

Before the

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

In the Matter of )  
 )  
Amendment of Part 22 of the Commission's ) WT Docket No. 03-103  
Rules To Benefit the Consumers of Air- )  
Ground Telecommunications Services )  
 )  
Biennial Regulatory Review—Amendment of )  
Parts 1, 22, and 90 of the Commission's Rules )

**Comments of Able Communications**

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Able Communications Ltd. is a license holder in the (AGRAS 450 MHz) air to ground service. Under the rules, it would be considered a small business.

Able Communications requests the Commission to fully consider the effects its proposed rule changes will have on the companies and the users of the services it regulates. There are substantive issues of continuance of the quality of service to existing AGRAS telephone users, interference, regulations, and cross-subsidy. We believe that the 450 MHz AGRAS system is the largest provider of service to Business Aviation (excluding commercial airliners).

### **Idle Tone Issue**

Able Communications would like to point out that eliminating the control tone in the AGRAS air-ground service would adversely affect the existing users of the automated radiotelephone service, and users of older equipment as well.

This is because the AGRAS system improvements have always been backward compatible to older existing technology. When there have been advancements, the newer technology has also used some of the older protocols.

There are still users who use their sets "manually", which is to say that the user manually changes the frequency of operation based on hearing an "idle tone" of good quality, and then keying the transmitter to signal an operator who "manually" dials the call.

Since AGRAS is internationally allocated, and there are still manual-only ground stations in Canada, manual-only aircraft operating near the US border who may need to access US stations. Therefore to discontinue the "idle tone" may have a negative impact on such users, and may possibly violate treaty provisions with Canada.

Further, the "idle tone" is also used in automated calls as a back-up signaling scheme in the event the "signaling channel" is impaired. That is to say, that calls can be placed if the data-path is corrupted in some manner.

Also the idle tone is used to identify the re-availability of a talk channel so follow-up calls can be placed over the same ground station on the same channel, without having to wait for another "data burst" (which are spaced at 90 second intervals). In short, the presence of the idle tone is necessary for proper functioning of the AGRAS signaling system.

### **Interference to AGRAS operations**

There are interference issues unique to the to Airground services because of the height of the mobile in the aircraft and the geographic mobility of such users.

Aircraft mobile user can be hundreds of miles from the receiving station the mobile is using. If the mobile is interfering to others spectrum or the system itself the ability to cross-reference and identify the aircraft is important. The FAA registration number is used to identify the mobile. Larger private aircraft use IFR flight plans and the FAA tracks these planes using these flight rules. By cross-referencing appearances of planes and their FAA numbers used in licensing, the offending plane can be hunted down. Form 409

The changing of rules today offers opportunities to offer new services, but there are still the issues of things happening that were not planned for with changes of technology. In the past when a Band of spectrum became congested (Interference, intermodulation and other problems) it has been a selling opportunity to the manufactures. This is no longer the case. Companies "buying" and expecting ownership rights, similar to property, will not see the solution for interference and associated problems solved with buying new spectrum and abandoning the old.

This ownership of spectrum has not awakened our industry to the need for requiring cleaner transmitters and better operating practices.

This train wreck in progress is a problem for the Commission to look at.

The commission in allowing flexibility in modulation and eliminating masking requirement may be creating new problems if these changes loosen interference standards.

One particular distressing event was the grant of secondary licenses for Land Mobile use on splinter offset frequencies well within the statutory 621 mile spacing required to Canadian co-channel stations.

Similarly, several foreign countries lie within the coverage areas of US AGRAS stations: Cuba (from Key West), Bahamas (from Florida), Mexico, and Canada. Business and recreational aircraft rely on US ground stations to provide needed communications. Any interference, however slight, becomes a flight safety issue.

### **Licensing of individual aircraft radiotelephones**

Because of the comments on interference and the tracking of the plane we would ask for the continuance of the licensing of the mobile in the aircraft.

Also, we remind the Commission that the 450 and 800 Mhz air-ground allocations have been internationally coordinated, and that Canada's stations are part of the "network(s)". Also there are issues with US aircraft flying into foreign airspace with unlicensed transmitters aboard.

**Common Carrier (Part 22) Status**

The Commission has proposed looking at removing the Common Carrier status of Air-ground station operators. We question whether a Private Carrier could legally provide service to foreign-registered aircraft.

By having a Common Carrier status all providers have standing in state and local regulatory proceedings that an end user (customer) does not. There are statutes specifically delineating issues and responsibilities of Common Carriers.

The privacy laws apply to part 90 differently than to Common Carrier frequencies and services. Is the conversation of an executive on his airplane have any less right to these protections than any of the other Common Carrier communication services he uses?

There is also potential for airlines to use the 800 Mhz frequencies to provide service only to their planes or routs they fly if the rules are changed. If not a Common Carrier Air Carriers could cross subsidize their air phone service to gain market share by attracting passengers by low fares for services.

Federal, state, and local commissions takes note of problems of Common Carriers in hearings as having a different status than just as an end user or customer, but as someone representing services providing special services to the public. They have co-carrier status in some commissions regulating phone services verses' being only an end user customer whose status is defined by tariff with no rights for changing what the Common Carrier phone company offers. The paging industry could not have evolved into the types of interconnections it has today with out this status and the court and commission fights it has had. These fights directly lead into the ability of other Common Carriers to enjoy some of the interconnection arrangements they have today.

We note that, despite what are outwardly logical ideas about free marketplace competition, the transition from Common Carrier to Private Carrier licensing has resulted in only slightly greater competition, but at the expense of hurting the consumer. No longer is there a clear logical path for telecommunications users to follow to resolve complaints. Prices are not dropping any longer, now that subscriber growth has slowed. And competition is in the form of marketing gimmicks rather than substantive technological or service enhancements.

Respectfully submitted,

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