



Federal Communications Commission  
Washington, D.C. 20554

JUN 2 1997

The Honorable Mike DeWine  
United States Senator  
37 West Broad Street  
Columbus, Ohio 43215

Dear Senator DeWine:

Thank you for your letter of April 21, 1997, on behalf of your constituent, Jerry Catt, regarding the Commission's policies with regard to licensing of 931 MHz paging systems. Mr. Catt expresses concern that his paging application will be dismissed and that paging frequencies will be awarded in a competitive bidding process.

On February 20, 1997, the Commission released a Second Report and Order and Further Notice of Proposed Rule Making in WT Docket 96-18 and PP Docket 93-253, which adopted rules governing geographic area licensing for Private Carrier and Common Carrier paging licenses and established competitive bidding procedures for those systems. For your convenience and information, enclosed is a copy of the Press Release concerning the Second Report and Order and Further Notice of Proposed Rule Making, which includes a summary of the principal decisions made. Specifically, all mutually exclusive applications for non-nationwide Common Carrier Paging licenses and exclusive non-nationwide Private Carrier Paging channels will be subject to competitive bidding procedures. Additionally, all pending mutually exclusive applications filed with the Commission on or before February 20, 1997, will be dismissed.

The Commission's interim paging freeze did not require prior issuance of a Notice of Proposed Rule Making. Indeed, the Commission has imposed freezes in a number of other proceedings to facilitate the transition to geographic licensing and auctions, including Multipoint Distribution Service, 800 and 900 MHz Specialized Mobile Radio (SMR) Service, Location and Monitoring Service, 220 MHz Service and 39 GHz Service. Our decision in these proceedings to suspend acceptance of applications while the related rulemaking was pending advances two critical goals -- preservation of our ability to assign licenses through auctions, and deterrence of license fraud and speculation. In particular, we are concerned that the potential benefits of geographic area licensing, with competitive bidding used to select from among competing applicants, would be undermined by continuing to invite site-specific applications for "free" spectrum on a first-come, first-served basis.

Assigning frequencies by auction, in turn, helps deter fraud and speculation and ensures that this valuable public resource is assigned rapidly and efficiently to the parties who value it the most, rather than given away to the first party who files its application with the Commission. The Commission has stated its belief in other contexts (such as Specialized Mobile Radio) that auctions will minimize administrative or judicial delays in licensing,

particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures.

The Commission's newly adopted rules to auction paging frequencies is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use.

Moreover, the Commission has taken a number of steps to ensure that paging providers that are small businesses are not adversely affected by the transition to geographic area licensing and the use of competitive bidding procedures to award paging licenses. Additionally, the Part 90 shared paging channels will not be auctioned; instead they will be licensed on a site-by-site basis. We are establishing licensing areas of a size that will provide realistic bidding opportunities for small and medium-sized operators. We have also adopted special provisions in our competitive bidding rules for small businesses to facilitate their participation in the auction process, including bidding credits and installment payment provisions. In the Further Notice of Proposed Rule Making, we have proposed to allow paging licensees to partition their licensing areas in order to promote quicker build-out of small markets and rural areas.

Mr. Catt may be a victim of a fraudulent paging application investment scheme rather than an actual paging operator. The Commission, the United States Securities and Exchange Commission and the Federal Trade Commission are investigating fraudulent investment schemes involving paging and other wireless services. Generally, the fraud perpetrators contact potential investors and represent that paging licenses have a great value that can be recouped through subsequent sale. These consumer fraud victims may be unaware of the obligations with which licensees must comply. Unfortunately, the fraud victim is often targeted a second time by different fraud perpetrators offering to construct the paging system. The FCC Call Center, 1-888-CALL-FCC (225-5322), will forward data from telemarketing fraud victims to the National Fraud Information Center where it is made available to law enforcement personnel on a nationwide basis. We strongly recommend that Mr. Catt call the

The Honorable Mike DeWine

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FCC Call Center and provide the Call Center representative with information pertaining to the paging application investment. Additionally, Mr. Catt may also wish to promptly contact his State Commission, State Attorney General or the National Fraud center directly at 1-800-876-7060.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink that reads "David L. Furth" with a stylized flourish at the end.

David L. Furth  
Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

Enclosure

MIKE DeWINE  
OHIO

140 RUSSELL SENATE OFFICE BUILDING  
COLUMBUS, OHIO 43215  
TDD: (202) 224-9921

# United States Senate

WASHINGTON, DC 20510-3503

April 21, 1997

COMMITTEES:

JUDICIARY

INTELLIGENCE

LABOR AND HUMAN RESOURCES

*PRB  
PR-projects  
20972*

Ms. Judith L. Harris  
Director of Legislative & Governmental Affairs  
Federal Communications Commission  
1919 M Street NW  
Washington, D.C. 20554

Dear Ms. Harris:

I am enclosing the latest correspondence that I received from a constituent, Jerry Catt, of Columbus, Ohio. Mr. Catt has contacted me regarding his pending application for a paging license. Mr. Catt fears a change in the FCC's licensing policy will eliminate his eligibility, resulting in a loss of money spent preparing his application. My office has assisted Mr. Catt in the past when his application was put on hold.

I would appreciate your reviewing this information, and responding to my Columbus office, 37 West Broad Street, Suite 970, Columbus, Ohio 43215, at your earliest convenience.

If you need additional information, please do not hesitate to contact my office at (614) 469-6774.

Very respectfully yours,



MIKE DeWINE  
United States Senator

RMD/jr  
Enclosure

STATE OFFICES:

105 EAST FOURTH STREET  
ROOM 1515  
CINCINNATI, OH 45202  
(513) 763-8260

600 SUPERIOR AVENUE EAST  
ROOM 2450  
CLEVELAND, OH 44114  
(216) 522-7272

200 NORTH HIGH STREET  
ROOM 405  
COLUMBUS, OH 43215  
(614) 469-6774

200 PUTNAM STREET  
ROOM 522  
MARIETTA, OH 45750  
(614) 373-2317

234 NORTH SUMMIT STREET  
ROOM 716  
TOLEDO, OH 43604  
(419) 259-7535

April 3, 1997

APR 11 1997

Mike DeWine-  
Senator - Ohio  
200 North High St. Suite # 405  
Columbus, Ohio 43215

Dear Senator DeWine:

I am an applicant for a 931 MHz paging license in the Tacoma, Wash. Market, which application is currently pending before the Federal Communications Commission. I am writing to urge you to insist that the Federal Communications Commission reverse its February 24, 1997, decision in WT Docket No. 96-18 looking to dismiss my pending application and issue 931 Mhz paging licenses in my market solely by auctions in the future.

I paid thousands of dollars for application preparation and filing services and properly filed my application in accordance with the FCC Rules and policies then in effect at the time of filing. The fact that the FCC now wants to change its rules, for the second time, dismiss my application and hold an auction, means that the substantial amount of money I have invested in this project will be lost. Neither I nor many other similarly situation applicants who properly filed in good faith have the resources to bid hundreds of thousands of dollars to win an auction license for an entire, big as a state-sized MTA geographic area, as proposed by the Commission.

I will have no opportunity to obtain an FCC license, build a paging station and participate in the communications industry as I had hoped to do, and which Congress has committed to seeing happen. I will lose all of my substantial investment to date because the FCC wants to arbitrarily change its Rules after applications were filed. This retroactive action by a Federal agency is not fair, and should not be condoned by Congress, also as stated above, this is the second time that they have attempted to change rules, just a year ago in 1996 we went through the same thing, and the FCC backed off.. Congress has oversight of this Federal agency and the FCC should be held accountable for its actions.

I strongly believe that this type of conduct on the part of the FCC is both morally and ethically wrong, to accept applications and money for the filing of licenses, and then to decide to change the rules in midstream so to speak, so they can realize a bigger return by using the auctions, and to have no regard for the applicants who did things right and now stand to lose all the way round, both from the substantial amount of money involved, but the time also involved, this process has been dragging on now for more than a year.

I urge you to conduct an inquiry and take appropriate action on behalf of your constituents and have the FCC correct its action before it is too late. All I am asking is equitable treatment, which in this case could include "grandfathering" of mine and similar applications by the Commission, and appropriate processing and granting of these applications. Such action would not interfere with future auctions, as planned by the FCC.

Thank you for your PROMPT evaluation and intervention on mine and others behalf.

Sincerely,

Jerry T. Catt

April 3, 1997

Mike DeWine -  
Senator - Ohio  
200 North High St. Suite # 405  
Columbus, Ohio, 43215

Dear Senator DeWine:

I am an applicant for a 931 MHz paging license in the Jacksboro, Texas, Market, which application is currently pending before the Federal Communication Commission. I am writing to urge you to insist that the Federal Communication Commission reverse its February 24, 1997, decision in WT Docket No. 96-18 looking to dismiss my pending application and issue 931 Mhz paging licenses in my market solely by auctions in the future.

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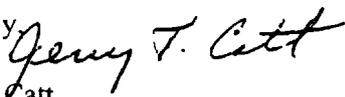
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Jerry T. Catt