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

**ORIGINAL
FILE**

In the Matter of

Policies and Rules for)
Licensing Fallow 800 MHz)
Specialized Mobile Radio)
Spectrum Through a Competitive)
Bidding Process)

RM-7985

To: The Commission

COMMENTS OF UNITED MOBILE NETWORKS, INC.

I. INTRODUCTION

United Mobile Networks, Inc. ("UMN") is engaged in the acquisition and operation of SMR trunked radio systems, and has extensive experience in the day-to-day operations of such systems. One of the founders and principal executives of the company also has over a decade of experience in FCC spectrum management, and was formerly Chief of the Commission's Private Radio Bureau. The following comments, therefore, take into account both the legitimate requirements of the FCC to manage the spectrum efficiently and in the public interest, as well as the needs of the SMR industry to be able to continue to grow and innovate, while not inhibiting the existing operations of thousands of trunking systems on the air today.

II. THE COMMISSION SHOULD MOVE TO ADOPT AUCTIONS AS A TOOL FOR EFFICIENT SPECTRUM MANAGEMENT

For several decades now policy makers and analysts have been researching and discussing the merits of spectrum auctions. The overwhelming majority of those who have approached the subject in an objective and dispassionate manner, be they engineers, economists, or attorneys,

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have agreed that auctions have the potential to dramatically increase the efficiency of the spectrum assignment process. Auctions would ensure that the spectrum is assigned to the right party (the one that will put the frequencies to their highest-value use), and they will accomplish this goal in the least-cost and fastest manner. Auctions also remove the windfall profits that accrue to the private winners of today's lotteries, and do away with application mills and their get-rich speculative schemes. Compared with the discredited process of comparative hearings, auctions are much speedier and produce a much better end result.

In the face of such overwhelming advantages, why haven't options been adopted earlier? The answer is, of course, due to the Commission's lack of statutory authority to do so. This continues to be a roadblock today, but the Commission should be prepared to implement auctions quickly once it has received the legislative authority to do so.

As to the often-heard complaint that "auctions only benefit those with deep pockets", UMN believes the Commission should once and for all dispose in a definitive manner of this red herring. The simple facts are these:

1) Private auctions are being held today by the winners of licenses in lotteries and comparative hearings. The government and the taxpayers, which own the spectrum, are not garnering any revenue from the process.

2) When someone says they oppose auctions because "the little guys will be left out", what they often really mean is that they are opposed because they won't get a chance to reap the bonanza that comes from selling valuable spectrum that they obtained free from the FCC. (Or from selling a business built on this scarce spectrum which they obtained for free, which is the same thing.) Unfortunately, this is not a right to which every citizen of this country is entitled to.

There is no reason why small operators, or would-be operators, should have any inherent right to own spectrum any more than they have inherent rights to own Manhattan real estate or a gold mine. In a capitalist society marketplace forces are the optimal way to make these decisions, and should be allowed to work through the vehicle of auctions. With auctions some of the spectrum will wind up licensed to large companies, some to small firms and start-ups, and the

rest distributed over a representative sample of companies in the industry. The Commission need not (and should not) yield to any efforts to have spectrum set aside or reserved for any particular size of business. Large businesses won't "buy up all the spectrum" any more than they have bought up all the land or other natural resources.

III. WIRELINE TELEPHONE COMPANIES SHOULD BE ALLOWED TO PARTICIPATE IN THE AUCTION PROCESS

In order to maximize the benefits of a competitive bidding process, it is important to allow all sizes and classes of users to bid for licenses. In this regard, the current prohibition against wireline telephone companies being eligible for SMR licenses should be removed, as it serves no public interest purpose. The wireline telephone companies have extensive knowledge and understanding of telecommunications, including mobile communications, and they have the capital to deploy new technology and systems that are going to be necessary for the SMR industry to remain competitive with other forms of wireless communications.

Other forms of eligibility restrictions for SMR licenses, like the rule restricting eligibility of manufacturers, have long since been dropped, as have similar restrictions in other services, such as the wireline/non-wireline cellular restriction. In order to ensure a vigorous level of innovation and competition in the wireless field, the outmoded and outdated SMR restrictions on wireline telephone companies should likewise be dropped.

It is conceivable that the Commission could be concerned that removing all restrictions to SMR entry by telephone companies might reduce the overall level of competition in a given market where the telephone company is already a cellular licensee. In such a case, the telco could be tempted to either warehouse any SMR frequencies it acquires, or to at least ensure that they are not put to a use that competes directly with their cellular franchise. UMN suggests that this concern can be simply and easily allayed by precluding the eligibility of wireline carriers to become SMR licensees in those markets where they own a significant share of either cellular operator. Because of the number and size of the telephone companies, this would enhance

competition on a local level, while not depriving the SMR industry and the public of the benefits to be accrued by their entry into the field.

IV. THE PROPOSED INNOVATOR BLOCKS SHOULD BE MUCH SMALLER IN SIZE

Fleet Call's proposal to size the innovator blocks at 105 channels, if possible, is seriously flawed and should be rejected by the Commission. 105 channels are dramatically beyond the capacity required for even the largest MSA which has that many channels available, which is Nashville, Tennessee, population 993,000. In its initial public offering prospectus, issued January 27, 1992, Fleet Call states that it has only 93 channels in the densest (core) areas of Los Angeles, yet the company claims this is adequate to serve the Los Angeles MSA, with a population of 15.2 million people. Clearly, if Los Angeles only needs 93 channels, Nashville (which has one fifteenth the population) can't require 105 channels! And, Nashville is the largest city Fleet Call proposes having a 105-channel block in. At the other end of the spectrum, Fleet Call recommends that Enid, Oklahoma, (population 67,000) also have a 105-channel innovator block. The folly of this is even more apparent when one considers Fleet Call's own statement that 105 channels can accommodate 25,000 subscribers. (Fleet Call petition, p. 20) In Enid, Oklahoma, that would be enough spectrum to support a 37% penetration of the population, which is approximately twice the generally accepted estimated penetration rate for the entire cellular industry by the year 2000. Obviously, blocks this size are not justified or required by capacity arguments. The only possible rationale for their size is to erect an anti-competitive barrier by limiting entry to subsequent players, which is a distasteful and offensive objective in today's pro-competitive regulatory climate.

UMN believes that due to technical reasons concerning reuse, a 21 channel block size is the minimum and only size that should be implemented. This will allow for a seven-cell three-sector reuse pattern, allowing one frequency per sector. A block this size would provide enough

capacity to support approximately 4,000 subscribers without even implementing frequency reuse, and much higher levels of capacity with reuse. This is enough capacity to serve all of the markets on Fleet Call's 105-channel list, assuming a credible level of SMR penetration, such as 2%. (For comparison, today's SMR penetration stands at roughly one-quarter of that, or .5%) The principal advantage of using 21-channel blocks is that the Commission can then license five competing service providers in each city, which will provide important public benefits in terms of increasing innovation and diversity of service offerings, as well as lowering rates. Another reason for using 21-channel blocks is that this will likely allow some additional MSA's (which didn't meet Fleet Call's 42-channel minimum) to be included in the innovator block concept, thus broadening its appeal and enhancing the probability of success of a nationwide digital SMR network.

V. FLEET CALL'S PROPOSAL FOR A LICENSING FREEZE IS ENTIRELY UNACCEPTABLE

Fleet Call has proposed that the Commission not grant any new licenses on innovator block channels until the auction process has been implemented. While Fleet Call's concern that "speculators will undercut the purpose of the innovator block concept" is understandable, that is absolutely no reason to make second-class citizens out of the thousands of legitimate existing SMR operators who may wish to expand, or to make bona fide new entrants subservient to Fleet Call's interests. The burden of a change should fall on the party proposing the change, and UMN believes that to suggest that existing operators be given 900 MHz frequencies for expansion, (which are both incompatible with and inferior to 800 MHz frequencies) is placing the burden on the wrong party. Additionally, should the required legislative authority not be forthcoming from Congress, the result would be an indefinite freeze which could seriously cripple the growing SMR industry. The Commission should continue to hold the course, as it has done to date, and not implement any license freeze prior to adopting final rules in this proceeding.

VI. CONCLUSION

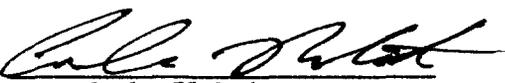
Fleet Call has once again presented the Commission with an innovative and far-reaching proposal that could significantly change the face of the SMR industry. And, once again, the Commission is being asked to utilize a regulatory "bulldozer" to clear obstacles out of Fleet Call's way. UMN believes that more thoughtful and selective policy making is warranted.

The core concepts of the proposal, namely the designation of innovator blocks and the introduction of auctions to assign these blocks, have considerable merit and should be adopted by the Commission, as they are clearly in the public interest.

On the other hand, the proposed method of implementation of the proposals is obviously deficient. The innovator blocks should be reduced in size to 21 channels, and the licensing freeze should be completely rejected. Finally, UMN believes the entire concept will be improved by allowing wireline telephone companies to bid for the innovator blocks.

Respectfully Submitted,

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