**WRC-19 Agenda Item 8**

IWG-4 members were not able to reach consensus on a proposal for WRC-19 Agenda Item 8 regarding the deletion of the United States from Footnotes 5.295 and 5.297 of the Radio Regulations. The views on the appropriate regulatory changes the FCC should support are provided.

View A is supported by: The National Association of Broadcasters (NAB), Fox, and CBS.

View B is supported by: AT&T, Cisco Systems Inc., CTIA, Ericsson, GSMA, Intel Corporation, Nokia, Samsung Electronics America, Sprint Corporation, T-Mobile, and Verizon.

VIEW A

**View A:**

WAC members supporting View A maintain that the WAC should approve Document IWG-4/024.2 (“Doc. 24.2”) and recommend to the FCC to use Doc. 24.2 as the basis for reconciling a draft United States Proposal for submission to the upcoming meeting of CITEL PCC.II.[[1]](#footnote-1) The National Association of Broadcasters, Fox, and CBS support View A.

**Background**

Document IWG-4/024.2 is a draft proposal addressing Agenda Item 8 with respect to the consideration and appropriate action on requests from administrations to delete their country footnotes or to have their country name deleted from footnotes, if no longer required, taking into account Resolution 26 (Rev. WRC-07). This is a standing Agenda Item in every WRC.

**Discussion**

The ITU and regional organizations have emphasized that AI 8 is primarily to propose the *deletion* (not retention or addition) of their country footnotes or of their country names from footnotes, if no longer required, to keep them up to date, clear and effective, for the purpose of achieving global harmonization in spectrum use, and that therefore the usual need for sufficient time to examine the potential consequences of *additive proposals* under AI 8 does not apply in the case of a country name deletion.

For its role, through WRC-19, the International Telecommunication Union (“ITU”) will capture necessary changes to its Radio Regulations (“RR”) to recognize that the U.S. has not allocated the 512–608 MHz band for mobile or fixed services at all, and has no current or projected plans to use the frequency band 470–608 MHz for IMT. Taking into account these decisions by the U.S. regulator (made despite its determination to keep the U.S. a leader in 5G development and deployment), revisions to the RR Footnotes to recognize the primary rights of broadcasters within these band, and consequential revisions for RR simplification, will be minimal. The View A proposal reflects a minimalist approach to enhance simplification. In the View A proposal, the proposed revisions are:

* Deletion of the United States from footnote 5.297 of Article 5 making an additional allocation of the frequency band 512–608 MHz to the fixed and mobile services on a primary basis; and
* Deletion of the United States from footnote 5.295 of Article 5 identifying the frequency band 470–608 MHz, or portions thereof, for International Mobile Telecommunications (IMT).

**IWG-4 Opposition**

In IWG-4 discussions proponents of View B have raised these issues (View A responses appear in italics after each point:

* The proposal would significantly limit the flexibility within the U.S. to deploy future mobile services and therefore No Change is needed.

*The crucial time for 5G spectrum identifications and allocations will not be in the future; it has been underway for the past several years and is culminating now. The spectrum in question in the footnotes has been determined by the FCC to not become a part of the mobile 5G ecosystem; this will not change in the timeframe that it would take to add the U.S. back to the footnote in the unlikely event that action was deemed necessary.*

* Footnote 5.295 does not deal with FS or MS allocation. US has made the allocation on a primary basis to FS and MS as per Footnote 5.293, and hence can use it for FS and all mobile applications (land, maritime, aeronautical). Given that Footnotes were developed very carefully to address specific needs of the countries in them, with unintended consequences for unjustifiable reasons. Thus, the objective of the proposed modification is not clear, since there is no change in the status of the broadcasting allocation and that broadcasting use is protected through the language used in the Footnote (no interference, no protection).

*Since the U.S. has decided not to allocate the 512–608 MHz band for mobile or fixed services at all, retaining any identification for IMT in FN 5.295 in the case of the U.S. for mobile services makes no sense, having become extraneous, misleading and contrary to the charge to ITU members found in Radio Regulations 4.4 to hold as paramount that “Member States shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations in this Chapter or the other provisions of these Regulations, except on the express condition that such a station, when using such a frequency assignment, shall not cause harmful interference to, and shall not claim protection from harmful interference caused by, a station operating in accordance with the provisions of … these Regulations.”*

* Opponents would also appreciate knowing where the determination of not identifying for IMT is made--a reference would be useful.

*See, for example, FCC* Order*, “In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions,” GN Docket 12-268, adopted September 11, 2017, paras. 4 and 317ff.*

Based on the points above, View B proponents have developed their own counter-proposal that modifies the proponent’s View A proposal to:

* Make No Change to the Radio Regulations Footnotes.

**Proponent’s Proposal**

The frequency band 470–694/698 MHz is the only band that is harmonized and used on a global scale for over-the-air broadcast television, and the frequency band 470–608 MHz or portions thereof was identified by *some* administrations at the WRC-15 for International Mobile Telecommunications (IMT) in footnote No. 5.295. The United States is no longer one of those administrations. Moreover, terrestrial television broadcasting is one of the most important and efficient mass communications media for delivering news, information, cultural programs, and entertainment free of charge to the general public, and because terrestrial broadcasting networks and facilities have a long life cycle, a stable regulatory environment is necessary to provide protection of investment and to encourage future development of the service;

The ITU and regional organizations have emphasized that AI 8 is primarily to propose the deletion (not retention or addition) of their country footnotes or of their country names from footnotes, if no longer required, to keep them up to date, clear and effective, for the purpose of achieving global harmonization in spectrum use, and thus the fact that the U.S. has not allocated the 512–608 MHz band for mobile services at all makes retaining any identification in FN 5.295 in the case of the U.S. for mobile services makes no sense, having become extraneous, misleading and contrary to the imperative to keep frequency assignments from causing harmful interference to stations operating in accordance with the provisions of both the ITU and FCC regulations.

**Summary and Recommendation**

Two proposals are presented to address Agenda Item 8 concerning deletion of the United States from Footnotes of the Radio Regulations.

The first and original proposal (View A) is one that attempts to simplify the Radio Regulations by proposing the deletion of the United States from footnotes (as it is no longer required), to keep them up to date, clear and effective, for the purpose of achieving global harmonization in spectrum use. The proposal is minimalist because it reflects determinations that have been made by the Federal Communications Commission.

The second proposal (View B), by competitors and opponents, is one that attempts to use Agenda Item 8 to maintain the *status quo*.

The purpose of this draft United States Proposal is to begin to socialize the issue within CITEL PCC.II so that our regional WRC partners can assist in developing a regional position based on evolving events in the ITU-R Working Parties. The CITEL countries have not yet issued either a IAP or a DIAP and are awaiting developments on this Agenda Item 8 matter.

The proponent’s intention is to capture this developments in subsequent evolutions of this proposal. At this juncture, there is no need to overly restrict the proposal. Consequently, View A proponents recommend that the WAC adopt the View A proposal and reject the View B proposal.

**ATTACHMENT TO VIEW A:**

**UNITED STATES OF AMERICA**

**DRAFT PROPOSAL FOR THE WORK OF THE CONFERENCE**

**Agenda Item 8**: *to consider and take appropriate action on requests from administrations to delete their country footnotes or to have their country name deleted from footnotes, if no longer required, taking into account Resolution 26 (Rev. WRC-07).*

**Background Information**: The frequency bands 512‒608 and 614‒698 MHz are allocated to the broadcasting service on a primary basis in Region 2.[[2]](#footnote-2) Presently, Footnote No. 5.297 allocates 512‒608 MHz to the fixed and mobile services on a co-primary basis with broadcasting in Canada, Costa Rica, Cuba, El Salvador, the United States, Guatemala, Guyana, and Jamaica, subject to agreement obtained under No. 9.21, and to the mobile service on a primary basis with broadcasting in the Bahamas, Barbados, and Mexico, subject to agreement obtained under No. 9.21. At WRC-15, Footnote No. 5.295 was added to identify the frequency band 470‒608 MHz or portions thereof for International Mobile Telecommunications (IMT) in the Bahamas, Canada, the United States, and Mexico – see Resolution 224 (5.idR2a, WRC-15).

The United States sought co-primary allocation with broadcasting of the spectrum 512‒608 and 614‒698 MHz to the fixed and mobile service and identification for IMT use as a preliminary step in anticipation of a possible outcome of its “Incentive Auction,” which sought to use economic market forces to determine the highest and best use of spectrum within the band 470‒698 MHz.[[3]](#footnote-3) Because the United States did not know in advance how much spectrum would be repurposed from broadcasting to mobile, it allocated to the mobile service on a co-primary basis with broadcasting all possible spectrum that could be repurposed.

The United States has determined that it must clearly identify where broadcast television and mobile wireless services will be permitted and must modify its frequency allocations to reflect the outcome of the Incentive Auction.[[4]](#footnote-4) Specifically, the United States has determined that the spectrum 512‒608 MHz will not be used for the mobile or fixed services and will remain used for broadcasting exclusively.[[5]](#footnote-5) Canada[[6]](#footnote-6) and Mexico[[7]](#footnote-7) have made similar determinations. Accordingly, this proposal will withdraw the United States from Footnote 5.297.

The United States has also determined that the spectrum 470‒608 MHz will not be identified for use for IMT and will be used either for the broadcasting service only (512‒608 MHz) or for the broadcasting, fixed and land mobile services only (470‒512 MHz). Accordingly, this proposal will withdraw the United States from Footnote 5.295, as its continuation of identifying the frequency band 470–608 MHz, or portions thereof, for International Mobile Telecommunications (IMT), with or without priority for IMT in the Radio Regulations, would invariably lead to a conflict with RR 4.4 and its goal of the prevention of harmful interference.

CONSIDERING:

1. That the frequency band 470–694/698 MHz, or portions thereof, is the only band that is harmonized and used on a global scale for over-the-air broadcast television;
2. That the frequency band 512–608 MHz was allocated by some administrations for fixed and mobile services on a co-primary basis with broadcasting in accordance with No. 5.297;
3. That the frequency band 470–608 MHz or portions thereof was identified by some administrations at the 2015 World Radiocommunication Conference (WRC-15) for International Mobile Telecommunications (IMT) in footnote No. 5.295;
4. That terrestrial television broadcasting is one of the most important and efficient mass communications media for delivering news, information, cultural programs, and entertainment free of charge to the general public;
5. That terrestrial broadcasting networks and equipment have a long life cycle, and a stable regulatory environment is necessary to provide protection of investment and to encourage future development of the service;
6. That the ITU and regional organizations have emphasized[[8]](#footnote-8) that AI 8 is primarily to propose the *deletion* (not retention or addition) of their country footnotes or of their country names from footnotes, if no longer required, to keep them up to date, clear and effective, for the purpose of achieving global harmonization in spectrum use, and that therefore the need for sufficient time to examine the potential consequences of additive proposals under AI 8 does not apply in the case of a country name deletion; and
7. That the fact that the U.S. has not allocated the 512–608 MHz band for mobile services at all makes retaining any identification in FN 5.295 in the case of the U.S. for mobile services nonsensical, having become extraneous, misleading and contrary to the charge to ITU members found in Radio Regulations 4.4 to hold as paramount that “Member States shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations in this Chapter or the other provisions of these Regulations, except on the express condition that such a station, when using such a frequency assignment, shall not cause harmful interference to, and shall not claim protection from harmful interference caused by, a station operating in accordance with the provisions of … these Regulations.”
8. That harmonized use of spectrum for specific services are desirable.

RECOGNIZING:

1. That the frequency band 470–608 MHz is allocated to the broadcasting service on a primary basis in Region 2;
2. That the United States has no current or projected plans to use the frequency band 470–608 MHz for IMT; and
3. That in proposing the deletion of country footnotes or country names in footnotes (if no longer required) administrations should be aware of implications on affected countries, factors which have been taken into consideration by the United States.

**Proposals**:

**MOD** USA/8/1

Radio Regulations Volume 1

ARTICLE 5

**Frequency allocations**

**Section IV – Table of Frequency Allocations**

|  |  |  |  |
| --- | --- | --- | --- |
| 460-890 MHz | | | |
| Allocation to services | | |
| Region 1 | Region 2 | Region 3 |
| … | | |
| 470-694  BROADCASTING  5.149 5.291A 5.294 5.296  5.300 5.304 5.306 5.311A  5.312 | 470-512  BROADCASTING  Fixed  Mobile  5.292 5.293 **MOD** 5.295 | 470-585  FIXED  MOBILE 5.296A  BROADCASTING  5.291 5.298 |
| 512-608  BROADCASTING  **MOD** 5.295 **MOD** 5.297 |
| 585-610  FIXED  MOBILE 5.296A  BROADCASTING  RADIONAVIGATION  5.149 5.305 5.306 5.307 |
| 608-614  RADIO ASTRONOMY  Mobile-satellite except aeronautical mobile-satellite (Earth-to-space) |
| 610-890  FIXED  MOBILE 5.296A 5.313A  5.317A  BROADCASTING  5.149 5.305 5.306 5.307 5.311A 5.320 |
| 614-698  BROADCASTING  Fixed  Mobile  5.293 5.308 5.308A 5.309 5.311A |
| … |
| … |

**Reasons**: See below.

**MOD** USA/8/2

5.297 Additional allocation: in Canada, Costa Rica, Cuba, El Salvador**~~, the United States~~**, Guatemala, Guyana and Jamaica, the frequency band 512-608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under No. 9.21. In the Bahamas, Barbados and Mexico, the frequency band 512-608 MHz is also allocated to the mobile service on a primary basis, subject to agreement obtained under No. 9.21. (WRC-15)

**Reasons**: The United States has determined that the spectrum 512‒608 MHz will not be used for the mobile service and will remain used for the broadcasting service exclusively.

**MOD** USA/8/3

5.295 In the Bahamas, Barbados, Canada~~, the United States~~ and Mexico, the frequency band 470-608 MHz, or portions thereof, is identified for International Mobile Telecommunications (IMT) – see Resolution 224 (Rev.WRC-15). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. Mobile service stations of the IMT system within the frequency band are subject to agreement obtained under No. 9.21 and shall not cause harmful interference to, or claim protection from, the broadcasting service of neighbouring countries. Nos. 5.43 and 5.43A apply. In Mexico, the use of IMT in this frequency band will not start before 31 December 2018 and may be extended if agreed by the neighbouring countries. (WRC-15).

**Reasons**: The United States has determined that the spectrum 470‒608 MHz will not be allocated or used, now or in the foreseeable future, for the mobile service or the fixed service, or identified for IMT, and 512‒608 MHz will remain used for the broadcasting service only, while 470‒512 MHz will remain used for the broadcasting service and the land mobile service on a co-primary basis.

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VIEW B

**VIEW B:** View B proposes no change to the existing footnotes **No.** 5297 and **No.** 5.295 under WRC-19 agenda item 8. View B is supported by AT&T, Cisco Systems Inc., CTIA, Ericsson, GSMA, Intel Corporation, Nokia, Samsung Electronics America, Sprint Corporation, T-Mobile, and Verizon.

The parties supporting View B believe the US should not withdraw from **No.** 5297 and **No.** 5.295.

Radio Regulations **No**. 5.297 provides a co-primary allocation to the Fixed and Mobile Services in 512-608 MHz and **No.** 5.295 provides an identification to IMT in the band 470-608 MHz.  The co-primary allocations to the Fixed and Mobile Services in 512-608 MHz have existed in the Article 5 Table of Allocations in the Radio Regulations (RR) via footnote for the United States for decades without any negative effect: see Note 678 in the 1982 version of the Radio Regulations at

<http://search.itu.int/history/HistoryDigitalCollectionDocLibrary/1.11.48.en.101.pdf> . It should be noted that Note 675 also provides co-primary allocations to the Fixed and Mobile Services in 470-512 MHz and 614-806 MHz.

The most important reason for the US to not withdraw from RR **No.**  5297 and **No.** 5.295 is due to the flexibility these footnotes provide to the US.  As noted above, the co-primary allocations have existed for decades without any negative consequences. However if the US were to withdraw from these footnotes, it would require at least one four year study cycle and likely more to potentially reinstate the current status.  It should also be noted that any changes to these frequency bands have been particularly challenging. During WRC-15 numerous counties tried to prevent any consideration of mobile use in the band even in Regions other than their own: it took three weeks of a four week conference and a rare Point of Order to even be permitted to discuss the US proposal. In fact, European counties insisted that there could not even be any consideration of mobile use in the band in Region 1 until 2023. With respect to the US identification to IMT, one nearby country tried to block any use in the US.

Therefore, the US should not withdraw from these footnotes, as it would cause the US to losing its current flexibility and leaving the US subject to gaining international consensus and lengthy delays to even consider allowing mobile use in the future.  The US FCC has long been a leader in spectrum policy.  Anything that would reduce the US flexibility to make domestic policy decisions should be avoided.

Furthermore, proposing these changes in the ITU RR’s would not change anything in terms of protection of US broadcasting use from the neighbor countries, while compromising the US flexibility for the use of the bands involved.

Internationally, the US has been very clear what spectrum is utilized for broadcasting and which is available for mobile use. For example, the US has provided frequency arrangements limited to 608 MHz and above in Recommendation ITU-R M.1036, which is the guiding document on frequency arrangements for IMT.  Similarly, the US has been clear regarding the use of these spectrum bands in its inputs to CITEL PCC II.

The US currently enjoys the flexibility to make domestic policy decisions with respect to these frequency bands without needing to again seek international consensus or being subject to lengthy delays.  The US has also pursued other opportunities to provide clarity to the international community on our domestic use of these spectrum bands. We believe this combination of retaining regulatory flexibility while providing clear and accurate information is the most compelling and appropriate course of action.

For the reasons provided above, we support no change to **No.** 5.295 and **No.** 5.297 (i.e. the US should not withdraw from these footnotes).

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1. The next meeting of CITEL PCC.II is planned for July 16–20, 2018; Mexico. [↑](#footnote-ref-1)
2. RR5-57 [↑](#footnote-ref-2)
3. See FCC Report and Order, “In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions,” GN Docket 12-268, adopted May 15, 2014, para. 317ff. [↑](#footnote-ref-3)
4. *Ibid*, para 321. [↑](#footnote-ref-4)
5. See FCC Order, “In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions,” GN Docket 12-268, adopted September 11, 2017, para. 4. [↑](#footnote-ref-5)
6. See ISED, “Proposed Revisions to the Canadian Table of Frequency Allocations [2017] Edition,” SMSE-005-17, page 21-23. [↑](#footnote-ref-6)
7. See IFT letter to Mindel de la Torre, FCC, IFT/222/UER/168/2015, 15 July 2015. [↑](#footnote-ref-7)
8. See, *e.g*., Asia-Pacific Telecommunity, “PRELIMINARY VIEWS ON WRC-19 AGENDA ITEM 8,” Document APG19-3/OUT-29, 16 March 2018. [↑](#footnote-ref-8)