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March 27, 2007

Chairman Kevin Martin
Commissioner Michael Copps
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Amendment of the Commission's Rules to Facilitate the Use of Cellular Telephones and other Wireless Devices Aboard Airborne Aircraft -- WT Docket 04-435

Dear Chairman Martin and Commissioners:

On behalf of OnAir – a joint venture between SITA and Airbus – I am writing to express our surprise and concern over an article that appeared in last Friday's New York Times suggesting that the Commission at present is contemplating "giv[ing] up on the idea of allowing cellphone use on airplanes, ... because it is not clear whether the network on the ground can handle the calls." We have been participating in this proceeding at the Commission, as well as participating in parallel activities at the Federal Aviation Administration (through Special Committee 202 of the Radio Technical Commission for Aeronautics) and before foreign Administrations in Europe and Asia.

The record in this docket does not support the suggestions in the New York Times article that the use of cellular handsets on-board an aircraft in flight would present a serious risk of potential interference to terrestrial wireless systems, so long as the on-board handsets are "controlled" through use of a "pico-cell" or other similar technology. None of the parties advocating a change in the rules to allow use of handsets on-board airplanes has suggested allowing "uncontrolled" handset use such that the handsets could connect directly to one or more terrestrial towers.

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Rather, these parties have proposed that handsets would not be able to operate during the take-off and landing phases (*i.e.*, below 10,000 feet), and the network control system on-board the aircraft (working in combination with the “pico-cell”) would ensure that those handsets that were actively transmitting on-board the aircraft operated at minimum power. As a result, the handsets would not be detectable to terrestrial towers, and the connection from the plane to the ground would occur in other frequencies using satellite or air-to-ground links. Moreover, the FAA requires airworthiness certification, and the “pico-cells”/handsets would be allowed to operate on-board an airplane only when it has been demonstrated that such operations will not interfere with the aircraft’s avionics.

After seeing the New York Times article, we scoured the docket in this proceeding to see what could have triggered the stated concerns about harmful interference. The only recent “substantive” addition to the record was CTIA’s December 21, 2006 *ex parte* notice. The record in this proceeding suggests that “controlled” operations would not cause harmful interference to terrestrial wireless operations. Although some of the terrestrial carriers expressed concern in their earlier comments, they also indicated that further studies were ongoing, and that Commission action should await the conclusion of those studies. One group reviewing this issue was the CTIA Airborne Task Force. However, that group has not published any studies or submitted any report in the record in this proceeding. While CTIA indicates in its December 21, 2006 *ex parte* notice that it met with some of the Commission staff to provide an “update” of the task force’s efforts, that summary description does not describe any conclusions of any such studies, nor indicate that any studies or reports were presented to the Commission. Thus, proponents of on-board use of handsets have not been afforded an opportunity to rebut any such claims or showings. Nor has any other party presented any studies in the record indicating that “controlled” on-board handset usage, as suggested by the proponents, presents a risk of harmful interference. If the Commission were to terminate this proceeding based on any non-record materials or arguments presented by CTIA or any other terrestrial carriers, such a decision would violate the Administrative Procedure Act.

Indeed, there is significant evidence that such “controlled” on-board handset usage, if properly implemented, will not cause harmful interference to terrestrial wireless operators. This same issue has been studied in Europe, and the “laws of physics” do not vary by continent. An independent study there (consisting of

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cellular operators, cellular suppliers and national Administrations -- ECC Report 093) demonstrated that a "pico-cell" system can be deployed on-board an aircraft and the operations of that system and the handsets on-board the aircraft will not cause harmful interference to terrestrial systems as long as certain operating conditions are followed. ECC Decision (06) 07 (approved in December 2006) defined those operating conditions.

OnAir respectfully requests that the Commission take judicial notice of these determinations by foreign Administrations, or allow OnAir to supplement the record with the decisions and technical studies underlying those determinations, before it decides to terminate this proceeding based on unfounded concerns of harmful interference. It would be unfair and

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unlawful not to afford the proponents of on-board use of handsets an opportunity to rebut unsupported and/or non-record claims of a risk of harmful interference.

Sincerely,

/s/
Stephen L. Goodman
Counsel for OnAir

cc: Fred Campbell
Roger Noel
Moslem Sawez
Sam Feder