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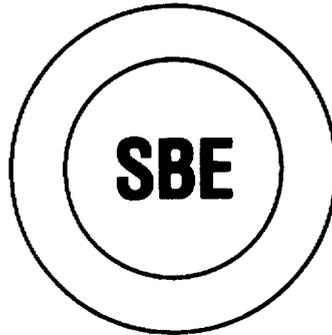
Federal Communications Commission
Office of Secretary

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Comments of the
Society of Broadcast Engineers, Inc.

ET Docket 95-18
Allocation of 2 GHz Spectrum for
Use by the Mobile-Satellite Service

Further Notice of Proposed Rulemaking



June 18, 1997

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SOCIETY OF BROADCAST ENGINEERS, INC.
Indianapolis, Indiana

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

JUN 20 1997

Federal Communications Commission
Office of Secretary

In the Matter of)	
)	
Amendment of Section 2.106 of the)	ET Docket No. 95-18
Commission's Rules to Allocate)	Further Notice of Proposed Rule Making
Spectrum at 2 GHz for Use by)	
the Mobile-Satellite Service)	

To: The Commission

Comments of the Society of Broadcast Engineers, Inc.

The Society of Broadcast Engineers, Incorporated ("SBE"), the national association of broadcast engineers and technical communications professionals, with more than 5,000 members in the United States, hereby respectfully submits its comments in the above-captioned Further Notice of Proposed Rule Making ("FNPRM") relating to the allocation of 2 GHz spectrum for the Mobile-Satellite Service ("MSS").

I. BAS Band Plan Conversion Raises Unique Issues

1. As the First Report and Order and Further Notice of Proposed Rule Making ("First R&O") pointed out, at Paragraph 67, re-channelizing 2 GHz band Broadcast Auxiliary Service ("BAS") stations raises a problem not encountered in the Commission's Emerging Technologies proceeding. A BAS transmitter or receiver operating in any channel of the new channel plan except the new Channel A1 (2,025-2,040 MHz). or new Channel A7 (2,115-2,130 MHz) will overlap two channels of the current BAS band. Similarly, a BAS transmitter or receiver operating on the current channel plan will overlap two channels of the new BAS band: see the attached Figure 1. However, the FNPRM proposed to 1) allow BAS licensees to operate under the new channel plan on a secondary basis, so long as operations under the new channel plan do not interfere with BAS operations under the current channel plan, and 2) after the new channel plan becomes primary, on January 1, 2000, to then make BAS licensees operating under the "old" band plan secondary, and BAS licensees operating under the "new" band plan primary.

2. SBE objects to such an approach, as it would create a new category of "second class" BAS licensees. This is hardly the "equivalent or better" facilities that newcomer MSS entities are required to provide, at no cost, to incumbent BAS licensees. Further, SBE

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believes that significant and unacceptable interference would be caused by new and old band plan operations to each other in most, if not all, markets.

3. SBE sees two possible alternatives for transitioning 2 GHz BAS from the "old" to the "new" band plan: Gradual Phase-In ("Phased-In") and One-Shot ("One-Shot"). The Phased-In approach has the advantage of allowing market-by-market transition, but 1) would require itinerant TV Broadcast Auxiliary users (mainly Network users) to maintain two sets of equipment during the transition period and 2) would require safeguards acceptable to Broadcasters that MSS mobile transmitters (*i.e.*, customers) could only use their devices in areas already converted to the new band plan. Given the widespread availability of commercial air travel, SBE questions how a MSS provider could guarantee that a user would not attempt to use a portable/mobile MSS transmitter in an area (market) that had not yet been converted to the "new" band plan. SBE asks MSS to address this problem in its Reply Comments.

4. The alternative is a One-Shot, uniform, nation-wide conversion from the old to the new band plan, over a relatively short period, perhaps 10-days to two-weeks. This would require MSS to fund new equipment, to be provided to Broadcasters in advance of the transition window, so that the conversion can then be quickly accomplished, with minimum disruption during the transition period.

5. An advantage to broadcasters of the One-Shot approach is that it would force MSS to have first cleared all POFS fixed links in 2,110–2,130 MHz from that band, and MSS would have had to have provided new equipment (or factory-approved retrofits) to all TV Broadcast Auxiliary stations in advance of the short-term, nation-wide conversion. If, by the January 1, 2000, deadline, MSS had failed to meet these requirements, then SBE would expect that MSS implementation would be delayed until MSS complies with its preparatory transition obligations. In other words, Broadcasters would not be put in the position of having to trust MSS entities to make good on its obligations. Nevertheless, SBE is willing to consider a Phased-In approach, if MSS entities can provide acceptable guarantees that MSS transmitters cannot be used in areas not yet converted to the new band plan.

6. Although the One-Shot approach means that some fixed-service ("FS") links in non-frequency congested areas may end up being relocated before actual interference would require such relocation, and that some BAS licensees in the smaller markets may end up converting to the new band plan before MSS has customers in those less-populated areas, SBE believes that this is the price MSS must pay as the newcomer service. MSS entities

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should not be allowed to create two classes of 2 GHz BAS licensees (primary and secondary) and then, to add insult to injury, expect those two classes to swap their status on January 1, 2000, just to benefit MSS. No. If MSS wants its new service, it must bear the full cost of making BAS licensees "whole" under the new band plan.

7. Regardless of whether a Phased-In or One-Shot approach is adopted, and contrary to the FNPRM supposition, at Paragraph 69, that FS stations might not have to be entirely cleared from 2,110–2,130 MHz prior to conversion to the new BAS plan, all FS stations nation-wide must be cleared from 2,110–2,130 MHz by January 1, 2000. Why? Because 2 GHz BAS is used primarily for electronic news gathering ("ENG"). It is the nature of the beast that one never knows where a heavy concentration of ENG will occur, because one never knows where the next big news story will break. For example, the mysterious downing of an armed A-10 attack jet in the remote regions of the Rocky Mountains resulted in an explosion of ENG activity in those remote regions. Existing FS stations on long-haul routes in the area would have resulted in mutual interference had the new band plan been in effect, and had FS stations in the new portion of the band not have been required to first vacate 2,110–2,130 MHz, in the mis-guided belief that their continued presence for some temporary period would do no harm. Indeed, if those not-yet-relocated links were carrying critical or public safety transmissions, tremendous harm could be done, to say nothing of the potential preclusion of ENG activities.

II. MSS Should Be Required to Post Performance Bonds

8. At Paragraph 70 of the FNPRM, the Commission proposed five obligations that MSS would have to assume before it could use its new 1,990–2,110 MHz spectrum. To that list SBE believes a sixth requirement should be added: that of having to post a performance bond, to guarantee payment of the transition expenses. This will ensure that broadcasters and network entities are not left "holding the bag" in the event MSS entities declare bankruptcy or otherwise default on their obligations.¹

¹ The SBE notes that there have already been several defaults by spectrum auction bidders. See, for example, "FCC Suspends Airwave Auctions; Financial Health of Bidders in Doubt," April 3, 1997, *San Francisco Chronicle*, Page A3. The article indicated that "The Federal Communications Commission has announced that it will temporarily stop collecting payments on more than \$10 billion worth of wireless communications licenses sold at auction last year, raising doubts about the government's most-favored new method for pouring money into the Treasury." So broadcasters have good reason to not go "out on a limb" insofar as any band-conversion plans are concerned without ensuring that MSS entities will, in fact, pay the cost of such conversions.

III. Collective Bargaining with BAS Licensees Should Be Required if One-Shot Transition Option is Adopted

9. In the event the Commission decides that conversion to the new BAS band plan should occur nation-wide and over a short transition window, SBE believes that BAS incumbents should then be required to negotiate on a collective basis with MSS operators, with the results to be binding upon all BAS licensees. SBE suggests that a coalition of BAS licensees comprised of SBE, NAB, MSTV, and the major networks, form an *ad hoc* working group for this purpose.

IV. No "Freeze" on New 2 GHz BAS Stations is Necessary or Appropriate

10. SBE objects to the imposition of a freeze on new 2 GHz BAS stations. However, SBE would not object to a condition that newcomer fixed link 2 GHz BAS stations authorized after the effective date of a 2nd R&O to this FNPRM, bear the condition that such newcomer stations would not be subject to reimbursement costs. Newcomer 2 GHz TV Pickup (*i.e.*, mobile and portable stations) should continue to be subject to band-change reimbursement costs, regardless of when the station was authorized. This is because all TV Pickup equipment must immediately be able to operate under the existing band plan, and because not all TV Pickup equipment can be made to be convertible to the new band plan (*e.g.*, ultra-miniature equipment). This approach would give broadcasters flexibility during the period prior to the MSS re-assignment date, and would encourage installation of frequency-agile equipment, in which case transition to the new band plan would be simply a matter of changing circuit board DIP-switches. This should also meet a presumable expectation by MSS entities that it only be required to pay the cost of converting 2 GHz BAS fixed-link hardware in existence as of the effective date of a 2nd R&O. This approach would further be consistent with SBE's goal of encouraging fixed links only in the 7 and 13 GHz BAS bands (at least in frequency congested areas), so as to maximize the number of available 2 GHz channels for ENG use.

11. SBE urges the Commission to grant a blanket order giving existing 2 GHz BAS stations automatic authority to convert from the present band plan (Channels A1 through A7) to the new band plan (Channels A1n through A7n, with the lower-case "n" indicating the "new" band plan) without the necessity of having to file an FCC application and pay a filing fee. Alternatively, if the Commission decides that an FCC application and filing fee should

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nevertheless be required, then the cost of preparing and filing such applications, even for newcomer BAS stations, would need to be subject to reimbursement by MSS.

VI Summary

12. SBE commends the Commission for its decisions in the First R&O, and urges the Commission to continue its wise and fair policy that the newcomer spectrum user (MSS) must make existing users (TV Broadcast Auxiliary licensees) "whole" before being allowed to benefit from its new service. To that end SBE urges MSS to address the two transition alternatives offered in these comments. If guarantees can be provided to the concerns raised in these comments regarding a Phased-In approach, then SBE would not object to a Phased-In approach instead of a One-Shot approach, if preferred by MSS entities.

List of Figures

13. The following figures or exhibits have been prepared as a part of these ET Docket 95-18 Further Notice of Proposed Rule Making Comments:

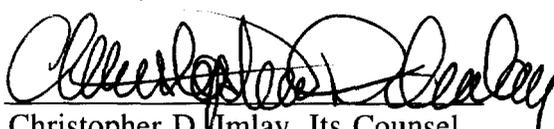
1. Figure showing the existing versus proposed 2 GHz BAS band plan.

Respectfully submitted,

Society of Broadcast Engineers, Inc.

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By Dane E. Ericksen
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By Christopher D. Imlay
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June 18, 1997

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SBE Comments to ET Docket 95-18 FNPRM

New v. Existing 2 GHz BAS Band Plan

