

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Allocation of Spectrum Below)
5 GHz Transferred from Federal)
Government Use)

ET Docket No. 94-32

To: The Commission

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**COMMENTS OF APCO
IN RESPONSE TO
SECOND NOTICE OF PROPOSED RULEMAKING**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO"), hereby submits the following comments in response to the Commission's Second Notice of Proposed Rulemaking ("Second Notice"), FCC 95-47, released February 17, 1995, in the above-captioned proceeding.

APCO is the nation's oldest and largest public safety communications organization, with over 11,000 members involved in the management and operation of law enforcement, fire, emergency medical, disaster relief, highway maintenance, forestry-conservation, and other public safety communications facilities. APCO is the FCC's certified frequency coordinator for the Part 90 Police Radio Service, Local Government Radio Service, and Public Safety Pool channels.

APCO and many other parties filed comments in response to the first Notice objecting to the Commission's proposal to

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use auctions in combination with an extraordinarily broad allocation of spectrum. The result of such an approach is spectrum allocation by auction which assumes that the highest bidder will have the "highest and best" use of the spectrum.

First, as we explained in our initial comments, using auctions to allocate spectrum (whether explicitly, or implicitly through broad, flexible allocations such as "Fixed or Mobile") is a violation of the Commission's limited authority to use auctions only to assign frequencies among mutually exclusive applicants.^{1/} Second, the underlying assumption that auctions necessarily lead to the "highest and best" use of the spectrum is false, at least insofar as it relates to the protection of life and property.

The use of auctions to allocate spectrum deprives state and local government public safety agencies of any opportunity to obtain new radio spectrum for their critical police, fire, emergency medical and other communications systems. These government agencies, despite the overwhelming and undeniable public benefit of their operations, will never be able to compete with for-profit commercial entities for spectrum. Therefore, if the Commission is determined to use auctions in conjunction with extraordinarily broad allocations, there must be additional spectrum set aside for public safety use.

^{1/} Title VI of the Omnibus Budget Reconciliation Act of 1993, Pub.L.No. 103-66, 107 Stat. 312 (August 10, 1993); See Comments of APCO (filed Dec. 19, 1994) at 2-6.

The Commission seeks comment in the Second Notice as to whether some portion of the 4660-4685 MHz band should be designated for specific services, rather than the broad "General Wireless Communications Service" that the Commission favors. APCO strongly supports designating the band for specific uses, and, in particular, urges the Commission to designate at least a portion of the band for public safety mobile and aeronautical video operations.^{2/}

As APCO and the Los Angeles County Sheriff's Department explained in the first round of comments, law enforcement and other public safety agencies do not currently have any dedicated channels for live "bird's eye view" video operations.^{3/} Such a capability would be invaluable for command and control of emergency situations such as forest and building fires, civil disturbances, drug raids, hostage situations, crowd and traffic control, storms, floods, and earthquakes. Broadcasters have frequencies to provide media coverage of such occurrences, but the public safety agencies that must respond to those situations have no similar capability.^{4/}

^{2/} Another important use of this spectrum would be for fixed microwave links, especially those displaced as a result of the relocation of 2 GHz microwave facilities.

^{3/} To the extent that such public safety video operations are now possible, it is through occasional frequency sharing by amateurs and broadcasters.

^{4/} See Comments of Los Angeles County Sheriff's Department, Comments of the County of Los Angeles, and Comments of APCO in response to the first Notice for a further description of this need for public safety video operations.

The 4660-4685 MHz band appears to be particularly appropriate for such video operations. Indeed, the broadcasting industry has sought these frequencies for similar broadcast auxiliary uses.^{2/} That request may be compatible with APCO's recommendation as there may be opportunities to share receive sites among broadcasters and public safety agencies, and create a larger market for equipment. However, public safety agencies must have priority access to at least some of the video channels. They cannot continue to rely on occasional consensual use of amateur and broadcaster-controlled frequencies.

Finally, it is not an answer to suggest that the flexibility of the proposed General Wireless Communications Service would accommodate video operations by public safety agencies and others. It is worth repeating: public safety cannot be placed in a position to have to compete in auctions for or otherwise purchase spectrum. If that were to occur, all of the spectrum would end up in the hands of commercial entities.

^{2/} See, e.g., Comments of AMST.

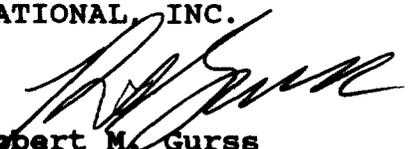
CONCLUSION

For the reasons discussed above, APCO continues to oppose the Commission's use of auctions in conjunction with overly broad spectrum allocations, and urges the Commission to designate a portion of the 4660-4685 MHz band for public safety video operations.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
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