration of the Commission's Memorandum Opinion and Order in ET Docket No. 93-62, Mimeo No. FCC 96-487, 62 Fed. Reg. 3232 (January 22, 1997) (hereinafter "MO&O." These petitions for reconsideration were filed by the Ad-hoc Association of Parties Concerned About The Federal Communications Commission's Radiofrequency Health and Safety Rules (Ad-hoc Association) and the Cellular Phone Taskforce (hereinafter CPT). As discussed below, the course of action suggested by these petitioners would place the telecommunications industry in an extremely difficult position. On the one hand, the petitioners advocate drastic and fundamental changes to the Commission's new RF guidelines. In the next breath, these petitioners urge that the Commission require immediate compliance with the guidelines which the petitioners claim are so severely flawed. Ameritech certainly agrees that the RF guidelines will have to be revised over the years as new information becomes available. However, the industry has only limited resources with which to come into compliance. Therefore, it is vital that the industry know precisely which standard it must meet, and how to measure its compliance; and that any changes to the standard be made pursuant to future rulemakings, after careful evaluation and testing by the scientific community.

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In particular, the Ad-hoc Association argues that new studies referred to in its petition require "fundamental" changes to the Commission's RF guidelines. Ad-hoc Association Petition at p.8. CPT Petition at p.2. The Commission is chided for not being more responsive to each new study referred to in the petition. However, it is not clear that any of these studies reliably simulate the environment around telecommunications radio facilities; and the Ad-hoc Association concedes that "these isolated studies may not be conclusive evidence of harm . . ." Ad-hoc Petition at p.6. Nonetheless, the petitioner asks that the Commission drastically alter the guidelines it adopted just months ago, presumably requiring the industry to engage in a massive compliance effort to meet the new standard once it is adopted.

At the same time, the Ad-hoc Association and CPT urge the Commission to retract its extension of the January 1, 1997 deadline for compliance with the very guidelines which the petitioner claims are inadequate. However, the telecommunications industry is an extremely competitive one, and resources are stretched thin. This is especially true in the wake of the Commission's licensing of numerous Personal Communications Service (PCS), wide area Specialized Mobile Radio (SMR) and even Mobile Satellite service providers that will directly compete with cellular, as well as Narrowband PCS operations that will directly compete with traditional paging services. The industry cannot afford to spend the resources that would be required to ensure compliance with the Commission's recently adopted RF standards, only to find that they must spend an even greater amount to comply with a revised standard in a matter of months.

In this regard, the Ad-hoc Association underestimates the effort that will be required in order to achieve compliance. The Association claims (at p.18 of its Petition) that compliance will not be burdensome because each existing radio site "needs maintenance once each month or two, and while at the site technicians can verify the maximum exposure for which the site

is rated, based on the transmitters on the site, their maximum radiated power, and the vertical and horizontal distances to locations where the public may be exposed." It goes on to conjecture that, even though the revised OET Bulletin 65 is not yet available, licensees can extrapolate compliance using formulas "upon which the current OET Bulletin 65 is based." This suggestion lacks merit, because in Ameritech's considerable experience, its radio facilities do not require maintenance on a schedule nearly as frequent as "each month or two." Instead, it often takes carriers like Ameritech, operating hundreds of transmitters, at least one year to complete a single maintenance cycle for all of its facilities. Moreover, because the Commission's RF guidelines do not place any responsibility for compliance on the site owner, a licensee's technician visiting a site is often not in a position to measure compliance. First, this technician often will have no way of knowing exactly which operations are on the air at that site, or the technical parameters for these stations. The Commission's rules generally do not require the posting of such information at the site, but instead require only that transmitters be marked with the relevant call sign. See, e.g., Rule Section 22.303. In addition, the Commission's rules often allow the establishment of cellular, paging, PCS and other facilities on a permissive basis, without the filing of any application or notification describing the technical parameters. Therefore, not even a thorough search of the Commission's records would provide the needed data.

In addition, the Association's suggestion that licensees can extrapolate their compliance from old OET Bulletin No. 65 is without merit. The old Bulletin does not reflect the new RF guidelines, so a licensee could not be assured of compliance by using this approach. Rather, fundamental fairness requires that licensees know exactly what is expected of them for compliance, through the issuance of the revised Bulletin, so they can "get it right the first time." The United States Court of Appeals for the District of Columbia Circuit has stated that "full and explicit notice is the heart of administrative fairness." Radio Athens, Inc. (WATH)

v. FCC, 401 F.2d 398, 404 (DC Cir. 1968). When applicants like Ameritech file renewal and modification applications certifying environmental compliance, they must be able to determine in advance that they have met the Commission's new standard. See Bamford v. FCC, 535 F.2d 78, 82 (DC Cir. 1976) ("[A]n applicant should not be placed in the position of going forward with an application without knowledge of the requirements established by the Commission.").

Until the revised OET Bulletin 65 is released, and unless the revised Bulletin resolves the numerous issues raised on reconsideration of the Commission's Report and Order in this Docket (Mineo No. FCC 96-326), licensees will not have adequate notice of what is expected of them. Ameritech's September 6, 1996 Petition for Reconsideration and Clarification (at pp3-4) identified a number of complex issues that remain unresolved, including:

1. How is the impact of multiple transmitters to be assessed? Are transmitters to be segregated based on frequency band, to match the division of frequency bands in the new radiation standards (e.g., 30 MHz-300 MHz, and 300 MHz-1500 MHz)? Or are all facilities to be lumped together?

2. Will facilities which are categorically excluded from performing an environmental assessment nonetheless count toward an evaluation of cumulative radiation from a given building or tower?

3. If multiple transmitters cumulatively exceed the exclusion benchmark, the Commission indicates that licensees at the antenna site have "shared" responsibilities to remedy this problem. Are licensees expected to share equally in the cost, or should costs be divided proportionate to the power of each licensee's operation? What procedures apply if one or more licensees refuse to cooperate?

4. The Commission says that the new guidelines "are generally applicable to all facilities, operations and transmitters regulated by the Commission." However, an environmental assessment is only required of the licensees identified in Table 1. Does an exemption from the environmental assessment requirement also exempt the licensee from liability for harmful radiation? Or must the exempted licensees nonetheless perform the radiation measurements that will be required to ensure compliance?

5. If a radio facility is excluded from the environmental assessment requirement, and otherwise complies with the harmful radiation standard, can this licensee be subject to liability nonetheless, if a subsequent high-powered facility is installed at the same antenna site?

6. Do Radiax or other types of in-building transmitters or signal boosters require environmental evaluation and/or create potential liability? Are warning signs and locked

doors adequate to achieve compliance if the transmitter and antenna are located inside the building, rather than on the rooftop? Must rooftop transmitters be considered in evaluating the compliance of an in-building transmitter?

7. While existing mobiles and portables are grandfathered, will carriers and resellers nonetheless be subject to liability if these radios do not meet the new standard for subscriber equipment?

8. What is the meaning of the terms "transient" and "incidental," for purposes of determining whether the controlled/occupational standard applies?

These fundamental questions must be resolved before the industry can be expected to move forward with compliance. In addition, the Ad-hoc Association fails to consider that licensees will not be able to perform a simple mathematical calculation for ensuring compliance of certain sites (especially downtown rooftops which may house dozens of radio operations). In all likelihood, field tests will have to be performed in order to measure compliance in this complex environment. The time and expense associated with such measurements is significant, further underscoring the need for clear standards before compliance is required.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, John A. Prendergast do hereby certify that I have, on this 27th day of March, 1997, caused to be served by first class U.S. mail, postage prepaid, a copy of the foregoing Comments to the following:

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