

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

In the Matter of )  
 )  
Amendment of the Commission's Rules to ) WT Docket No. 04-435  
Facilitate the Use of Cellular Telephones and )  
Other Wireless Devices Aboard Airborne Aircraft )

**MEMORANDUM OPINION AND ORDER  
(Terminating Proceeding)**

**Adopted: March 28, 2007**

**Released: April 3, 2007**

By the Commission: Commissioner Adelstein concurring.

1. On December 15, 2004, the Commission adopted a *Notice of Proposed Rulemaking* (*Notice*) in the above-captioned docket proposing to replace or relax its ban under Section 22.925 of its rules on the use of 800 MHz cellular handsets on airborne aircraft.<sup>1</sup> The *Notice* explored several different options for allowing airborne use of wireless devices, including a proposal to allow the airborne use of cell phones. The Commission also noted that the Federal Aviation Administration (FAA) prohibits the use of portable electronic devices (PEDs) on airborne aircraft.<sup>2</sup> Given the lack of technical information in the record upon which we may base a decision, we have determined at this time that this proceeding should be terminated.

2. In the *Notice*, the Commission specifically requested technical comment, emphasizing that the ban on the airborne use of cell phones would not be removed without sufficient information regarding possible technical solutions.<sup>3</sup> The *Notice* also noted that RTCA, Inc. (RTCA), a Federal Advisory Committee, at the request of the FAA, is currently studying the effect of PEDs on aircraft navigation and safety.<sup>4</sup> Phase I of the study – a short-term technology assessment – was completed in late

<sup>1</sup> Amendment of the Commission's Rules to Facilitate the Use of Cellular Telephones and other Wireless Devices Aboard Airborne Aircraft, *Notice of Proposed Rulemaking*, WT Docket No. 04-435, 20 FCC Rcd 3753 (2005) (*Notice*). The *Notice* was released on February 15, 2005. On March 10, 2005, a summary of the *Notice* was published in the *Federal Register*, establishing deadlines for the filing of comments and reply comments of April 11, 2005 and May 9, 2005, respectively. See 70 Fed. Reg. 11916 (March 10, 2005). The comment period was subsequently extended. See Amendment of the Commission's Rules to Facilitate the Use of Cellular Telephones and other Wireless Devices Aboard Airborne Aircraft, WT Docket 04-435, *Order*, 20 FCC Rcd 7551 (WTB 2005), 70 Fed. Reg. 21724 (April 27, 2005) (extending the comments and reply comments deadlines to May 26, 2005 and June 27, 2005, respectively); *Order*, 20 FCC Rcd 10887 (WTB 2005), 70 Fed. Reg. 40276 (July 13, 2005) (extending the reply comments deadline to August 11, 2005).

<sup>2</sup> See 14 C.F.R. §§ 91.21, 121.306, 125.204, and 135.144. See also "Use of Portable Electronic Devices Aboard Aircraft," Advisory Circular, AC No. 91.21-1A at ¶ 1 (Oct. 2, 2000). FAA regulations provide an exception to this general prohibition where the aircraft operator has determined that the use of a PED will not interfere with the aircraft's aviation navigation and communication systems. *Id.*

<sup>3</sup> See *Notice*, 20 FCC Rcd at 3761 ¶ 12.

<sup>4</sup> RTCA includes roughly 335 government, industry and academic organizations from the United States and around the world, including airlines, airspace users and airport associations, labor unions, as well as aviation service and

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2004, and focused on existing PED technologies. Phase 2 – an ongoing, long-term technology assessment – is focused on emerging PED technologies, e.g., ultra-wideband devices or pico cells for telephone use onboard aircraft. RTCA published findings in December 2006, and is expected to issue recommendations regarding airplane design and certification requirements later this year.<sup>5</sup>

3. It is apparent that it is premature to decide the issues raised in the *Notice*. The comments filed in this proceeding provide insufficient technical information that would allow the Commission to assess whether the airborne use of cellular phones may occur without causing harmful interference to terrestrial networks. Similarly, although the report issued by RTCA recommends, *inter alia*, a process by which aircraft operators and/or manufacturers may assess the risk of interference due to a specific PED technology within an aircraft, it does not provide data that would allow us to evaluate the potential for interference between PED operations onboard airplanes and terrestrial-based wireless systems.<sup>6</sup> Further, because it appears that airlines, manufacturers, and wireless providers are still researching the use of cell phones and other PEDs onboard aircraft, we do not believe that seeking further comment at this juncture will provide us with the necessary technical information in the near term. Accordingly, we conclude that this proceeding should be terminated. We may, however, reconsider this issue in the future if appropriate technical data is available for our review.

4. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4(i), 11, 303(r) and (y), 308, 309, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 161, 303(r), (y), 308, 309, and 332, that this proceeding is TERMINATED, effective upon issuance of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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equipment suppliers. The FAA requested that an RTCA subcommittee, SC-202, be established to focus specifically on PEDs on aircraft.

<sup>5</sup> RTCA completed Phase I with the publication of DO-294, “*Guidance on Allowing Transmitting Portable Electronic Devices (T-PEDs) on Aircraft*.” RTCA issued the Guidance on October 19, 2004, and approved an update in March 2006 (DO-294A). A revised Guidance, DO-294B, was issued on December 13, 2006, and a Recommended Guidance for Airplane Design and Certification document is scheduled for publication in mid-2007.

<sup>6</sup> The original basis for the Commission’s prohibition is the concern that cellular use onboard airplanes may cause interference to licensed terrestrial services, while RTCA is studying the impact of PEDs on onboard equipment.