

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
) Before the Mass Media Bureau
Extension of the Five-Year Build-Out Period) DA No. 01-1072
For BTA Authorization Holders in the)
Multipoint Distribution Service)

COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby submits its comments in response to the Commission’s *Public Notice* seeking comment on its proposal to extend the current five-year build-out requirement imposed on Basic Trading Area (“BTA”) authorization holders in the Multipoint Distribution Service (“MDS”) by two years.¹

Sprint wholeheartedly supports the Commission’s proposal to extend the build-out requirement and thereby allow BTA authorization holders a more reasonable time in which to construct new facilities. Moreover, Sprint urges the Commission to revisit the terms of the MDS BTA build-out requirement, particularly as it defines substantial service and the exclusion of protected service areas from the service equation.

As the Commission recognized in its *Public Notice*, the build-out requirement demanding that BTA authorization holders construct MDS stations providing signals “capable of reaching at least two-thirds of the applicable service area, excluding the populations within protected service areas [PSAs], of incumbent stations” within five years of a BTA authorization, is a vestige of a time when BTA authorization holders were

¹ “In the Matter of Extension of the Five-Year Build-Out Period for BTA Authorization Holders in the Multipoint Distribution Service,” *Public Notice*, DA 01-1072 (rel. April 25, 2001)(“*Public Notice*”).

envisaged to provide wireless cable operations, rather than the high-speed broadband services that they have evolved to provide.² Today, neither the build-out requirement itself, nor its definition of substantial service and exclusion of PSA populations, furthers the objective originally intended, namely ensuring the rapid deployment of wireless cable programming. Instead, the build-out requirement serves as a stringent rule which, as the Commission recognizes, “would be unreasonable, would not promote efficient use of the spectrum, and would be contrary to the public interest.”³ A waiver of the rule is thus justified.

Sprint is aggressively launching its high-speed broadband services and since March, 2000, has rolled out service in fourteen markets.⁴ As of December 31, 2000, Sprint was using its two-way channels to provide advanced fixed wireless services to more than 20,000 residential and small business customers in 10 markets. It has since added four markets. Sprint is currently adding over 2,000 new customers every week. By the end of 2001, Sprint expects to be providing advanced fixed wireless services to tens of thousands more customers. Clearly, Sprint is not allowing its spectrum to lay fallow, nor otherwise exhibiting anything but absolute determination to swiftly roll-out its broadband services. Nevertheless, as the existing build-out rule stands, Sprint would be hard-pressed to comply with the two-thirds requirement and would find compliance nearly impossible without including PSA populations.

² 47 C.F.R. § 21.930 (c)(1).

³ *Public Notice*, DA 01-1072 at ¶ 6.

⁴ These markets include Phoenix and Tucson, Arizona; Detroit, Michigan; Colorado Springs and Denver, Colorado; Chicago, Illinois; Houston, Texas; San Jose, Fresno and Oakland, California; Salt Lake City, Utah; Wichita, Kansas; Melbourne, Florida; and Oklahoma City, Oklahoma.

In instances when the BTA authorization holder is also the PSA licensee, or otherwise affiliated with the PSA licensee, the exclusion of the PSA from the build-out equation greatly distorts the actual level of build-out and subjects MDS providers to a much more stringent rule than those applied to other point-to-multipoint fixed wireless services. The Commission should take this opportunity to re-draft the rule to comport with today's requirements and establish a more reasonable build-out benchmark.

Sprint applauds the Commission for recognizing that an extension is necessary and urges it to revise the build-out requirement to accommodate the evolution of MDS services to high-speed broadband services.

Respectfully submitted,

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