

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of	)	
Developing a Programmatic	)	WT Docket No. 08-61
Environmental Assessment of the	)	WT Docket No. 03-187
Antenna Structure Registration	)	
Program	)	

To: The Commission

**COMMENTS OF NTCH, INC.**

NTCH, Inc. submits these Comments in this proceeding as both an owner/operator of numerous mobile communications systems but also as a constructor of more than 500 communications towers across the United States. This breadth of experience puts NTCH in a position to present hard, first-hand, verifiable knowledge of the effects of towers on birds.

To date, much of the evidence presented to the Commission has been anecdotal or undocumented. Those environmental and wildlife organizations who seek more rigorous review of tower construction (the "bird community") have suggested that literally millions of migratory and other birds are being killed each year due to communications towers. NTCH prides itself on being a "green" company which consciously tries to minimize adverse environmental effects from its construction and operating activity, whether these measures are required by regulations or not. The suggestion that wild animals are being killed in large numbers is therefore something that, if true, would be of serious concern. In our experience however, there is no factual support for this proposition, and the result is quite the opposite.

As indicated above, NTCH or its affiliated entities have constructed communications towers throughout the United States, including Colorado, Idaho, the Midwest, Florida, Alabama, Tennessee, Texas, New Mexico, South Carolina, North Carolina and California. The only large

region of the United States where NTCH has *not* had significant experience is the Northeast and the Middle Atlantic region. NTCH has built more than 500 towers and is currently engaged in building many more. It also maintains these towers post-construction and operates communications networks with them and therefore has first-hand knowledge of bird kills associated with its towers. As a CMRS licensee in many parts of the country, NTCH also has considerable experience with towers that it rents from others for its facilities but visits regularly for installations and maintenance. NTCH's personnel report that they never see any dead birds around the towers. Literally, *none*. Surely if millions of birds were colliding with the towers and dying there would be some evidence of carcasses at the base of the towers.

On the contrary, what we do regularly find are the carcasses of rodents which have been caught by the birds and eaten and their remains dropped at the foot of the towers. Many species of birds use the towers as roosting sites, so we frequently find towers with one or more large nests in them. In fact, some jurisdictions prohibit us from climbing our towers during nesting season so that the nesting pairs and their offspring will not be disturbed. In this sense, communications towers seem to be serving an important role in *fostering* bird propagation and well-being rather than diminishing it.

To be sure, we have heard of (but never personally seen) bird deaths associated with much taller towers than NTCH normally constructs or uses – guyed towers over 500 feet tall. While we are not sure ornithologically why birds would strike those towers rather than shorter ones, there does appear to be at least some evidence of bird deaths there. It is also not clear why birds would fly into towers of that height but not buildings of similar height. In any case, what is clear is that if there is a problem at all – and that remains an open question in our minds – the problem is limited to very tall structures. Towers of 300' or less categorically do not have an

adverse impact on birds, and therefore no remedial measures or pre-screening of such towers for bird impact is called for.

It may also be that bird problems are limited to particular regions of the country or particular flyways that migratory birds use. If the facts bear that out, the remedy should be targeted only at those particular areas where the problem exists. Tower construction in parts of the country with little birdlife, no demonstrated problems, or no migratory bird paths should not be impaired or delayed by measures that only apply in other regions.

In adopting programmatic agreement, the Commission needs to understand that the tower permitting and construction process is already one that is fraught with delay. Local jurisdictions frequently impose barriers of one sort or another to construction, whether through the review process, zoning restrictions, fees, or other obstacles that must be navigated before ground can actually be broken and a tower raised. Right now the lack of suitable towers is one of, if not the, most significant obstacles to accomplishment of the nationwide broadband roll-out that the Commission called for so strongly in its National Broadband Plan. *Ubiquitous broadband is all about towers*, and anything that impedes the siting and construction of towers will severely and negatively impact broadband roll-out over the entire range of broadband spectrum. The Commission should therefore think very hard about imposing pre-construction conditions which will slow down the construction of towers. That is a step that should only be taken if there is strong and conclusive evidence that towers create a real threat to birds, and if such a threat is identified, the remedy should be limited to those classes of towers in those parts of the country where the problem exists. A needlessly broadbrush remedy will do nothing to help birds but will do a great deal to damage the ability of Americans to enjoy the benefits of broadband in this decade.

Respectfully submitted,

NTCH, Inc.

By \_\_\_\_\_/s/\_\_\_\_\_  
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