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Before the
Federal Communications Commission
Washington, D.C. 20554

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AUG 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)	
)	CS Docket No. 99-250
Petition for Rulemaking)	
To Amend Eligibility Requirements in Part 78)	RM-9257
Regarding 12 GHz Cable Television)	
Relay Service)	

Comments of Sprint Corporation

Sprint Corporation ("Sprint") respectfully submits these comments in response to the Commission's Notice of Proposed Rulemaking (NPRM) in the above-referenced docket. In its NPRM, the Commission proposes to amend its rules to allow private cable operators ("PCOs") and other multichannel video programming distributors ("MVPDs")¹ to use the frequencies in the 12 GHz band for delivery of video programming. Sprint, for the reasons set forth below, objects to the Commission's proposed expansion of the Cable Television Relay Service (CARS) band to entities such as open video system (OVS) operators, MVPDs, or PCOs². Sprint strongly supports permitting CARS licensees to provide voice or data using the 12 GHz band. As the Commission recognized in its recent

¹" 'Multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming." 47 U.S.C. § 522(13).

² Sprint is an interested party to this rulemaking proceeding as Sprint has recently purchased several

authorization of two-way services in the MDS/ITFS bands, increased flexibility of spectrum use supports innovative use and increased competition.

This proceeding was initiated by a petition for rulemaking filed with the Commission by OpTel, Inc. (Optel), a private cable operator that provides video and other services to residential users primarily located in multiple dwelling units on a shared tenant service basis. Optel requested that the Commission add PCOs as eligible users of the band of frequencies from 12.70 GHz to 13.20 GHz, comprising the 12 GHz CARS band, and that it permit use of the 13.20-13.25 GHz band segment for delivery of video programming. Optel contends that PCOs need access to the 12 GHz band to compete with incumbent franchised cable systems.

The Commission, in its NPRM, sought comment on this proposed expansion of the 12 GHz CARS frequency band to include PCOs and expansion of the 13.20-13.25 band segment to deliver video programming. It further requested comment on use of the 12 GHz band by MVPDs and the possible drawbacks of expanding CARS eligibility with respect to spectrum management and allocation. The NPRM also requested comment on whether CARS licensees should be permitted to provide voice or data using the 12 GHz CARS band.³

The 12 GHz CARS band should not be expanded to include PCOs, MVPDs or OVS operators

MMDS providers who are licensed to use the CARS frequency band to provide programming.

³ The NPRM also requested comment on the impact that this sharing might have on broadcast auxiliary stations (BAS), especially with respect to the required digital transition for broadcasters. Sprint does not offer comment on BAS issues at this juncture.

Eligibility for the CARS band should not be expanded to include entities such as OVS operators, MVPDs, and PCOs, unless they are designated as secondary users. Such entities already have spectrum allocated to their services. As the Commission recognizes in the NPRM, Part 101 of the Commission's rules permits PCOs to use the 18 GHz and 23 GHz bands to distribute video programming.⁴ Adding an additional frequency band to the bands already available to PCOs would effectively grant PCOs an unfair competitive advantage with respect to other cable systems that are only permitted to use the CARS band. PCOs and MVPDs would enjoy the benefit of choosing among numerous frequency bands for transmission of their services, while other cable systems would be restricted to the CARS band.

Expanding the number of services eligible to use the 12.70-13.20 GHz band would result in a concomitant increase in the number of licensees utilizing the band, thereby complicating frequency coordination and increasing the likelihood of interference, congestion, and degradations to system integrity.⁵

Sprint advocates the use of spectrum sharing procedures that result in increased spectrum utilization. However, allowing open access to CARS band could increase the risk of spectrum inefficiency, as expanding CARS eligibility might attract potential licensees with diverse technologies and varied spectrum utilization. This may also provide an opportunity for licensees without immediate service deployment

⁴ See 47 C.F.R. § 101.1 et seq.

⁵ As the Commission notes in the NPRM, and, as noted in the NGSO 12 GHz NPRM, "12.75-13.25 GHz is currently subject to heavy usage. Optel's request for use of the 12 GHz CARS band and that of Sky Bridge, if granted, could greatly increase the terrestrial use of the 12 GHz band." FCC 99-166, CS Docket No. 99-250, RM-9257 (rel. Jul. 14, 1999), (NPRM) at ¶ 23, citing FCC 98-310, ET Docket No. 98-206, Rm-9147, Rm-9245 (rel. Nov. 24, 1998) (NGSO 12 GHz NPRM) at ¶ 35.

capabilities to indulge in spectrum warehousing. Furthermore, allowing PCO and MVPD operation on a first-come-first-served basis in the CARS band would hinder future development and expansion of incumbent CARS band operators.

In order to ensure that PCOs' or other MVPDs' use of the 12 GHz CARS band will not interfere with existing users or unduly constrain future growth of incumbent cable services, incumbent CARS licensees and future cable service providers must be given a primary operation designation. PCOs and MVPDs must operate on a secondary user status, whereby they may not interfere with primary users and must accept all interference from primary operators. This stipulation would enable CARS frequency re-use by PCOs and MPVDs, thereby increasing spectrum use efficiency without inhibiting current or future operations of incumbent CARS operators.

Sprint believes PCO and MVPD entities can operate successfully in the 12 GHz CARS band under the existing technical and operational requirements. However, as stated, it is imperative that PCO/MVPD operators be designated as secondary users. Sprint recommends that CARS band eligibility be made conditional upon the licensee using Category A antennae (to reduce interference to other licensees). Designating PCO and MVPD entities as secondary users would ameliorate the potential for conflicts should a franchised cable system be unable to serve a part of a community that it is required to serve because a PCO already has the CARS license for those frequencies. The current channelization scheme need not be enforced, should PCO/MVPD entities be given CARS eligibility. A flexible channelization scheme would benefit the CARS band.

Requiring PCOs and MVPDs to first exhaust their spectrum usage in the 18GHz and 23 GHz frequency bands before gaining eligibility to use the 12 GHz CARS band prevents unnecessary concentration of PCOs and MVPDs in the CARS band and reduces opportunities for spectrum warehousing.

In order to minimize any adverse impact to current and future operations of cable system and MMDS entities, Sprint urges the Commission not to designate PCO/MVPD entities as co-primary users. A co-primary designation for PCO/MVPD users would severely limit expansion opportunities for incumbent CARS licensees and potentially interfere with their current operations. While Sprint does not comment on the validity of Optel's assertion that PCOs need additional range, Sprint believes that if PCO operation is on a secondary user basis, there would be no need to require PCOs to demonstrate that they need to transmit over more than 10 miles before they are eligible for a CARS license. If PCO entities are allowed to access the 12.75-13.25 GHz band, spectrum coordination would be more difficult for current CARS licensees, and their future development and expansion opportunities would be hindered.

Sprint contends that as long as the PCO uses some public rights-of-way so as to retain its classification as a cable system, use of alternative access means such as fiber-optic cable and 23 GHz operation can provide necessary capacity in some cases. However, Sprint recognizes that the need for CARS band operation may arise in cases where alternate access is not feasible, and recommends that PCO entities be given secondary status for CARS band operation to foster enhanced spectrum utilization.

Sprint does not support auctioning of the CARS band. Auctioning this band would result in significantly diminished spectrum utilization than can be achieved by

sharing the band between primary and secondary users. It would also present opportunities for entities to engage in aftermarket spectrum resale and spectrum warehousing.

Sprint endorses using a minimum subscriber requirement to prevent a PCO with a small number of subscribers from monopolizing a CARS station that could otherwise be licensed to a cable system serving a significantly larger subscriber base. This would also ensure that use of this spectrum is maximized.

CARS licensees should be permitted to provide voice or data using the 12 GHz CARS band

Sprint strongly advocates permitting CARS licensees to provide voice and data using the 12 GHz CARS band without any restrictions as to the mix of services delivered. Such flexibility would enhance competition, reduce barriers to entry for operators with integrated voice/data/video services, and enable competitive pricing. The ability to share voice/data/video traffic on the CARS band eliminates trunking inefficiencies that might result if separate bands are used to carry such diverse traffic. Sprint applauds the Commission's initiatives to increase spectrum flexibility and enhance competition via the recent authorization for two-way communications in the MDS/ITFS bands, and proposes that similar foresight be shown in allowing unrestricted sharing of voice/data traffic with video traffic.

Sprint supports the Commission's actions in facilitating continuous channel transmissions. Sprint recommends that the Commission further promote seamless and efficient channel use by adopting a flexible channelization plan, whereby a CARS licensee

may optimize its performance by creating sub-channels or super-channels in the CARS bands as long as the spectral emission requirements for the CARS band are met.

An increasing number of service providers are finding it financially and technically advantageous to bundle voice, data and video services into a single, contiguous data stream and, consequently, distinctions among these formerly discrete services are beginning to blur. Providers of wireless entertainment video services are finding it critical to bundle voice and data services into today's offerings in order to remain competitive in the marketplace. Analog services provided via MMDS channels are no longer competitive or financially viable solutions to business and consumer needs. As cable companies rapidly move to digital carriage and provide data and voice services, MMDS providers must also upgrade and enhance their offerings to remain competitive.

Sprint supports modifying the Part 78 definition of the type of signal that may be transmitted over CARS stations to include voice and data signals. Such expansion of CARS band usage will not only benefit Sprint in its effort to bypass potential barriers to entry in certain markets, it will also foster the development and delivery of advanced technologies to end users. In addition to its continued use of CARS frequencies for point-to-point links to transmit video material to Head Ends of its acquired and operational Wireless Cable Systems, Sprint contemplates using such frequencies in its future two-way systems to back-haul voice and data traffic from its MMDS base stations. Using the CARS frequency band to back-haul Sprint's MMDS traffic is both feasible and technically efficient. Traditional back-hauling methods require construction of additional fiber routes, involving gaining access to public and private rights-of-way, engaging in detailed planning, and completing time-consuming implementation. The process can take

months, due to bottlenecks involved in obtaining rights-of-way, thereby delaying market entry and public service. Using the CARS frequency band for back-haul applications could alleviate delays inherent in the use of other back-haul methods, allowing for a more rapid deployment of high speed, advanced technological services to the public and the introduction of competition to the marketplace.

Conclusion

Sprint urges the Commission to refrain from granting PCOs, MVPDs, or OVS operators eligibility to use the CARS band other than on a secondary basis. This spectrum is already heavily used and further expanding eligibility will impair the ability of existing CARS licensees to provide high quality service by increasing the likelihood of congestion and interference. The Commission should support existing CARS licensees in their efforts to provide the public with new, efficient, competitive services by granting them flexibility in using the 12 GHz band for services such as combined voice, data, and video services.

Respectfully submitted,

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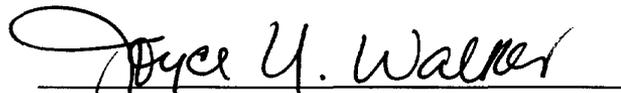
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August 16, 1999

CERTIFICATE OF SERVICE

I, Joyce Y. Walker, hereby certify that I have on this 16th day of August 1999, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation," In the Matter Petition for Rulemaking To Amend Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay Service, CS Docket No. 99-250, filed this date with the Secretary, Federal Communications Commission, to the persons listed below.



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