

ORIGINAL

LAW OFFICES
GOLDBERG, GODLES, WIENER & WRIGHT
1229 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036

ORIGINAL

HENRY GOLDBERG
JOSEPH A. GODLES
JONATHAN WIENER
W. KENNETH FERREE
SHERYL J. LINCOLN
HENRIETTA WRIGHT
THOMAS G. GHERARDI, P.C.
COUNSEL

EX PARTE OR LATE FILED

(202) 429-4900
TELECOPIER:
(202) 429-4912

e-mail:
general@g2w2.com

August 17, 2000

BY HAND DELIVERY

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
The Portals, 445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

AUG 17 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: ET Docket 99-231
Amendment of Part 15 of the Commission's
Rules Regarding Spread Spectrum Devices
--- *Ex Parte Filing*

Dear Ms. Salas:

The attached document was distributed this day to Clint Odom, Legal Advisor to Chairman Kennard, Adam Krinsky, Legal Advisor to Commissioner Tristani, Mark Schneider, Legal Advisor to Commissioner Ness, Bryan Tramont, Legal Advisor to Commissioner Furchtgott-Roth and Peter Tenhula, Legal Advisor to Commissioner Powell. The document should be filed in the above referenced docket.

If there are any questions in this regard, please contact the undersigned.

Respectfully submitted,



Henry Goldberg
Attorney for Proxim, Inc.

cc: (w/o attachment)
Clint Odom
Adam Krinsky
Mark Schneider
Bryan Tramont
Peter Tenhula

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e-mail:

HENRIETTA WRIGHT
THOMAS G. GHERARDI, P.C.
COUNSEL

MEMORANDUM

TO: C. ODOM
B. TRAMONT
M. SCHNEIDER
P. TENHULA
A. KRINSKY

FROM: H. Goldberg

RE: IFRA issue

DATE: August 17, 2000

The FCC's wide band frequency hopping proposal is ripe for decision. Within the past week, however, the Commission has received letters from the Senate and House small business committees urging delay in acting on the item until the FCC brings itself into compliance with the Regulatory Flexibility Act ("RFA"). The authors of the letters claim that the Commission did not issue an adequate Initial Regulatory Flexibility Analysis ("IFRA"), as required by the RFA.

In Docket No. 99-231, the Commission analyzed the impact of the proposed rules on small businesses and published the IFRA with the proposed wideband frequency hopping ("WBFH") rules. In October 1999, however, the Small Business Administration ("SBA") filed comments criticizing the IFRA and urging the Commission to re-do the analysis and re-publish an expanded IFRA.

Subsequently, once the significance to small business and benefits of the FCC's proposal had been explained to the SBA, the SBA changed its position. In a letter to the FCC dated February 29, 2000, the SBA pointed out that small businesses had in fact participated in the rulemaking and that the proposed rules will have a beneficial impact on small businesses. Therefore, the SBA withdrew its request for a new IFRA, because it did not want to delay issuance of the final WBFH rules.

The Congressional letters, however, apparently were prompted by WBFH opponents who, at the very least, do want to delay the adoption of final rules. At this point, delay will not serve the interests of small business but only the interests of the large businesses who are the opponents of low-cost home networking choices for small businesses and the public at large. Re-issuance of an IFRA will take no less than a month; public comment and further delaying tactics could very well stretch out the additional delay to six months or more.

There is no true IFRA issue. As the SBA concluded, the WBFH rules will benefit small businesses. Further delay in issuing those rules will hurt small businesses. Given the SBA's position, the Commission's final rules will not be vulnerable to legal challenge. The Commission should adopt its WBFH rules immediately.