

TESTIMONY OF

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On

“Cell Phones on Aircraft: Nuisance or Necessity?”

Before

**The U.S. House of Representatives
Subcommittee on Aviation
Committee on Transportation and Infrastructure**

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Office of Engineering and Technology, Federal Communications Commission**

Introduction

Good morning Chairman Mica, Ranking Member Costello, and Members of the Subcommittee. I am Julius Knapp, Deputy Chief of the Office of Engineering and Technology at the Federal Communications Commission (“FCC” or “Commission”). Thank you for this opportunity to appear before you today on behalf of the Commission to discuss the regulatory structure and engineering parameters related to cellular phones on aircraft.

The FCC is an independent United States Government Agency directly responsible to Congress pursuant to the Communications Act of 1934, as amended. The statute charges the Commission with the regulation of interstate and international communications by radio, television, wire, satellite and cable. Within the Commission, the Office of Engineering and Technology (“OET”) is responsible for the technical aspects involved in managing the use of the nation’s airwaves or radio spectrum. In carrying out this responsibility, OET works in collaboration with other bureaus and offices within the Commission to evaluate the potential for radio interference among various radio services and equipment.

Current Rules

The Commission’s rules at section 22.925 prohibit the use of cellular phones in the 800 MHz band on aircraft, except for aircraft on the ground. The Commission codified these rules in 1991 after concluding that the interference caused by in-flight use would be disruptive across a wide area and affect large numbers of users on the ground. Although the Commission prohibits the use of cellular phones while airborne, its rules provide 4 MHz of spectrum in a separate frequency band for use by the Air-Ground Radiotelephone Service. The Commission recently provided for a

phase-out of the existing Air-Ground Radiotelephone Service and restructuring of the band to allow the provision of new broadband services on aircraft by one or two licensees. In addition, the Commission has granted a waiver to AirCell, Inc. that permits AirCell to offer air-ground service in spectrum allocated for the cellular radio service using specialized plane-mounted antennas and handsets, which are employed primarily on private aircraft.

The Commission's rules do not address potential interference to aircraft communications and avionics systems, including all radio and electronic devices. The FCC defers to the FAA to regulate devices and activities that might interfere with the safe operation of aircraft. The FAA regulates the use of mobile telephones, as well as other portable electronic devices on aircraft, to ensure aircraft safety. In this regard, the FAA has issued regulations that prohibit the use of such devices aboard aircraft unless the operator, or certificate holder in the case of an air carrier, verifies that use of any portable electronic device ("PED") will not interfere with the aircraft's communications or navigation systems. The FAA and RTCA, Inc. ("RTCA") are currently studying the impact of PEDs on aircraft navigation and safety.

Cellular Phone Rulemaking

On December 15, 2004, the Commission adopted a *Notice of Proposed Rulemaking* ("NPRM") to consider whether new technological developments warrant changes to the current rule prohibiting airborne usage of cellular handsets. The Commission closed its initial comment period for the NPRM on May 26, 2005; reply comments are due on August 11, 2005. In this proceeding, the Commission has received comments from over 7,000 individuals and more detailed substantive comments from 30 parties, which it is in the process of reviewing.

The NPRM invited comment on whether technology advances that have occurred since the original adoption of the rule could permit operation of wireless handsets and devices, including

those used for broadband applications, on aircraft without causing interference to terrestrial radio services. The NPRM also invited comment on several potential technical approaches that could permit such operation. In addition, the Commission requested comments on whether or not any restrictions adopted should apply to handsets and devices operating under the Commission's rules in sections other than section 22.925.

As mentioned, the Commission received a large number of comments. Many individuals expressed concern that allowing the use of cell phones on aircraft would be a nuisance to other passengers. A number of commenters that addressed the substantive interference issues argued generally that under certain conditions the use of cell phones on aircraft would not pose undue interference to terrestrial radio services.

In the NPRM, the Commission stated that any steps the Commission ultimately may take will be subject to the rules and policies of the FAA and aircraft operators with respect to the use of personal electronic devices, including cellular phones. Even if the Commission were to adopt rules pertaining to the use of wireless equipment on aircraft, airborne use of such equipment will not be permitted unless it is in accordance with FAA rules and requirements. Moreover, the Commission, the FAA, or the airlines could, in modifying prohibitions against the use of cell phones on aircraft, distinguish between voice and data communications in order to minimize nuisance to other passengers.

The Commission also recognizes that law enforcement has filed comments in response to the NPRM indicating that use of cellular telephones and other radio devices onboard aircraft could pose concerns relative to the Communications Assistance to Law Enforcement Act (CALEA) and to homeland security. The Commission will carefully consider these important concerns as this proceeding continues.

Conclusion

The Commission appreciates the interest of this Subcommittee in the current rulemaking related to cellular telephones on aircraft. The Commission's staff will study this matter in light of the comments received concerning the NPRM. This concludes my testimony, and I am pleased to answer any questions Members of the Subcommittee may have at this time.