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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

In the Matter of )  
 )  
Communications Assistance for ) CC Docket No. 97-213  
Law Enforcement Act )  
 )

**PETITION FOR EXTENSION OF CALEA COMPLIANCE DATE**

PageMart Wireless, Inc., ("PageMart"), by its attorneys, and pursuant to Section 107(c) of the Communications Assistance for Law Enforcement Act ("CALEA"),<sup>1</sup> hereby respectfully petitions the Federal Communications Commission (the "FCC" or "Commission") for a two year extension of CALEA's October 25, 1998 deadline for compliance with the assistance capability requirements of Section 103.<sup>2</sup> For the reasons discussed herein and in the preceding Joint Petition for Extension of Time filed jointly by PageMart and several other carriers ("Joint Petition"), compliance with CALEA's assistance capability requirements is not reasonably achievable through the application of existing technology, and will not be reasonably achievable for at least two years.

<sup>1/</sup> Pub. L. 103-414, 108 Stat. 4279 (1994), *codified at* 47 U.S.C. §§ 1001 *et seq.* Under Section 107(c) of CALEA, a telecommunications carrier "may petition the Commission for 1 or more extensions of the deadline for complying with the assistance capability requirements under section 103." 47 U.S.C. § 1006(c).

<sup>2/</sup> Section 103 of CALEA requires that by October 25, 1998, telecommunications carriers ensure that their equipment and services can provide law enforcement officials with the call contents and call identifying information for an intercepted communication. 47 U.S.C. § 1002.

PageMart is a messaging carrier providing one-way paging services to over two million subscribers all over the United States, Canada, Mexico and other parts of North and Central America. PageMart currently provides, and is committed to continuing to provide, cloned pagers to law enforcement officials in order to satisfy PageMart's obligations under CALEA for its one-way paging services.<sup>3</sup> Cloned pagers are duplicates of pagers owned by certain subscribers being targeted by law enforcement agencies. Because they have the same identifying characteristics as the pagers being cloned, cloned units operate precisely the same as the original units, receiving all messages intended for such units as they are received by those original units.

PageMart believes that these cloned pagers are sufficient to comply with the requirements of CALEA, because they allow law enforcement officials to receive simultaneously the same messages received by paging subscribers under lawful surveillance. This capability is virtually limitless -- it supports the interception of an unlimited number of calls -- and has no capacity restrictions. In addition, the cloning of a pager is basically undetectable to the subject of the interception, as well as to a paging company's staff, and is therefore secure from a law enforcement perspective. These pagers represent an efficient, low-cost way to fulfill the requirements of CALEA, which only mandates the provision of call content and identifying information "that is reasonably available to the carrier"<sup>4</sup>

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<sup>3/</sup> Traditional, one-way paging supports the one-way, wireless transmission of tone, numeric, alphanumeric and voice messages to a radio receiving device (i.e., pager) within a stipulated, predefined geographic radio coverage area. It does not include such advanced messaging features as roaming, forwarding, or two-way paging.

<sup>4/</sup> 47 U.S.C. § 1002(a).

Until recently, the Federal Bureau of Investigation (the "FBI") also maintained that cloned pagers were sufficient to comply with CALEA.<sup>5</sup> The FBI has since reversed its course, deciding that cloned pagers are insufficient to comply with CALEA.<sup>6</sup> The FBI has failed, however, to provide any guidance as to how, other than through cloned pagers, one-way paging carriers can satisfy the law's requirements. Because of the current lack of guidance from the FBI, and the resultant absence of industry standards for how paging carriers can come into compliance with CALEA, it is unreasonable to expect that the FBI will establish clear standards, and that the paging industry will thereafter be able to manufacture, test and deploy conforming equipment -- all by October 1998. Even were clear standards to become available today, that would still not leave sufficient time for compliance by October 1998.

CALEA requires the FCC to extend the required compliance date if "compliance with the assistance capability requirements . . . is not reasonably achievable through application of technology available within the compliance period."<sup>7</sup> In considering whether to grant such an extension, the FCC must consider factors such as the nature and cost effectiveness of the service or equipment at issue, public safety, and national security.<sup>8</sup> As demonstrated in the Joint Petition, given the absence of standards from the FBI with respect to full CALEA compliance for one-way paging providers, full compliance by PageMart "is not reasonably achievable" by October 1998. Without definitive standards, PageMart cannot begin the process of building and

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<sup>5/</sup> See, e.g., FBI Comments to the Personal Communications Industry Association ("PCIA") at the PCIA offices in Alexandria, Virginia (Dec. 17, 1997).

<sup>6/</sup> FBI Reply Comments, CC Docket No. 97-213, at 22 ¶ 35 (Feb. 11, 1998).

<sup>7/</sup> Id. § 1006(c)(2).

<sup>8/</sup> Id. § 1008(b)(1).

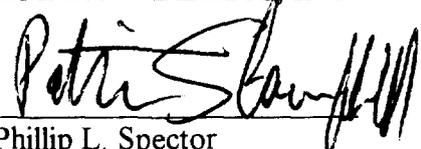
deploying compliant equipment. Moreover, because of the existence and success of PageMart's cost-effective program of making cloned pagers available to law enforcement officials, an extension of the deadline for compliance with more demanding requirements would not have any adverse impact on public safety or national security. PageMart therefore meets the statutory requirements for an extension, and believes that an extension would serve the public interest.

### CONCLUSION

For the foregoing reasons, PageMart requests that the CALEA compliance deadline be extended for at least two years, until law enforcement's capacity and capability requirements can be identified and an appropriate industry standard for such services can be promulgated.

Respectfully submitted,

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