

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

In the Matter of)	
)	
)	
Implementation of Sections 309(j) and)	WT Docket No. 99-87
337 of the Communications Act of 1934)	
as Amended)	
)	
Promotion of Spectrum Efficient)	
Technologies on Certain Part 90)	
Frequencies)	
)	
Establishment of Public Service Radio)	
Pool in the Private Mobile)	
Frequencies Below 800 MHz)	

**Comments of
The International Communications Association**

The International Communications Association (AICA≡)¹, by its attorney, hereby submits its comments pursuant to the Commission's Notice of Proposed Rule Making, hereby submits these comments in this proceeding.² As large users of wireless telecommunications services, ICA members will be directly impacted by Commission

¹ ICA is the largest association of telecommunications users in the United States, with more than 500 members who collectively spend over \$32 billion per year on acquisitions of telecommunications services and equipment. Because of ICA members' increasing reliance on telecommunications, ICA members' expenditures in this area are growing. Thus, as heavy telecom users, ICA members have a special interest in the outcome of this proceeding.

² *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended*, WT Docket No. 99-87, Notice of Proposed Rule Making, (released March 25, 1999), FCC 99-52 (ANPRM≡).

decisions in this proceeding.

Many ICA members have numerous licenses from the Federal Communications Commission to operate radio systems in locations through out the United States. These systems are typically used for internal communications involving material handling, inventory and production logistics, maintenance, security, health and safety.

In the NPRM, the Commission has requested comments on various matters related to the Balanced Budget Act of 1997, the Communications Act, and other matters concerning radio spectrum allocation. Most radio systems in industrial environments B such as those of ICA members B are used at least partially for health and safety purposes including emergency response for incidents involving fire, employee injury, hazardous waste spills and other industrial accidents. Their use in hospitals and educational institutions is essentially similar. The coverage is largely limited to the particular setting with perhaps some spillover in the immediately surrounding area. By working with frequency coordination organizations, the potential for interference is largely eliminated.

The combination of user coordination with these frequency coordination organizations and the limited geographic coverage of user systems serve to promote an extremely efficient use of spectrum. It permits the use of the same frequencies in adjacent geographic areas. It also has the by-product effect of reducing the likelihood of mutually exclusive applications for licenses - and thereby limiting the opportunity for competitive bidding of the type envisioned in both the Omnibus Budget Reconciliation Act of 1993 and the Budget Reconciliation Act of 1997.

Thus, if the intent of the Congress was to view spectrum as a potential cash cow for government policymakers, that has been thwarted in Private Land Mobile Radio

Services where the frequency sharing described above virtually eliminates the possibility of competing applicants. While that might suggest a need to incent multiple applicants, such would clearly lead to less efficient use of spectrum in order to accomplish that objective and license coverage areas would have to be greatly expanded. Licensees under that scenario would in effect become spectrum brokers B perhaps better characterized as spectrum speculators B hoping to dispose of their largesse at a profit. Moreover, the larger the geographic area, the greater the speculation and the greater the likelihood of inefficiency in what is a finite national resource. Even more unsettling for wireless telecom users is the prospect of speculators with deep pockets B and thus the ability to wait for a return on their investments - hoarding spectrum for lengths of time in order to drive up the value of spectrum.

The Commission - and the Congress - have already seen the results of spectrum speculation in the tragic results of the PCS auctions. A far better approach has already been suggested by the Commission Chairman in his March 17, 1999 letter to Senator Daschle where he indicated that the Congress might authorize the FCC to impose "user fees" rather than use auctions for private wireless spectrum. That type of arrangement would continue to encourage the most efficient use of spectrum, as well as allow the Commission to "price" spectrum at something more nearly approximating its value to users. Although this approach might not generate the financial windfall envisioned by the Congress when it authorized competitive bidding, the dollar impact could be significant. Moreover, in the absence of opportunities for the Commission to employ competitive bidding - since it is precluded from using that process in the absence of mutually exclusive applications - user fees would be a significant financial plus.

The Band Manager concept described in the NPRM appears to be the prototypical wolf in sheep's clothing. Under the veil of privatizing and making use of "market forces to determine private spectrum requirements," Band Managers may well be the potential speculators that concern present private radio users. If spectrum were a readily available commodity and not a finite resource, the Band Manager concept would be a novel and perhaps effective way of semi-privatizing control of spectrum. Such is not the case! There are many instances where forms of privatization can be superior to government management and control. This in our view is not one of them.

In summary, the present spectrum allocation system for Private Land Mobile Radio Services works and works well. There is no need for major surgery - especially not auctions or Band Managers. As a preferred alternative, ICA would work with the Commission to pursue Congressional authorization of User fees.

Respectfully submitted,

INTERNATIONAL COMMUNICATIONS ASSOCIATION

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