

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

In the Matter of )  
 )  
Assessment and Collection of Regulatory Fees ) MD Docket No. 11-76  
for Fiscal Year 2011 )

To: The Commission, *en banc*

**COMMENTS OF AMERICAN ASSOCIATION OF PAGING  
CARRIERS ON NOTICE OF PROPOSED RULEMAKING**

THE AMERICAN ASSOCIATION OF PAGING CARRIERS (AAPC), by its attorney, respectfully submits its comments to the Federal Communications Commission in the captioned proceeding, in response to the Notice of Proposed Rulemaking (the “NPRM”), FCC 11-68, released May 3, 2011. In summary, AAPC fully agrees with the NPRM that retaining the previous fee of \$0.08 per unit for CMRS Messaging Service, as proposed in ¶6 thereof, is appropriate under the prevailing circumstances applicable to the paging industry.

As its comments in response to the NPRM, AAPC respectfully states:

In this proceeding the Commission states that it seeks to establish the schedule of regulatory fees for FY 2011 so as to recover a minimum of \$335,794,000. (NPRM at ¶1). Despite having initiated in 2008 what was said to be a comprehensive review of the regulatory fee framework,<sup>1</sup> the NPRM proposes a fee schedule for 2011 derived from using essentially the same methodology as previously. (NPRM at ¶2). In this regard, the Commission proposes to

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<sup>1</sup> *Assessment and Collection of Regulatory Fees for Fiscal 2008 (Further Notice of Proposed Rulemaking)*, MD Docket No. 08-65, FCC 08-182, released August 8, 2008 and published at 73 Fed. Reg. 50285 (August 26, 2008).

maintain the CMRS Messaging fee at \$0.08 per unit, the level initially established for FY 2002. (NPRM at ¶6). The Commission requests comments on the NPRM's proposal. (*Id.*).

AAPC is the national trade association representing the interests of paging carriers throughout the United States. AAPC's members include paging operators with nationwide licenses issued under Parts 22, 24 and 90 of the Commission's rules; a representative cross-section of operators of regional and local paging systems licensed by the Commission; as well as equipment suppliers and other vendors to the carrier industry. Paging services are classified as CMRS Messaging services for purposes of the Commission's schedule of regulatory fees; thus, the issues raised in ¶6 of the NPRM directly affect AAPC's members.

With respect to the proposal to maintain the CMRS Messaging fee at \$0.08 per unit, AAPC agrees with the NPRM that holding the line at previous levels is the minimum appropriate action the Commission should take under the principles set forth in Section 9 of the Communications Act, 47 U.S.C. §159.<sup>2</sup> In FY 2002, when the Commission increased the CMRS Messaging fee from \$0.05 per unit to \$0.08 per unit over the objection of the paging industry, Commissioner Copps pointed out in his concurring statement:

[T]he Commission does not address when or how it would adjust regulatory fees to take into account changes to the cost of regulating various services. The paging industry argues that it faces a 60 percent per unit increase in regulatory fees this year due to a declining subscriber base, notwithstanding reduced regulatory resources devoted to paging. Today's order . . . fails to address the underlying concern about revisions to the Commission's methodology. I take some comfort, however, that the Commission plans to have in place a new accounting system in the near future . . .<sup>3</sup>

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<sup>2</sup> Section 9(b)(1) requires the Commission to "determin[e] the full-time equivalent number of employees performing [fee-recoverable] activities . . . , adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities".

<sup>3</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2002 (Report and Order)*, 17 FCC Rcd 13202 (FCC 2002) (concurring statement of Commissioner Copps).

In 2003 the Commission decided to maintain the CMRS Messaging fee at the FY 2002 level based on “unique circumstances” applicable to the paging industry,<sup>4</sup> noting that “The Commission is completing design work on a new cost accounting system. As part of this process, we are evaluating methodologies for capturing data relevant to the regulatory fee setting process.”<sup>5</sup>

To date, despite having initiated in 2008 a review of its regulatory fee methodology, the Commission still has not altered in any substantial way its methodology for making annual revisions to the regulatory fee schedule. Nonetheless, the “unique circumstances” applicable to the paging industry in 2003 still prevail. Under these circumstances, therefore, and absent the Commission determining whether the fee for the paging industry properly should be *reduced*, as the industry believes it should, AAPC agrees with the position set forth in ¶6 of the NPRM, *viz.*, that maintaining the fee at the existing level is the minimum reasonable and appropriate action the Commission should take again this year.

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<sup>4</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2003 (Report and Order)*, 18 FCC Rcd 15985, 15992 at ¶¶21-22 (FCC 2003).

<sup>5</sup> *Id.* at ¶21 & n. 31.

Accordingly, for the reasons stated above, the American Association of Paging Carriers respectfully urges the Commission to maintain the CMRS Messaging fee at \$0.08 per unit, as proposed in ¶6 of the NPRM.

Respectfully submitted,

AMERICAN ASSOCIATION OF PAGING  
CARRIERS

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