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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
AirTouch Paging's Petition) RM-9273
for Rulemaking to Establish)
a Dedicated 8XX Code for)
Toll-Free Calls Placed from)
Pay Telephones)

REPLY COMMENTS OF RADIOFONE, INC.

Radiofone, Inc. (Radiofone), by its attorneys and pursuant to Sections 1.405 of the Commission's Rules, respectfully submits these reply comments concerning the captioned Petition for Rulemaking filed by AirTouch Paging (AirTouch). Radiofone continues to support the adoption of a specific NPA code, or even specific NXX codes, that would be "toll-free" but for which callers using payphones would need to deposit coins equivalent to the local coin rate. The arguments made by parties opposing AirTouch's proposal are unsupported and fail to take into account the large number of NPA codes available for assignment.

Radiofone also supports, and prefers, the alternative proposal submitted by PageMart Wireless, Inc. (PageMart)-- requiring callers to deposit coins for calls that otherwise would be blocked from payphones.¹ Both proposals would provide a straightforward mechanism for payphone service providers to be compensated for the use of their payphones while eliminating the need for toll-free customers to compensate payphone owners.

¹ PageMart Comments at 3.

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These issues are discussed in turn below.

AirTouch's Proposal

The Telecommunications Resellers Association (TRA), PageMart and MobileMedia Corporation (MobileMedia) support AirTouch's proposal. They recognize that AirTouch's proposal would result in payphone owners being fully compensated for toll-free calls, while payphone users would be able to avoid long distance toll charges and would be able to make more calls to toll-free numbers because fewer would be subject to blocking.²

The "RBOC/GTE/SNET Payphone Coalition" (Coalition) opposes AirTouch's proposal. They raise five issues, but none has any merit. First, the Coalition asserts that the Commission is not the appropriate body to establish a new toll-free code.³ But the Coalition overlooks the fact that the Commission has exclusive jurisdiction over numbering. 47 U.S.C. § 251(e). Thus, while the Commission may delegate some authority to other entities to implement a new toll-free code, it clearly has the jurisdiction to determine whether a new toll-free code should be assigned, in the first instance.

Second, the Coalition asserts that local exchange carriers (LECs) would need to spend tens of millions of dollars to

² Id. at 2, 4; MobileMedia Comments at 3.

³ Coalition Comments at 5.

implement a new 8XX code.⁴ But the Coalition provides no support for that assertion. And it fails to explain why such expense is not justified when similar costs logically must be incurred as each new toll-free number and each new NPA code is introduced.

Third, the Coalition states that there is no evidence of demand for caller-pays toll-free numbers.⁵ But the demand is evident by the size of the parties participating in this proceeding -- AirTouch, MobileMedia, PageMart and Radiofone. In particular, MobileMedia states that it has 500,000 customers that use toll free numbers.⁶

Fourth, the Coalition asserts that the type of calling advocated by AirTouch is available through local numbers and conventional (i.e., not toll free) NPA/NXX numbers.⁷ But out-of-state calls cannot be made with local numbers, and paging customers should have the option of providing toll-free numbers to people who page them. The Coalition should not be in the position of dictating the types of services used by paging customers.

⁴ Id. at 7.

⁵ Id. APCC also noted that AirTouch has not demonstrated what the demand would be for "caller pays" toll free numbers. APCC Comments at 9.

⁶ MobileMedia Comments at 3.

⁷ Coalition Comments at 9.

Finally, the Coalition asserts that the Commission has already rejected AirTouch's proposal.⁸ But Radiofone demonstrated in its Comments that what the Commission rejected is a caller-pays option for all payphone compensation.⁹ AirTouch's current proposal is a caller-pays option to be used as an alternative to the carrier-pays methodology.

Sprint takes the other end of this argument and proposes that the FCC adopt a caller-pays methodology for all payphone compensation in its remand proceeding from the latest D.C. Circuit appeal.¹⁰ Sprint overlooks the fact that the FCC rejected this proposal when originally made by AirTouch, as noted above. Moreover, the FCC has released a Public Notice on the remand issues and that Public Notice does not address the issue that Sprint raises.¹¹

Sprint further argues that devoting an NXX to AirTouch's proposal would not be a judicious use of scarce numbering resources, and would be administratively burdensome for carriers and RespOrgs.¹² But Sprint has not explained why the numbering resources required to implement AirTouch's proposal are scarce,

⁸ Id. at 10.

⁹ Radiofone Comments at 3.

¹⁰ Sprint Comments at 1-2.

¹¹ Public Notice, Pleading Cycle Established for Comment on Remand Issues in the Payphone Proceeding, CC Docket No. 96-128, DA 98-1198, released June 19, 1998.

¹² Sprint Comments at 2.

nor could it. There are at least 16 NPA codes of the form "8XX" that could be used, as well as numerous other unused NPA codes (such as the Easily Recognizable Codes).¹³ Additionally, Sprint provides no support for its assertion that the use of an "8XX" code would be administratively burdensome. If the Commission nevertheless were concerned about the resources required to implement a new NPA code, it could request information about the cost of compliance in its notice of proposed rulemaking and consider ways that carriers could recover their costs.

The American Public Communications Council (APCC) also opposes AirTouch's proposal. APCC asserts that the Commission should focus its efforts on implementing the current payphone compensation rules.¹⁴ But AirTouch's proposal would help ensure that payphone owners receive reasonable compensation. There is no need to favor one compensation mechanism over the other. The Commission can proceed to implement both mechanisms at the same time.

APCC (and Sprint) also assert that callers will be confused if they need to deposit coins for some "800" calls.¹⁵ The Commission should not fall into the trap of thinking that the NPA code would have to be "800." Toll-free numbers don't have to begin with "8", and not all NPA codes that begin with "8" are

¹³ See Radiofone Comments at 5.

¹⁴ APCC Comments at 2.

¹⁵ Id. at 13; Sprint Comments at 2.

toll-free numbers. Any potential customer confusion can be alleviated by using an NPA code that begins with some other digit, or by customer education.¹⁶

In sum, PageMart, MobileMedia and TRA recognize the benefits to AirTouch's proposal. The Coalition, Sprint and APCC have not provided any justification for their oppositions.

PageMart's Proposal

While Radiofone continues to support AirTouch's proposal, it prefers PageMart's proposal to require customers to deposit coins for calls that otherwise would be blocked from payphones.

The main objections to AirTouch's proposal -- that is, the need to implement a new NPA code, and customer confusion -- would not apply to the PageMart proposal (just as they do not apply to the AirTouch proposal, as demonstrated above). First, there would be no need to implement a new NPA code. PageMart's proposal envisions the use of current toll-free numbers. Second, PageMart's proposal should not increase customer confusion. Right now, customers may dial a toll free number from a payphone, only to learn that the call has been blocked. Under PageMart's proposal, customers instead may be asked to deposit coins to place a call from a payphone. Either way, the use of the payphone is different than previous customer expectations. PageMart's proposal has the added advantage of permitting

¹⁶ See Radiofone Comments at 5-6.

customers to make calls to toll-free numbers, regardless of whether the paging customer requested blocking.

In sum, PageMart's proposal is a win-win situation for all parties involved. The payphone owners would receive compensation, paging customers would be able to receive toll-free calls from payphones without having to pay the compensation themselves, carriers would not need to implement a new NPA code, and payphone users would be able to make calls to toll-free numbers that otherwise would be blocked.

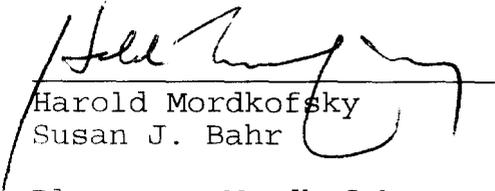
CONCLUSION

For these reasons, Radiofone requests the Commission to expeditiously adopt a notice of proposed rulemaking concerning either the PageMart or AirTouch proposals. Both ensure that payphone owners are compensated for the use of their phones while satisfying the service requirements of paging customers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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