Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
OET Announces Technological Advisory Council (TAC) Technical Inquiry Into Reforming Technical Regulations	)	ET Docket No. 17-215

COMMENTS OF CTIA

CTIA[1] respectfully submits these comments in response to the Public Notice released by the Office of Engineering and Technology ("OET") of the Federal Communications Commission ("Commission") seeking comment on proposals to streamline the regulations governing communications services.[2]

I. INTRODUCTION.

CTIA welcomes the opportunity to provide feedback on existing rules that could inadvertently inhibit the progress of the commercial wireless ecosystem and that therefore could be removed or updated. A primary reason for the success of the commercial wireless industry has been the Commission's "light touch" regulatory framework, which has allowed for

[1] CTIA® (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st- century connected life. The association's members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry, and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

[2] *See Office of Engineering and Technology Announces Technological Advisory Council (TAC) Technical Inquiry into Reforming Technical Regulations*, Public Notice, 32 FCC Rcd 6672 (OET 2017) ("*Public Notice*").

investment and innovation in the development and deployment of mobile services to flourish in the United States.

As discussed in greater detail below, the Commission should:

- Allow commercial mobile licensees to re-aggregate spectrum licenses that previously have been partitioned or disaggregated;
- Simplify the application and consent process for internal reorganizations;
- Streamline the application and review process for intramarket spectrum swaps;
- Update the field strength requirements to allow for wide bandwidth technologies;
- Update references to U.S. Census data in the Commission's rules; and
- Eliminate inaccurate data from cellular licensing databases.

By making these changes to the existing regulatory requirements, the Commission will reduce the burdens for both Commission staff and regulated parties and allow for better mobile broadband service for consumers.

II. LICENSEES SHOULD BE PERMITTED TO RE-AGGREGATE SPECTRUM LICENSES THAT WERE PREVIOUSLY PARTITIONED OR DISAGGREGATED.

The Commission should adjust its internal licensing procedures to permit, but not require, licensees to re-aggregate previously partitioned or disaggregated commercial mobile service licenses. [3] Commercial mobile service licensees licensed under Parts 22, 24, and 27 of the Commission's rules are permitted by rule to partition and disaggregate their spectrum licenses.[4] Licensees often enter into transactions including previously partitioned or disaggregated licenses that could allow for the consolidation of spectrum or geography within a market into a single license, but the Commission does not permit a license to be "re-aggregated" into a single

[3] Because construction and rule requirements differ by service, CTIA suggests that OET limit such re-aggregation to the same service (*e.g.*, only Personal Communication Service ("PCS") could be re-aggregated, not PCS and Advanced Wireless Service ("AWS") licenses).

[4] *See, e.g.*, 47 C.F.R. § 27.15.

spectrum license for a single entity once a license has been partitioned or disaggregated. In other words, even if a single entity has sole control of all partitioned or disaggregated portions of a license within a market area, the licenses must remain separated despite their common ownership.

The benefits of allowing licensees to re-aggregate commercial mobile service licenses are substantial. For example, licensees would only have to manage and maintain a single call sign within the licensed market area, which would reduce burdens on licensees. Similarly, field strength agreements between licensees would only be necessary along a single market boundary, rather than the numerous partitioned boundaries that result from the Commission's current approach. Consolidating licenses would also make it easier for the Commission and the public to identify and understand which entities hold spectrum within a given market.

The Commission should eliminate this unnecessary limitation on re-aggregating spectrum licenses. Specifically, CTIA recommends that the Commission modify the existing FCC Form 601 to permit licensees to list all call signs that should be re-aggregated in a market, rather than require information on a call sign-by-call sign basis. Licensees would not be required to re-aggregate licenses, but would have the option to do so if they choose. The licensee, or Commission staff, could then select the call sign that would remain as the "surviving" call sign — most likely the call sign that was initially issued by the Commission for that particular market. Once the geography and frequencies are consolidated under a single surviving call sign, all other "shell" call signs could be terminated. This approach would be consistent with the approach used for assignments and transfers of control.

III. THE COMMISSION SHOULD STREAMLINE OWNERSHIP FILING REQUIREMENTS FOR INTERNAL REORGANIZATIONS.

The Commission should further streamline its procedures for licensees to update ownership information following internal reorganizations that do not affect ultimate ownership or control of any licensees. The Commission currently requires licensees to file *pro forma* applications for assignments of authorization or transfers of control of spectrum licenses related to internal reorganizations.[5] Such applications do not require prior Commission approval, but licensees must submit myriad FCC forms (*e.g.*, Form 603 for wireless, electronically filing with the International Bureau Filing System for satellite, international 214, and submarine cable systems) within 30 days of the transaction and update the ownership information reflected in FCC Form 602 for wireless services.[6]

Many companies routinely undergo internal reorganizations—often for tax purposes—that ultimately do not affect the ownership or control of any spectrum licenses. For example, a company might eliminate a holding company in the ownership chain between the licensee and the ultimate parent or redistribute partnership shares. But regardless of whether an internal reorganization impacts the ultimate control of the underlying license, licensees must submit resource-intensive FCC applications. Filing FCC applications for *pro forma* transactions is extremely costly and time-consuming, and is comparatively more so in the context of a purely internal company reorganization that has no effect on the control of the underlying licensee. In fact, larger companies can spend more than $100,000 per year on outside counsel related to these

[5] 47 C.F.R. §§ 1.767(g)(7) (submarine cable requirements); 1.948(c) (wireless radio service requirements); 25.119(h) (satellite system requirements); 63.24(d) (international 214 requirements).

[6] 47 C.F.R. § 1.948(c)(1)(iii).

unnecessary filings, in addition to the internal personnel and resources necessary to comply with these demanding requirements.

The Commission should eliminate application filing requirements for ownership changes related to internal reorganizations, and instead adopt a requirement that licensees file FCC Form 602 on a semi-annual basis if they engage in any internal reorganizations during the relevant period.[7] In doing so, the Commission would continue to receive regularly updated information on the ownership of licenses and alleviate the regulatory burden of completing the more rigorous FCC transfer/assignment applications.

IV. INTRAMARKET SPECTRUM SWAPS SHOULD BE TREATED AS *PRO FORMA* CHANGES.

The Commission should also discontinue competitive analyses triggered by intramarket "spectrum swap" transactions. Commercial mobile licensees engage in "spectrum swaps" on a regular basis, which generally are used to allow each mobile operator to have contiguous spectrum within a market without modifying the amount of spectrum held by each participant. Although these spectrum swaps have no effect on market competition, the Commission nevertheless conducts the same competitive analysis for spectrum swaps as it would for any other transaction.

Such analysis is unnecessary and burdensome for commercial mobile licensees, and is a waste of Commission resources. Instead, when licensees exchange the same amount of spectrum within a market within the same frequency band, the Commission should afford the transaction *pro forma* treatment. For any such "even" spectrum swap (*i.e.*, swaps that do not result in

[7] In the case of a *pro forma* assignment of authorization related to an internal reorganization, the Commission could require a simple notification of the new licensee's name and the affected authorizations. Any semi-annual FCC Form 602 filing requirement would only apply for licensees that engage in any internal reorganizations; the suggested reform is not intended to impose new burdens on licensees that have not changed their ownership structure.

changes to the amount of spectrum held by either party), the parties should not be required to prepare and file spectrum and competition exhibits. Such filings are labor intensive, as licensees are required to determine aggregated county-by-county data for the entire market. Moreover, these applications are subject to a review process by Commission staff, which typically requires several months for final consent.

In lieu of the potentially lengthy process currently in place, the Commission should streamline the application and consent process for transactions that do not change the amount of spectrum held or competitors in a market area. For example, the Commission could treat such transactions as *pro forma* actions and allow parties to simply notify the Commission after the completion of the transaction.[8] Alternatively, the Commission could provide consent to such transactions on an expedited basis (*e.g.*, 14 days rather than the current multi-month approval time).

Making the spectrum swap approval process more straightforward will conserve Commission resources and enable wireless providers to move expeditiously to deploy contiguous spectrum that allows for new broadband technologies (such as LTE or 5G) to the public. Moreover, it will provide more rapid access to higher data rates for consumers without any threat of competitive harms.

[8] *See, e.g.*, 47 C.F.R. § 1.948(c).

V. FIELD STRENGTH LIMITS SHOULD BE SPECIFIED AS POWER FLUX SPECTRAL DENSITY TO ACCOUNT FOR WIDE BANDWIDTH SYSTEMS.

Over the past several years, the Commission has taken steps to modify existing power limits so that they are evaluated on a per-MHz basis.[9] The Commission utilizes a power spectral density ("PSD") metric for ERP limits,[10] which allows commercial mobile licensees using wideband technologies such as LTE to not be penalized for using those larger bandwidths. Field strength limits that are required at the boundary of commercial mobile licenses, however, do not take into account bandwidth used for transmissions.[11] Thus, even though the interference footprint of the mobile operations would be the same, the field strength limits as defined currently disadvantage wider bandwidth uses (*e.g.*, LTE) by preventing the wideband system from achieving adequate service throughout the area contained within the field strength boundary.

Rather than the existing field strength limits at the market boundary, OET should instead consider adopting a power flux spectral density ("PFSD") limit that is comparable to the PSD metric used for ERP limits. Such an approach would eliminate the wide bandwidth penalty without changing the interference potential between neighboring licensees. Replacing the outdated field strength limit with a PFSD limit would facilitate adoption of wideband mobile radio technologies, as it would enable service providers to plan for a consistent level of service, regardless of the technology or spectrum block used. It would also allow licensees to take into

[9] *See, e.g., Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area,* Second Report and Order, Report and Order, and Second Further Notice of Proposed Rulemaking, FCC 17-105 (2017).

[10] 47 C.F.R. § 22.913.

[11] *See, e.g.,* 47 C.F.R. §§ 22.911, 24.236, 27.55.

account the specific bandwidths used by parties on both sides of a market boundary instead of inadvertently limiting field strengths unnecessarily. Furthermore, it would be consistent with international agreements with Canada and Mexico (for Part 27 services).[12] More specifically, OET should consider adopting the following PFSD values:

- A value of -117 dBW/m^2/MHz for the 600/700/800 MHz bands (closely corresponds to the current field strength limit of 40 dBµV/m in Section 27.55(a)(2) and Section 22.983);
- A value of -109 dBW/m^2/MHz for PCS (closely corresponds to the current field strength limit of 47 dBµV/m in Section 24.236); and
- A value of -108 dBW/m^2/MHz for AWS (closely corresponds to the current field strength limit of 47 dBµV/m in Section 27.55(a)(1)).

VI. OTHER MINOR UPDATES TO EXISTING TECHNICAL RULES WOULD BE BENEFICIAL.

In addition to the above suggestions, the Commission should make other minor updates to the existing technical rules. First, the PCS rules contain references to either 1990 or 2000 Federal Census data, which should be updated.[13] The Commission should change these rules to refer to "the most recent decennial Federal Census data" to avoid any ongoing concerns about references to outdated Census information.

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[12] *See Sharing Arrangement Between the Department of Industry of Canada and the Federal Communications Commission of the United States of America Concerning the Use of the Frequency Bands 1710-1755 MHz and 2110-2155 MHz by Advanced Wireless Services Along the Canada-United States Border*, FCC, https://transition.fcc.gov/ib/sand/agree/files/can-nb/Arrangement_I.pdf); *see also Protocol Between the Department of State of the United States of America and the Secretariat of Communications and Transportation of the United Mexican States Concerning Use of the 1710-1755 MHz and 2110-2155 MHz Bands for Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border*, FCC, https://transition.fcc.gov/ib/sand/agree/files/mex-nb/aws.pdf.

[13] *See* 47 C.F.R. §§ 24.103, 24.203.

Second, given the change in Part 22 cellular rules to move licensing from site-based to market-based, the Commission should remove site information from the cellular database.[14] Cellular licensees are now able to make changes within their licensed cellular market area without any Commission filings. With this new flexibility, site licensing information in the Commission's licensing database is no longer updated or maintained. Indeed, retaining this licensing information can create confusion and delays in infrastructure siting, as local zoning authorities may believe they do not have the authority to grant a permit for a site that is not listed on a license, despite the license covering a market area. The Commission should therefore remove this legacy site information, as it is inaccurate and will grow more erroneous with the passage of time.

[14] *See Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 14100 (2014).

VII. CONCLUSION.

CTIA supports OET's efforts to reduce regulatory requirements on commercial mobile licensees. As detailed above, a number of existing Commission rules and policies could be streamlined to eliminate burdens on both licensees and Commission staff.

Respectfully Submitted,

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