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Ms. Sheryl Wilkerson
Legal Advisor to Chairman Michael Powell
Federal Communications Commission
445 12th Street, S.W., Room ?
Washington, D.C. 20554

Re: ***Air-to-Ground Proceeding***

Dear Ms. Wilkerson:

This letter is being filed in response to your request for Verizon Airfone to comment on a declaration by Dr. Paul A. London (written on behalf of AirCell) that was filed with the Commission on December 8, 2004. While Dr. London's letter contains many errors, I have limited my response to those items most significant to the air-to-ground industry and the resolution of the Commission's rulemaking proceeding.

The declaration ignores the competitive history of the air-to-ground market. It is noteworthy that Dr. London failed to acknowledge that Verizon Airfone is currently the sole service provider in an industry that once included three competitive companies. While Airfone has invested many millions of dollars in the development and operations of an air-to-ground business, others have exited the marketplace and returned their licenses to the FCC. Dr. London failed to acknowledge the innovations Airfone has introduced throughout its history including two-way text messaging, instant messaging, web-based email and extended cellular roaming. These services, including cellular roaming, are available to all consumers and not just to customers of our affiliated companies. Importantly, these innovations were deployed while Airfone was the sole air-to-ground provider, and encumbered by FCC regulations that substantially inhibit its ability to deploy new and advanced services.

Dr. London contends that the failure of the air-to-ground market is due to Airfone's monopoly position and the high prices of its service. In fact, the opposite is true. Airfone's position as the sole service provider and the high prices for its service (relative to ground-based services) are byproducts of the current rules that do not allow any

provider sufficient spectrum to deploy the services that consumers want or the broadband technologies that are most cost effective. Contrary to Dr. London's assertions, Airfone has explained to the FCC in numerous prior submissions that its business objective is to introduce innovative broadband technologies and services that are priced commensurate with terrestrial-based wireless services. However, that cannot be accomplished under the FCC's current rules because those rules limit the types of technologies that can be deployed and the services that can be provided.

Dr. London asserts that Airfone's request for "exclusive licenses" is akin to auctioning off monopoly trade rights in 17th century England. This is absurd. The FCC's licenses, awarded through competitive bidding, do not afford monopoly rights to anyone. Airfone's request for "exclusive use" licenses is based on the need for unencumbered access to spectrum and the flexibility to use that spectrum to respond to consumer demand, subject to rules designed to prevent interference. Airfone's request is not that it should be the only provider of air-to-ground service. Indeed, Airfone has expressly proposed that the FCC make additional spectrum available in other bands. Any licensee of such other spectrum should also have unencumbered access to, or "exclusive use" of, that spectrum. This "exclusive use" model is the very foundation of the wireless industry, and is one of the principal reasons for the industry's enormous success. The FCC has previously noted that the grant of "exclusive use" spectrum license rights is the best means for promoting efficient use of a scarce public resource. This is as true for air-to-ground as it is for any commercial wireless service.

The declaration ignores engineering realities. Dr. London's assessment is not based on real-world facts. He assumes that AirCell's spectrum sharing plan could facilitate the delivery of broadband services – an assumption refuted by the record in several material respects. First, as documented by the company with the most expertise in the development and use of CDMA technology – Qualcomm – AirCell's spectrum sharing plan is not capable of supporting the high-quality broadband services that the airlines and the flying public demand. As Qualcomm noted in its December 8, 2004 letter to the FCC, "with sharing in place, there will be periods of time when the data rate slows to a trickle and there will be yet other periods in which service will be impaired or not available at all." Second, even if sharing could work, AirCell's plan does not result in competition but rather collaborative and coordinated cloning of systems. Under AirCell's proposal, the two licensees would have to agree to the same technology, collocate their facilities and lock themselves into joint planning for the future. In all likelihood, the FCC would need to be heavily involved in overseeing cell site placement and other details. Thus, AirCell's proposal would not promote the sort of competition and innovation that Dr. London claims.

The declaration ignores critical national and customer needs. The need to provide high levels of service from takeoff to landing ("deck-to-deck") has been summarily dismissed by AirCell as unnecessary and irrelevant. It should, therefore, come as no surprise that its band sharing plan cannot accommodate important deck-to-deck capabilities required by air-to-ground customers. Yet, such capabilities are important for a variety of customer segments and absolutely critical for public safety and national security services. In its

November 2, 2004 letter to the FCC, the Federal Air Marshals ("FAM") stated that its communication capabilities "must be fully operational (end-to-end) in all phases of the commercial aircraft operation," and that "sharing frequencies among multiple commercial air carriers has the inherent potential to degrade the provision of uninterrupted FAM communication capability."

Clearly, the ingredients necessary to restore vitality to the air-to-ground industry go well beyond the remedial suggestions offered by Dr. London. Today, airlines and their customers demand high-speed, wireless voice and data services, through the device of their choice, as an extension of their existing ISP, wireless or telephone provider. Corporate and governmental users require the same types of services, with high reliability and deck-to-deck coverage. In order to meet such demand, licensees must have access to sufficient amounts of unencumbered spectrum with the flexibility to innovate and respond to market forces.

Verizon Airfone welcomes competition in the air-to-ground industry. However, competitors need access to sufficient spectrum to provide the broadband services that consumers want. And, they should not be handcuffed with inflexible rules and operating requirements that limit their ability to respond to the marketplace. Consumers deserve more than the unreliable communications services that would result from AirCell's band sharing plan – a plan that falls well short of delivering on the broadband promise. Given the limited spectrum available in this band, the Commission should not try to squeeze too many competitors into too little spectrum. Doing so would only repeat the failures of the past system. Instead, the Commission should act quickly to make more spectrum available, and thus, ensure that consumers have access to competitive, high-quality, highly reliable, broadband air-to-ground services.

Sincerely,

William Pallone
President, Verizon Airfone Inc.