

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies	)	ET Docket No. 13-84
	)	
Proposed Changes in the Commission's Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields	)	ET Docket No. 03-137
	)	

**REPLY COMMENTS OF THE  
ALARM INDUSTRY COMMUNICATIONS COMMITTEE**

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## **Executive Summary**

The Alarm Industry Communications Committee (“AICC”), on behalf of its members, submits its reply comments in the above-captioned proceeding in response to the Commission’s First Report and Order, Further Notice of Proposed Rule Making and Notice of Inquiry (“FNPRM”) released on March 29, 2013. AICC urges the Commission to (1) apply any RF rule changes on a prospective basis only; (2) retain the existing service-based exemption for Private Land Mobile Radio Service licensees, even if the proposed “uniform” exemption is adopted; (3) adopt the proposed uniform exemption only as an option, and with appropriate safeguards; (4) adopt a 2-watt blanket exemption option; (5) ensure that alarm companies can continue to install customer-premise radios as “mobiles” without the need to make public the protected premise location; (6) develop workable and common sense criteria for multiple antenna situations, and refrain from imposing liability on radio operations if subsequent site users cause a non-compliance situation; (7) refrain from adopting signage/notification requirements that would create undue public concern; and (8) ensure that any revisiting of the current RF emission standards allow the new requirements adopted in this proceeding to be implemented, the results evaluated, and the compliance costs recovered.

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The Alarm Industry Communications Committee (“AICC”), on behalf of its members and pursuant to Section 1.415(c) of the Commission’s rules, hereby submits these reply comments in the above-captioned proceeding in response to the Commission’s First Report and Order, Further Notice of Proposed Rule Making and Notice of Inquiry (“FNPRM”) released on March 29, 2013.<sup>1</sup> As described below, AICC urges the Commission to (1) apply any RF rule changes on a prospective basis only; (2) retain the existing service-based exemption for Private Land Mobile Radio Service licensees, even if the proposed “uniform” exemption is adopted; (3) adopt the proposed uniform exemption only as an option, and with appropriate safeguards; (4) adopt a 2-watt blanket exemption option; (5) ensure that alarm companies can continue to install customer-premise radios as “mobiles” without the need to make public the protected premise

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<sup>1</sup> *Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies*, First Report and Order, Further Notice of Proposed Rulemaking and Notice of Inquiry, ET Docket Nos. 13-84, 03-137 (rel. Mar. 29, 2013) (“R&O”, “FNPRM” or “NOI” as appropriate).

location; (6) develop workable and common sense criteria for multiple antenna situations, and refrain from imposing liability on radio operations if subsequent site users cause a non-compliance situation; (7) refrain from adopting signage/notification requirements that would create undue public concern; and (8) ensure that any revisiting of the current RF emission standards allow the new requirements adopted in this proceeding to be implemented, the results evaluated, and the compliance costs recovered.

### **Statement of Interest**

AICC is comprised of representatives of the Central Station Alarm Association (CSAA), Electronic Security Association (ESA),<sup>2</sup> Bosch Security Systems, Digital Monitoring Products, Digital Security Control, Telular Corp, Stanley Convergent (alarm division, formerly known as Honeywell Monitoring), Honeywell Security, Vector Security, Inc., ADT LLC, AES-IntelliNet, Alarm.com, Bay Alarm, Intertek Testing, RSI Videofied, Security Network of America, United Central Control, Security Industry Association (SIA), AFA Protective Systems, Vivint (formerly APX Alarm), COPS Monitoring, DGA Security, Security Networks, Universal Atlantic Systems, Axis Communications, Interlogix, LogicMark, Napco Security, Alarm Detection, ASG Security, Protection One, Select Security, Inovonics, Linear Corp., Numerex, Tyco Integrated Security, FM Approvals, and the Underwriters Laboratories.

ESA and CSAA, representing the alarm dealer segment, have 2434 member companies providing alarm service to the public. AICC member companies protect a wide range of sensitive facilities and their occupants from fire, burglaries, sabotage and other emergencies.

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<sup>2</sup> CSAA and ESA are associations comprised of central station alarm companies, alarm monitoring centers, alarm installation companies and alarm manufacturing companies. Their memberships represent the majority of such companies operating in the United States.

Protected facilities include government offices, power plants, hospitals, dam and water authorities, pharmaceutical plants, chemical plants, banks, schools and universities. In addition to these commercial and governmental applications, alarm companies protect a large and ever increasing number of residences and their occupants from fire, intruders, and carbon monoxide poisoning. Alarm companies also provide medical alert services for obtaining assistance in the event of medical emergencies.

The alarm industry uses millions of wireless devices (both licensed and unlicensed) to send alarm signals to the alarm panel in a protected premises, or from the panel to the central station to be screened and relayed to public safety officials. The industry also uses Part 90 frequencies to communicate with installers, repair personnel, and even armed guard responders. Because of these activities, AICC's members would be adversely affected by changes to the Commission's RF rules that would significantly increase costs, cause implementation delays or hinder the confidentiality of the protected premises/subscribers utilizing wireless alarm technologies, and potentially prohibit the use of certain life and safety products and services.

### **RF Rule Changes Should Not Be Applied Retroactively**

AICC respectfully submits that any revisions to the current RF radiation rules, including any changes to existing exemptions from routine RF evaluation, should be applied on a prospective basis only – i.e., existing antenna sites would not have to be re-evaluated, and existing radios that were installed and are operating in compliance with the rules in effect at the time of installation should not now have to be modified for the sake of coming into compliance with the new rules, until such time as those radios are being replaced or modified for non-

regulatory purposes (e.g., they have reached the end of their useful life). Unlike cell phones that have an 18-month churn rate and are brought into the licensee's retail locations by customers for replacement, the alarm industry permanently installs radios in protected premises, and those radios generally work for several years without the need for replacement. Any modifications for the purpose of complying with the new RF rules would therefore require a truck roll to potentially millions of customer premises – often two or three times, as many residential customers are not at home when the technician shows up for an appointment. This could result in a penalty on the alarm industry (and more importantly, its public subscribers) of hundreds of millions if not billions of dollars.

In 2006, AICC estimated that the alarm industry had deployed more than one million analog cellular-based alarm devices, based on an industry survey. See February 21, 2006 Comments of AICC, WT Docket No. 01-108, at p. 3. This figure did not include alarm devices using other spectrum, such as Part 90 central station alarm frequencies. Since that time, the use of wireless alarm devices has grown geometrically, with AICC estimating based on industry sources that there are currently approaching 5 million wireless devices deployed by the alarm industry for the purpose of connecting the protected premise to the central station, and several times that number of wireless door/window contacts, panic buttons, and other low power devices used to connect locations in the protected premises to the alarm panel that communicates with the central station.<sup>3</sup>

In connection with the analog cellular sunset, as noted in AICC's January 19, 2007 Comments in RM 11355/WT Docket No. 01-108 (at p. 15), alarm industry research determined that a "truck roll" to each premise where a wireless alarm device had to be inspected, modified,

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<sup>3</sup> See, e.g., July 12, 2012 Comments of AICC in CC Docket No. 96-115, at p. 3.

replaced or relocated would involve an installation cost per radio ranging from \$450 to \$750. And the replacement radios cost between \$150 and \$300. There were back office/organizational costs on top of that. It is anticipated that similar costs would be involved if alarm service providers must inspect existing radios for compliance with the new RF rules, and then modify, replace or relocate radios as dictated by the new requirements.

The same is no doubt true of many other industries using radios as part of their businesses. There is no evidence in the record of known harm from currently excluded low power RF devices that would justify such a penalty, and such a harsh outcome is not justified by a desire for uniformity, as discussed below. An administrative agency may not apply a new rule retroactively when to do so would unduly intrude upon reasonable reliance interests.<sup>4</sup> The D.C. Circuit has observed that courts have long hesitated to permit the "extraordinary step" of retroactive rule making and have noted its troubling nature: "When parties rely on an admittedly lawful regulation and plan their activities accordingly, retroactive modification or rescission of the regulation can cause great mischief."<sup>5</sup> Therefore, the Commission must balance the benefit of retroactive rule changes against the mischief such changes create.<sup>6</sup> In this instance, the balance

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<sup>4</sup> *Heckler v. Community Health Services of Crawford County, Inc.*, 467 U.S. 51, 60 n. 12 (1984) (citing, inter alia, *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 295 (1974); *Atchison, Topeka & Santa Fe Ry. Co. v. Wichita Bd. of Trade*, 412 U.S. 800, 807-08 (1973) (plurality opinion); *SEC v. Chenery Corp.*, 332 U.S. 194, 203 (1947)).

<sup>5</sup> *Yakima Valley Cablevision, Inc. v. FCC*, 794 F.2d 737, 745-46 (D.C. Cir. 1986).

<sup>6</sup> *See, e.g.*, In Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap; Amendments of the Commission's Cellular/PCS Cross-Ownership Rule, *Report and Order*, 11 FCC Rcd 7824 (June 24, 1996):

Finally, we agree with GTE and DCR that retroactive application of any cross-ownership or spectrum cap rule changes would be contrary to the public interest. PCS licensees that participated in the A, B, and C block auctions have already incurred enormous expenses to, inter alia, design their systems, relocate incumbent users of the spectrum, acquire cell sites, and establish marketing plans. Retroactive application of our rules would disrupt this burgeoning industry and delay service to the public. . . . Thus, we conclude that any changes to our spectrum cap and cross-ownership rules will apply prospectively. *Id.*, at ¶132 (footnotes deleted)

weighs heavily in favor of not requiring a retroactive modification of equipment already installed in a fashion that was fully compliant with the rules in effect at the time of installation.

The Commission appropriately recognized the need to avoid retroactive application of RF rule changes in the Report and Order portion of its latest action, with regard to the rule changes adopted from the initial rulemaking proposals in this proceeding. Thus, at paragraph 103 of the *R&O*, the Commission concluded that “[w]e will not require a new evaluation of all existing sites that were excluded from evaluation under previous criteria. As pointed out by T-Mobile, the NEPA is a prospective statute.” This principle applies with equal force to any rule changes adopted pursuant to the *FNPRM*. Retroactive application of any of the RF rules proposed in this proceeding would take important resources away from industry members large and small, hindering their ability to compete and use technology to improve their products and services to the public.

### **The Commission Should Not Eliminate Existing Service-based Exemptions for Private Radio Operations**

AICC supports the Comments of the Blooston Private Users regarding the need to preserve existing service-based exemptions, particularly for Part 90 Private Land Mobile Radio Services. Like the Blooston Private Users, AICC and its members are concerned that private user licensees (especially those with limited resources) not be saddled with additional regulatory burdens by the Commission’s proposal to “broadly revise and harmonize the criteria for determining whether single or multiple fixed, mobile or portable RF sources are subject to routine evaluation for compliance with the RF exposure limits or are exempted from such

evaluations.”<sup>7</sup> The Commission has indicated that its goal is to “streamline and harmonize many procedures” in order to ensure equal treatment of RF transmitters based upon physical properties instead of service specific categories. AICC does not object to the creation of the proposed “uniform” exemption as an alternative means for future radio operations to meet the Commission’s RF rules. However, if the uniform approach is adopted as the only exemption for stations operating at greater than 1 milliwatt, this effort to harmonize the Commission’s rules will significantly increase staff and financial burdens on hundreds of thousands if not millions of small licensees, in order to conduct the necessary field work to determine the specific RF proximity aspects at each transmitter location. This outcome would translate to increased costs and delays (and in some cases the denial of advanced technology) to consumers. This result would be directly at odds with two of the important objectives announced by the Commission in this proceeding, namely, to “streamline the determination of whether preparation of a routine RF evaluation is necessary”<sup>8</sup> and “to provide applicants with alternative methods of showing that they comply with the RF exposure limits, which could reduce the costs of applying for licenses and grants without relaxing the current protections against excessive RF exposure.”<sup>9</sup>

Under Section 1.1307(b)(1) of the Commission’s existing rules, most Part 90 Private Land Mobile stations are categorically exempt from a specific RF radiation analysis. Whether or not a transmitter is exempt is based upon a simple determination that can generally be made by looking at the applicant’s frequency coordination proposal. This is because the current exemption is essentially based upon radio service, frequency, antenna height and power. Under the *FNPRM* in this proceeding, the Commission’s proposed uniform exemption criteria would be

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<sup>7</sup> See *FNPRM* at para. 3.

<sup>8</sup> *R&O* at para. 14.

<sup>9</sup> *R&O* at para. 15.

based upon power, frequency and “separation” distance (which is the minimum distance between the radiating structure of the transmitting antenna in any direction to any area that is accessible to a worker or to a member of the general public). As a result, in addition to having to hire an engineer to make RF calculations, each applicant would be required, as a practical matter, to physically review each transmitter site in order to measure the separation distance between the proposed antenna location and any area that could be accessible to any worker or member of the general public. This burden would be exacerbated for locations that are located away from premises controlled by the applicant, such as its business office or warehouse.

If the Commission wishes to adopt its uniform exemption as an alternative approach, it may very well benefit those licensees that do not otherwise qualify for a service-based exemption. This alone will largely put them on a par with licensees that already qualify for one of the existing exemptions, which appears to be one of the primary goals of the proposed uniform exemption approach. *See FNPRM at paras. 119, 135.* However, this does not dictate eliminating the service-based exemptions that have simplified the RF evaluation process for years, thereby speeding deployment of important radio capabilities and reducing costs to licensees and those that benefit from these operations. Importantly, there is no finding by the Commission that the present system of categorical exemptions has been disruptive or resulted in harmful RF radiation problems. Instead, as the Commission observes, it adopted the service-based exemptions “because we determined that they offer negligible potential for causing exposures in excess of our guidelines, based on factors such as operating power and accessibility.” *FNPRM at para. 114.*

Instead, as CTIA notes, the Commission’s current RF standard is already 50 times safer than needed; and CTIA concludes that the Commission should not adopt more stringent requirements in absence of evidence of harmful RF levels.<sup>10</sup> Aside from the implications of these observations on the merits of the proposed RF rule changes in general, these comments support the fact that it is not necessary to make the uniform exemption the exclusive avenue for escaping the more burdensome RF evaluation requirement. Instead, maintaining the service-based exemptions, particularly the Part 90 exemption, would be consistent with the Commission’s observation that “[p]roviding an additional option for parties to demonstrate that they comply with the RF exposure limits could reduce those parties’ expenses in some cases.”<sup>11</sup> Retaining service-based exemptions as an option in addition to the proposed uniform exemption would save several Part 90 small business and other licenses considerable expenses.

### **The Proposed Uniform Exemption Should Be Modified to Minimize Cost and Delay**

As discussed above, the *FNPRM* requests comment on a new uniform exemption intended to apply to all radio services. The new exemption criteria for single RF sources would be based on power, frequency, and separation distance for all services using fixed, mobile, and portable transmitters. The Commission has requested comment on exemption criteria for both Maximum Permissible Exposure (MPE) limits and Specific Absorption Rate (SAR) limits for fixed, mobile, and portable RF sources near a human body. The Commission also seeks comment on methods for calculating the new exemption criteria for multiple transmitters collocated on the same structure, such as a tower, building, or utility pole.

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<sup>10</sup> CTIA Comments at pp. 2, 23, 40.

<sup>11</sup> *R&O at* para. 16. See also *R&O at* para. 25 (creating SAR showing as an option to the use of MPE limits to add potential cost-saving option for licensees).

An overriding principle in adopting any uniform exemption should be to adopt a regime that is simple, “without imposing an undue burden on industry.”<sup>12</sup> PCIA, which generally supports the concept of a general exemption, notes that the uniform exemption criteria as currently proposed are needlessly restrictive and will create more delay and cost.<sup>13</sup>

How the proposed uniform exemption would apply to lower power wireless devices such as those used by the alarm industry is not entirely clear from the *FNPRM*. Does the exemption apply to all RF emitters if the distance to humans is greater than 20 centimeters (cm), or 40 cm? AICC recommends a 20 cm separation, as it is more representative of the low power security and life safety applications affected by this rule making, and in keeping with the calculations in the proposed revisions to Table 1 included in proposed Rule Section 1.1307 (b)(1).

There should be an automatic exemption if the transmitter is installed at a greater distance than 20 cm to reasonably expected stationary human presence (e.g., if installed in a closet or attic, or at the top of a door or wall). As discussed elsewhere herein, if the radio is installed in a compliant fashion, subsequent RF compliance requirements should fall upon those who subsequently install radios that cause potential non-compliance.

The Commission should also clarify what is meant by human presence. Is a walk by considered a presence? The proposed rule uses a time averaging of 30 minutes in the calculation. Does this mean that a person must remain in a fixed position for 30 minutes or longer to define the location of interest or measurement? The Commission may also want to

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<sup>12</sup> *FNPRM* at para. 109.

<sup>13</sup> PCIA Comments at p. 4.

clarify that the 30 minute averaging time takes into account transmission time as well as time that the transmitter is not emitting RF signal. For example, most wireless alarm devices transmit for only a few seconds (or less) to transmit an alarm signal, door open status, etc. So even if a person was within 20 cm of the device for 30 minutes, the total exposure time should be well below the exposure limit, especially if the brief sending of RF signals is averaged with periods of no transmission.

At paragraph 183 of the *FNPRM*, the Commission asks:  
For example, a transient individual walking in a controlled area may be exposed above the general population limit in one location and below this limit in another location, but the average over any 30-minute time period should be compliant with the general population limit. We seek comment on all of these proposals to better define transient exposure conditions beyond what has already been adopted in the *Order* herein.

Failure to establish a reasonable place of measurement and transient passage standard would make measurement difficult (or in some cases impossible), and unfair. Businesses such as the alarm industry and other ventures that are successfully using radio to drive a recovery of the American economy need clear-cut, easily determined criteria if the uniform exemption is to be of any use.

Moreover, the Commission needs to ensure that a person casually walking by a transmitter, or changing its batteries, or servicing a transmitter will not be considered to exceed the exposure limit. Not only would it be excessively costly for alarm companies (and other licensees) to supervise transient individuals, it would be impossible in most instances, especially in the case of low power radios installed in customer homes.

Finally, as noted above, AICC opposes the adoption of the uniform exemption as the sole

means of exemption for radios operating above 1 milliwatt, to the exclusion of the far simpler and more efficient service based exemptions.

### **One Milliwatt Blanket Exemption**

With regard to the Commission's proposed blanket "very low power" exemption from RF evaluation for any device operating at less than 1 milliwatt, AICC supports the creation of a blanket exemption option that avoids the less desirable calculations and measurements that would be necessitated by the uniform exemption proposal. However, AICC agrees with Motorola Solutions, Inc. that the proposal is too conservative.<sup>14</sup> AICC notes the Commission's question as to whether the 1 mW exemption will be useful in streamlining approval of certain very-low power devices, and its request for comment on alternative approaches. *FNPRM at para. 126.* AICC believes that the very low power exemption power of a mere 1 mW may be helpful in streamlining the approval process for devices such as medical implants that are in actual contact with human tissue, but it does little to streamline the approval process and seamless, rapid deployment of millions of very low power devices employed by the alarm and numerous other industries, as well as Part 15 devices that may be sold to the public off the shelf. For such devices, AICC suggests that a separate very low power blanket exemption should be set at 2 watts or less for any devices that are typically be mounted at least 20 cm from human tissue. This modification would not remedy the issues identified with regard to those radios used to send alarm signals from protected premises to the central station. However, it would appropriately bring under the exemption millions of very low power alarm devices such as wireless window and door contacts, which would solve a significant portion of the problems AICC foresees under the uniform exemption proposals. Such alarm devices as window and door contacts, and

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<sup>14</sup> See September 3, 2013 Comments of Motorola Solutions, Inc. at p. 4.

certain other peripheral devices, are generally unlicensed devices governed by Part 15 of the Commission's Rules. Using a 2 watt limit would capture most unlicensed Part 15 devices, many of which are sold directly to consumers over the counter and therefore not readily susceptible to control over whether they are placed in relation to other RF devices in the home; and it would capture other specialty devices that are generally mounted in closets, or at the top of door frames or window frames (e.g., alarm contacts) that can reliably be expected to operate at least 20 cm from humans. This proposal for a supplement to the 1 mW blanket exemption is not unlike the 8 watt ERP exemption proposed in an earlier phase of this proceeding,<sup>15</sup> and would exponentially further the stated objectives of this rule making to streamline the RF evaluation process and reduce industry costs. *R&O at paras. 14-15.*

### **The Commission Must Protect the Right to Classify Customer Premise Alarm Radios as Mobiles**

Currently, Rule Section 90.267(f) sets aside the Group D low power pool frequencies for central station signaling, and provides that: "Base, mobile or operational fixed stations will be authorized on Group D frequencies. Fixed stations may be licensed as mobile." Pursuant to this rule, alarm companies do not have to bombard the Commission with hundreds of thousands of applications when they install low power radios in protected homes and businesses.

With regard to mobile units, the *FNPRM* states: "...We now propose to delete the existing mobile power exemptions and apply the new proposed general fixed transmitter power exemptions to mobile and portable devices as well...The new exemption proposal would allow higher powers at greater distances for both mobile and fixed devices, would apply to all services,

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<sup>15</sup> See discussion of Cingular and Dobson Communications Corp. proposals, *FNPRM at para. 118.*

and would be valid in possibly reflective environments and at lower frequencies; however, this proposal would necessarily reduce the exemption power for mobile devices used at 20 cm...”

First, AICC notes that there will always be a value judgment made by an installer of radiating products as to the proximity and signal duration of the device in relation to nearby persons.

Unless there is a standard such as 20 cm and no more than 30 continuous minutes in proximity, uniform implementation of the rules can never be assured.

Moreover, if the Commission adopts the course of action described above, it must ensure that alarm companies can continue to classify fixed customer premise radios as “mobiles”. Designating such radios as mobiles is not just a matter of convenience. It avoids delay in protecting premises that may be at risk; it avoids clogging the Commission’s application process with tens of thousands of filings per year; and most importantly, the Commission has agreed with AICC that it is important not to create a database of protected premises, that would be readily available to criminals. Thus, the Commission has stated as follows, with respect to low power stations:

[W]e note that situations exist where it is neither feasible nor desirable for a licensee to furnish coordinates of all transmitters in their system. For example, central station alarm systems have a very large subscriber base which is continually changing. Moreover, because the Commission's records are open to public inspection, disclosure of coordinates for alarm system subscribers could provide burglars with a list of attractive properties. Therefore, we will allow licensees to supply only coordinates of the center of an operating area and a radius when all stations are fixed, low power, i.e., not to exceed 2 watts, stations.<sup>16</sup>

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<sup>16</sup> Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies if the Private Land Mobile Radio Services, PR Docket No. 92-235, *Memorandum Opinion and Order*, 11 FCC Rcd 17676, 17706 (1996). *See also Fifth Memorandum Opinion and Order*, PR Docket No. 92-235, FCC 99-68, released April 13, 1999 at para. 13.

Moreover, the Commission has clarified that such low power fixed alarm customer operations would be considered co-primary in status. As the Commission observed, “central station alarm frequencies are inherently ‘primary’ relative to other services because they are limited to alarm-related use by Sections 90.35(c)(63), 90.35(c)(64) and 90.35(c)(66) . . . See *Sixth Memorandum Opinion and Order*, PR Docket No. 92.235, FCC 01-174, released May 25, 2001.”

It is respectfully submitted that any changes to the RF evaluation exemption requirements must not upset the current licensing scheme that allows alarm companies to spare protected customers the expense, delay and potential risk that would be associated with individually licensing each customer premise low power radio. The public interest would not be served by such outcome.

### **Responsibility for Other Radio Facilities at Antenna Site**

The Commission seeks comment on steps that licensees must take to ensure that exposure limits are not exceeded. *FNPRM* at para. 175. Among these steps, the Commission proposes to implement joint responsibility for mitigation actions among all licensees at a site whose RF sources produce at least 5% of applicable exposure limit. *FNPRM* at para. 193.

AICC shares the Blooston Private Users’ concern about the Commission’s proposal to require an evaluation based upon all antennas at the site rather than just those that belong to the particular applicant.<sup>17</sup> Antennas may be added to or removed from a site at any time by the site owner without the knowledge or approval of incumbent users of that location. Thus, Private Land Mobile Radio Service licensees may be exposed to considerable liability for fines and other sanctions due to circumstances beyond their control. Many if not most Part 90 licensees are not

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<sup>17</sup> Blooston Rural Carriers Comments at p. 3.

in the business of providing radio services, and in a significant portion of cases do not own or control all of their antenna sites. These entities use their radios internally, as but one of many tools to conduct their businesses, and are ill equipped to conduct the RF site management for a structure they do not own or control. The same is true for public sector licensees such as school districts, hospitals and municipal utilities. Punishing licensees for the actions of others at a site is especially unfair where a site may become non-compliant due to the addition of radio facilities owned by other entities *after* a radio licensee established its facility and verified compliance.

In particular, AICC has received the following input from its members about a requirement that each radio facility owner/operator at a particular location be responsible for RF compliance regardless of the actions of others using the site:

- Alarm companies often install low power devices in homes or businesses to transmit signals to the alarm panel in the home concerning the detection of smoke, fire, intrusion or a medical alert. Many of these devices operate under Part 15 of the Commission's Rules on an unlicensed basis; and while these devices are considered very low power (under one watt), they generally will not qualify for the proposed "under 1 milliwatt" exemption. Alarm companies also install low power radios that transmit the alarm signals from the panel to the central station, generally using one of the Low Power Pool central station frequencies, or digital radios operating on the cellular SMS/data channel. Thus, such radios are not being installed at a traditional communications site, such as an antenna tower or rooftop that is professionally managed by a tower company that carefully tracks and maintains records about all RF devices at the location.

- No installing company or manufacturer of equipment that generates a RF field can be expected to know of all the RF devices that exist in a facility prior to the installation of their equipment at a non-traditional site such as a home or inside an office suite. The location and nature of all RF devices, and/or the sum total of the field strengths of all the potential radiators in a home or business environment may not be known to any one person in that home or business. In many cases, household RF devices may be hidden, or located in areas to which the installer may not be given access (such as bedrooms). It is unreasonable to make an installing alarm company responsible to know what potentially cannot be known in a particular facility.

- No installing alarm company or manufacturer of equipment that generates a RF field can be expected to know of all the RF devices that will be brought into a facility after the date of installation. It is unreasonable to make an installing company responsible for violation of the Commission's RF rules when there is no expectation that the installing alarm company will be informed of the comings and goings of consumer or office RF equipment in every home or other facility to which provides alarm monitoring service.

- For traditional, professionally managed sites, only the owner or manager of a tower, rooftop or antenna farm can know the specifics of the transmitters at the site, and the expected proximity to humans. It should never be the responsibility of one of the tenant licensees at the site to meet the RF radiation rules for the entire site, as all the information can never be known to a tenant. The FCC cannot reasonable hold a tenant at an antenna site responsible for something they are often prohibited from knowing. Only site owners/managers, who are paid to responsibly manage the site, know the RF details of all the tenants on their towers, including the expected antenna gain and output power. While the *FNPRM* suggests (at para193) that this issue can be addressed through site lease agreements, small and medium-sized

licensees do not necessarily hold adequate leverage in a site lease negotiation to compel disclosure of such information, especially on an ongoing basis. And if a site owner or manager fails to provide correct or up to date information to the tenant licensee, the licensee should not be punished for something that is beyond its control. Moreover, if a problem arises, an individual tenant on a tower or antenna farm has no ability to direct the actions of others so as to effect mitigation of the RF field. This is the exclusive ability and responsibility of the site manager.

AICC is aware that the Commission took the opportunity to “clarify” the obligations of licensees as involving joint responsibility in the First Report and Order portion of its latest action (at para. 80); however, the Commission left implementation of this policy to be worked out in response to the *FNPRM*. It is respectfully submitted that the *FNPRM* affords the Commission with an opportunity to further clarify the meaning of such joint responsibility, by building in a recognition of the practical limitations discussed above, especially in the context of installing low power radios in homes and businesses where the installing licensee/service provider has no ability to control what wireless consumer devices will be placed nearby once the installer leaves the premises.

If the site owner/manager or a new licensee coming onto an antenna site determines that there is a compliance issue, no fines or other sanctions should apply to existing site users unless they refuse to cooperate after being advised of the issue. Moreover, a licensee should not be held liable if, e.g., the teenage son in a household with a wireless alarm device places his laptop or other consumer RF device near a wireless panic button or window contact in a home to which the licensee has only restricted access, and no realistic ability to control the behavior of its

occupants. The most that licensees can do under such circumstances is to furnish information to the occupants at the time of installation, through written materials or referral to website information.

### **Other Post-Evaluation Mitigation Measures Should be Reasonable**

The Commission seeks comment on other steps that licensees must take to ensure that exposure limits are not exceeded, including specific training, access restriction, and signage requirements for fixed transmitter sites. AICC believes that the proposed “Category One” signage is dangerous and non-productive. The sign would be a negative to the industry as it will be interpreted by the public as indicating that there is a problem even though there is none. The Category One signage constitutes a negative declaration of something that the customer has not linked to the security system in their home or business to begin with. If you use this negative approach, then should the food industry be required to place a warning on a can of peas saying that the motor oil in this can of peas is below acceptable federal levels? Thus, AICC agrees with CTIA’s comment that there is no evidence of RF danger despite repeated studies, so the Commission should not require consumer warnings that will suggest that danger exists.<sup>18</sup> AICC also agrees with TIA’s comment that there is no basis for consumer warnings, and that such warning verbiage will undermine public confidence in all wireless products, which is contrary to the stated FCC goals and objectives.<sup>19</sup>

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<sup>18</sup> CTIA Comments at pp. 34-52.

<sup>19</sup> TIA Comments at p. 19.

Finally, AICC agrees with the comments of PCIA that the Commission should create a safe harbor for efforts needed to warn public and workers of RF hazard, since site/building owners may not cooperate; and that the Commission should make sure the new RF rules do not conflict with Fire Codes and other safety laws that may prohibit restricting rooftop access, etc.

### **The Commission Should Not Change its RF Exposure Limits Until the New Rules Have Been Implemented and their Impact Analyzed**

The Commission's NOI seeks comments to determine whether its RF exposure limits and policies need to be reassessed.<sup>20</sup> AICC believes in general that any further changes to the RF rules must take place at a reasonable and measured pace. The Commission has just adopted revised RF radiation rules and protections, and is in the process of adopting more changes pursuant to the *FNRPM*. Both the Commission and the industry need time to implement the new rules, study the results of these changes and what impact this may have on further tinkering with the exposure limits, and recoup expenses associated with coming into compliance with the new rules. Since the Commission indicates that it continues to have confidence in its current exposure limits,<sup>21</sup> taking a measured approach to such re-examination should not create harm to the public.

With regard to the Commission's question about revisiting the existing RF standard, AICC notes that CTIA, Motorola and TIA make a strong case for the Commission to consider adopting the IEEE/ICNIRP (Europe) standard, limiting RF emissions to 2.0 watts per kilogram averaged over 10 grams of tissue, versus the Commission's current standard of 1.6 w/kg

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<sup>20</sup> *NOI at paras. 218-220.*

<sup>21</sup> *NOI at para. 216.*

averaged over 1gram of tissue.<sup>22</sup> As these commenters point out, the IEEE/ICNIRP standard is based on scientific consensus, less onerous, and would better facilitate global equipment harmonization. *Id.* AICC supports the use of this more realistic standard.

## **Conclusion**

It is respectfully requested that the Commission revise its proposed RF rule changes in light of the foregoing considerations.

Respectfully submitted,  
**ALARM INDUSTRY  
COMMUNICATIONS COMMITTEE**

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<sup>22</sup> See CTIA Comments at p. 29; Motorola Comments at pp. 10-13; TIA Comments at pp. 3-6.