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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
MicroTrax™, Inc.)
Petition For Rulemaking)
)
Allocation of Electromagnetic)
Spectrum Pursuant to Title III of)
the Balanced Budget Act of 1997)
)
Amendment of Part 90 of the Rules)
to Establish a New SubPart Y -)
Personal Location and Monitoring Service)

RM No. 9797

COMMENTS ON PETITION FOR RULEMAKING

The American Hospital Association Task Force on Medical Telemetry ("the AHA Task Force"), by its attorneys and pursuant to Section 1.405 of the Commission's rules, hereby files its comments on the above-designated petition for rulemaking ("Petition") filed by MicroTrax™, Inc. ("MicroTrax™" or "Petitioner"), which was placed on public notice January 7, 2000.

I. Background

In the Petition, MicroTrax™ requests that the Commission commence a "comprehensive" rule making proceeding for the purpose of allocating several bands of spectrum made available by the Federal Government pursuant to the Balanced Budget Act of 1997 and to establish a new Personal Location and Monitoring Service ("PLMS") to which some of the spectrum should be dedicated.¹ MicroTrax™ claims that PLMS technology can provide location, tracking and

¹Petition at 1-2.

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monitoring services at such reasonable cost that it can be deployed for applications affecting everyday situations confronted by individual consumers and small business.² MicroTrax™ states that its technology requires a spectrum allocation on an exclusive or semi-exclusive basis, urges the use of auctions for assigning the spectrum allocated to PLMS, and recommends the issuance of nationwide licenses.³

MicroTrax™ has identified ten separate spectrum blocks ranging from the 1.4 GHz band to the 4.6 GHz band that could be allocated for PLMS and/or other services. MicroTrax™ recognizes that the Commission has proposed in ET Docket No. 99-255 to allocate portions of four of the identified spectrum blocks within the 1.4 GHz band (1385-1390 MHz, 1390-1400 MHz, 1427-1432 MHz and 1432-1435 MHz) to the Wireless Medical Telemetry Service ("WMTS") and that the AHA Task Force initially requested the 1385-1390 MHz and 1432-1435 MHz bands for WMTS.⁴ MicroTrax™ implicitly concedes that PLMS could not share with WMTS and that PLMS should utilize only those bands not allocated to WMTS.⁵

II. Discussion

The AHA Task Force takes no position on whether it would serve the public interest to establish PLMS as a new service and to allocate frequencies to it. The AHA Task Force, however, commends MicroTrax™ for recognizing the priority in frequency allocation to be

²Id. at iii.

³Id. at 2.

⁴Id. at 16 citing Amendment of Parts 2 and 95 of the Commission's Rules to Create a Wireless Medical Telemetry Service, 14 FCC Rcd 16719 (1999) ("WMTS NPRM").

⁵Petition at 15, 16.

accorded WMTS over PLMS. MicroTrax™ expressly acknowledges the precedence in time of the WMTS rule making that was initiated in July 1999. It should be noted, however, that concerns about possible interference to medical telemetry equipment arose several years ago and were heightened in March 1998 when a TV station in Texas began test transmissions on a previously unused channel that had been assigned to it for digital television (DTV) operations.⁶ Those transmissions caused severe interference to the operation of medical telemetry equipment at a nearby hospital. The Commission also has expressed concerns dating from 1995 regarding the potential increased interference to existing medical telemetry equipment due to the new channeling scheme it adopted in the 450-470 MHz band for private land mobile radio (“PLMR”) operations.⁷

Less expressly, MicroTrax™ also recognizes the priority of WMTS’ purpose for patient care, as it acknowledges the arguments in favor of granting the allocations requested by the AHA Task Force.⁸ Indeed, the AHA Task Force’s comments in ET Docket No. 99-255 demonstrated that the reliable use of wireless medical telemetry equipment is essential for health care facilities to provide effective patient monitoring for the early detection of life-threatening physiological developments. MicroTrax™ does not dispute the need for spectrum to be allocated to WMTS promptly with primary or co-primary status.

⁶WMTS NPRM, 14 FCC Rcd at 16722.

⁷Id. at 16720-21.

⁸Petition at 16.

In light of the urgent need for an allocation to WMTS to allow wireless medical telemetry devices to operate without the threat of harmful interference from DTV and from PLMR operations in the 450-470 MHz bands, the AHA Task Force vigorously opposes the request of MicroTrax™ for a "comprehensive Notice of Proposed Rulemaking that would encompass all of the available bits and pieces of spectrum waiting to be allocated and assigned."⁹ Initiating such a "comprehensive" rule making at this time would not serve the public interest, as it only would delay the completion of the WMTS rule making in ET Docket No. 99-255 and the much-needed allocation of frequency bands in the 1.4 GHz band to WMTS.¹⁰ Initial and reply comments already have been filed in the WMTS rule making, and the parties are now waiting a final Commission decision that is expected to be made soon.

Moreover, many of the frequency bands which would be part of MicroTrax's™ proposed comprehensive rule making are entirely unrelated, have dissimilar technical characteristics, and have different availability times and sharing requirements with the Federal Government. Combining into one omnibus proceeding all the factors related to allocating and making rules for each of the disparate spectrum bands identified in the Petition inevitably would result in an unnecessarily complex, cumbersome and unduly lengthy proceeding, causing significant delays

⁹Petition at 2.

¹⁰An immediate allocation to WMTS in the 1.4 GHz band is needed because the other band proposed for WMTS (TV Channel 37 encompassing 608-614 MHz) will not be available for use in the vicinity of radio astronomy "quiet zones" and where broadcasters' use of TV Channels 36 and/or 38 may encroach upon the amount of TV Channel 37 spectrum available for WMTS. Members of the AHA Task Force have identified approximately ten mid-sized cities where health care facilities would be precluded from using TV Channel 37 due to their proximity to "quiet zones." Moreover, they also identified 120 locations where either TV Channel 36 or 38 has been assigned for DTV transmissions.

in the allocation of any frequency band.¹¹

In conclusion, regardless of whether the Commission decides to initiate a proceeding to allocate frequencies to PLMS, it should not commence a comprehensive rule making to address all the available frequency bands until at least after it completes the WMTS rule making in ET Docket No. 99-255 . Rather, the Commission should allocate frequencies in the 608-614 MHz and 1.4 GHz bands to WMTS promptly, before taking any action on the MicroTrax™ Petition.

Respectfully submitted,

**AMERICAN HOSPITAL ASSOCIATION
TASK FORCE ON MEDICAL TELEMETRY**



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¹¹As the U.S. Court of Appeals for the District of Columbia Circuit has stated: “The best must not become the enemy of the good, as it does when the FCC delays making any determination while pursuing the perfect [solution].” MCI Telecommunications Corp. v. FCC, 627 F.2d 322, 343 (D.C. Cir. 1980).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **COMMENTS ON PETITION FOR RULEMAKING** were served this 7th day of February, 2000, via hand delivery upon the following:

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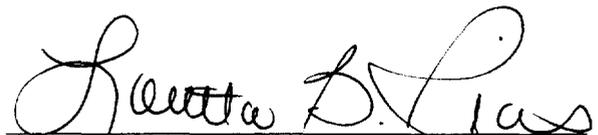
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