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April 28, 2014

Marlene Dortch
Secretary, Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: ET Docket 03-137
ET Docket 13-84

Dear Ms. Dortch:

Pursuant to section 1.1206(b) of the Commission's rules, this letter provides notice regarding an *ex parte* communication in the above referenced proceedings.

On April 24, 2014, Kevin L. Passarello, EVP Business Development and General Counsel, Ryan McCaughey, Chief Technology Officer, and Andrew Jay Schwartzman, outside counsel, of Pong Research Corporation, met with members of the Office of Engineering and Technology staff. In attendance were Bruce Romano, Robert Weller, Martin Doczkat, and Edwin Mantiply. Mark Neumann, Kwok Chen, William Hurst and Rashmi Doshi participated by videoconference.

During the meeting, Pong emphasized that its primary concern with the Commission's current radiofrequency (RF) exposure limits and policies is that they do not establish accurate means of measuring RF exposure. They also expressed the view that the Commission's policies should address the fact that children can absorb more RF radiation than adults under similar circumstances. Finally, they called for the Commission to provide more meaningful and accurate information to consumers about RF exposure, including on its website.

With respect to the question of exposure limits, Pong explained that current criteria were established long before the advent of smartphones, at a time when holsters and belt clips were commonly used. The proximity requirements in the current testing regime do not reflect the fact that today's mobile devices are far smaller than those in use 17 years ago, and are commonly kept in body-worn configurations at or near "zero distance" from the body. Moreover, as prices for wireless service have declined, the hours of use of these devices have greatly increased.

Pong also discussed the fact that mobile devices are now generally used with form fitting cases that can, in some cases, increase RF exposure. This is true not just for metal cases, but also

for some polycarbonate cases, due (at least in part) to the dielectric properties of the case material itself. Pong did not suggest that the Commission has jurisdiction over cases, or that it should require testing of devices with cases, but it does argue that the Commission should establish device testing guidelines and consumer information that account for the presence of cases.

As to exposure standards for children, Pong observed that the Specific Anthropomorphic Mannequin (SAM) used for testing is based on the model of a six foot, two inch tall, 220-pound adult male, which bears little resemblance to the configuration of a child. Pong mentioned that there is a body of literature establishing that children absorb far more RF energy than do adults (referring to the August 24, 2013 submission in Docket 13-84 of Dr. Om P. Gandhi, available at http://apps.fcc.gov/ecfs/document/view?id=7520945322), particularly in terms of body (not just for head) exposure. Pong also noted that few children had mobile wireless devices when the current standards were promulgated, but children over the age of 10 or 11 now commonly use such devices.

In discussing consumer information, Pong noted that most consumers are unaware of materials currently provided in the fine print of user manuals. It called for the Commission to update its guidelines so that consumers are provided more easily accessible information about how to reduce exposure to RF energy from wireless devices. Pong has urged the Commission to require more prominent advisories at point of sale and on packaging.

With respect to the Commission's website, Pong pointed to the following advisory:

> Working closely with federal health and safety agencies, such as the Food and Drug Administration (FDA), the FCC has adopted limits for safe exposure to radiofrequency (RF) energy. These limits are given in terms of a unit referred to as the Specific Absorption Rate (SAR), which is a measure of the amount of radio frequency energy absorbed by the body when using a mobile phone. The FCC requires cell phone manufacturers to ensure that their phones comply with these objective limits for safe exposure. ***Any cell phone at or below these SAR levels (that is, any phone legally sold in the U.S.) is a "safe" phone, as measured by these standards***. The FCC limit for public exposure from cellular telephones is an SAR level of 1.6 watts per kilogram (1.6 W/kg).[1]

Pong believes that the assurance that a cell phone operating within the current SAR levels is a "safe" phone is misleading, since the science on RF exposure is inconclusive. This statement may tend to lead consumers to believe that they need not be concerned about minimizing exposure.

[1] http://www.fcc.gov/encyclopedia/specific-absorption-rate-sar-cellular-telephones (emphasis added).

A Government Accountability Office Report released August 7, 2012 (GAO Report)[2], in fact, urged the Commission to update its portable device radiation exposure and testing guidelines. GAO specifically noted:

> In 2001, we reported that [**the United States Food and Drug Administration ("FDA")] and others had concluded that research had not shown RF energy emissions from mobile phones to have adverse health effects, but that insufficient information was available to conclude mobile phones posed no risk**. Following another decade of scientific research and hundreds of studies examining health effects of RF energy exposure from mobile phone use, **FDA maintains this conclusion**.[3]

Pong, therefore, suggested that modifications to the Commission's consumer advisories, particularly on its website in the cited passage and otherwise, can be initiated immediately rather than await the completion of other actions in Docket 13-84.

Sincerely,

Andrew Jay Schwartzman
Counsel to Pong Research Corporation

cc. Bruce Romano
Robert Weller
Martin Doczkat
Edwin Mantiply
Mark Neumann
Kwok Chen
William Hurst
Rashmi Doshi

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[2] GAO Report, *Exposure and Testing Requirements for Mobile Phones Should Be Reassessed*, GAO-12-771, July 2012, http://www.gao.gov/assets/600/592901.pdf.

[3] *Id.*, at page 6 (emphasis added).