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November 20, 2012

Mr. David K. Hartshorn
District Director
Enforcement Bureau
Federal Communications Commission
San Francisco Office – Western Region
5653 Stoneridge Drive, Suite 105
Pleasanton, California 94583

Re: In the Matter of Fisher Wireless Services, Inc. (WPMU872)
File No. EB-FIELDWR-12-00004725
NOV No. V201332960006

Dear Mr. Hartshorn:

In consideration of our Memorandum of Understanding with the Federal Communication Commission's (FCC) Enforcement Bureau, under which the Enterprise Wireless Alliance (EWA) has agreed to engage in interference mitigation efforts on behalf of the FCC and Part 90 licensees,¹ we wish to add to the record in response to the above-referenced Notice of Violation (NOV).

Specifically, we are concerned that the Enforcement Bureau felt compelled to issue this NOV in a shared spectrum environment where, it is our understanding, Fisher Wireless Services, Inc.'s (Fisher Wireless) installation and operations are in compliance with all applicable FCC Rules and Regulations and, further, are operationally consistent with vendor recommendations and system monitoring settings. While the NOV references continually transmitted pulses as causing interference, EWA's understanding of the digital system deployed by Fisher Wireless is that such pulses would not be transmitted on the channel in question.

The fundamental ground rules of the limited spectrum allocated for both Public Safety and Industrial/Business entities in the 150-512 MHz bands is that the spectrum is primarily available on a shared basis. As the Enforcement Bureau knows, exclusive channels are rare and may only be licensed in trunked systems. As a consequence, both private and commercial trunked systems that are not fortunate enough to secure exclusive use channel designations (FB8) pursuant to FCC Rule Section 90.187 on all their trunked channels are encouraged to incorporate design features to promote efficient use of the shared channels and to equip

¹ See Memorandum of Understanding executed on April 13, 1998, between the FCC Compliance and Information Bureau and the Industrial Telecommunications Association, now the Enterprise Wireless Alliance. See also FCC News Report No. CI 98-7, released April 29, 1998, titled "FCC Announces Joint Agreement for the Resolution of Interference Complaints in the Land Mobile Communications Industry."

systems with appropriate automated monitoring capabilities. In instances of harmful interference, licenses must work cooperatively to identify operational and technical solutions.

A growing number of current and new Part 90 licensees are recognizing the benefits associated with digital communications systems given the feature sets and coverage enhancements that are available with digital system installations. It is a trend that will continue, especially since every major manufacturer in the Part 90 space is producing digital systems including, among others, Motorola Solutions, ICOM America, Kenwood USA, Harris Corporation, Power Trunk, and Sepura. Each of these vendors is fully aware of the FCC's requirements with regard to shared channels and presumably has factored those requirements into its system design. While hearing digital emissions as opposed to human voices is a different experience for many analog users on shared channels, it is not in and of itself harmful interference.

Recognizing that the frequency coordination process, FCC licensing policies, and industry educational efforts need to be examined in light of this spectrally beneficial and escalating migration to digital technologies, please be aware that representatives from the Land Mobile Communications Council (LMCC), the Wireless Telecommunications Bureau, and the Public Safety and Homeland Security Bureau will be meeting on December 5, 2012, at the FCC to discuss matters associated with the deployment of digital technologies within the shared Part 90 bands. We are sure that your FCC colleagues will provide a briefing on the outcome of this critical meeting. EWA obviously supports a collaborative approach that provides both analog and digital licensees with clear guidance about their obligations on shared channels, an approach that should reduce the need to issue Notices of Violations in the future in favor of cooperative solutions.

We trust these comments are helpful generally, and specifically with regard to the above-referenced Notice of Violation. We would be pleased to respond to any questions.

Sincerely,

Mark E. Crosby

Mark E. Crosby
President/CEO

cc: P. Michele Ellison, Chief
Enforcement Bureau
Federal Communications Commission
Washington, D.C.