

ORIGINAL
DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

ORIGINAL

M. ANNE SWANSON
DIRECT DIAL 202-776-2534
aswanson@dialaw.com

WASHINGTON, D.C.
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

ONE RAVINIA DRIVE • SUITE 1600
ATLANTA, GEORGIA 30346-2108
TELEPHONE 770-901-8800
FACSIMILE 770-901-8874

August 30, 2001

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VIA HAND DELIVERY

Magalie R. Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

EX PARTE OR LATE FILED

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notification of Ex Parte Communication
WT Docket No. 99-168; CS Docket No. 98-120; MM Docket No. 00-39

Dear Ms. Salas:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that on Wednesday, August 29, 2001, John Feore and I, as counsel for Paxson Communications Corporation, met with Adam Krinsky, Legal Advisor to Commissioner Gloria Tristani, and Paul Margie, Legal Advisor to Commissioner Michael Copps, regarding the March 16, 2001 Petition for Clarification and Reconsideration filed by the Spectrum Clearing Alliance. The discussions involved various issues raised in the Petition for Clarification and Reconsideration, including the need for the FCC to act promptly on the Petition and the mechanics of broadcaster band-clearing in the Channels 59-69 band. The attached material was provided at the meeting. As required by Section 1.1206(b), two copies of this letter are being submitted for each of the above-referenced dockets.

Very truly yours,



M. Anne Swanson

Enclosures

cc w/encls. by hand delivery:

Adam Krinsky, Esquire
Paul Margie, Esquire

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**THE 700 MHz SPECTRUM AUCTION
&
THE SPECTRUM CLEARING ALLIANCE**

- The FCC adopted procedures for auctioning the upper 700 MHz spectrum (746-764 and 776-794 MHz) in its Third Report and Order released on January 23, 2001 (WT Docket No. 99-168). There is currently pending before the FCC, a Petition for Clarification and Reconsideration filed by The Spectrum Clearing Alliance asking the FCC to modify certain procedures to expedite the band-clearing.
- The upper 700 MHz spectrum auction was originally scheduled for May 10, 2000, has been postponed five times and there is no scheduled auction date at this time.
- There are 102 analog television stations operating in the Channels 59-69 band (although Channel 59 will not be auctioned by the FCC, the spectrum must be cleared in order to permit full use of Channel 60 which will be auctioned) and there are 42 digital channel allotments in this band.
- Broadcasters operating in this band are not required to vacate the analog spectrum until December 31, 2006 or, at a later date, if 85% of the homes in their markets are not capable of receiving digital broadcast signals. It is widely believed that the 2006 deadline will not be met.
- Without an effective band-clearing plan, this upper 700 MHz spectrum may be auctioned by the FCC but will not be usable for 3-G purposes for many years. With an effective band-clearing plan, the auction can proceed with the expectation that the wireless bidders will have full use of the spectrum within a reasonable period of time.
- DoD has raised concerns about the 1700 MHz band and the FCC appears reluctant to move on the 2500 MHz band occupied by MMDS/ITFS licensees. As a result, the upper 700 MHz spectrum may be the last nationwide spectrum allocation available in 10 MHz and 20 MHz groups and not subject to the FCC's existing spectrum caps.
- The Spectrum Clearing Alliance currently represents more than 60% of the analog stations operating in the 59-69 band and it is anticipated that participation in the Alliance could grow to 85-90% by the time of the auction.
- The Spectrum Clearing Alliance has proposed several minor changes in the FCC's band-clearing procedures that would encourage broadcasters to voluntarily negotiate with the wireless bidders in an effort to clear the upper 700 MHz spectrum. Payments would be made by the auction bidders to broadcasters relocating out of the band and those broadcasters (probably plan no more than 80-90 stations) would be permitted to delay their transition to digital operations.

- The overall benefits of the Spectrum Clearing Alliance plan include the prompt conduct of the upper 700 MHz spectrum auction so that those wireless companies needing spectrum will know that the 700 MHz can be utilized in the near term, the payment into the U.S. Treasury sometime in 2002 of the auction proceeds, the accelerated clearing of the band by television broadcasters which can serve as a model for the eventual clearing of the lower 700 MHz spectrum band and the payments to broadcasters (including public television stations, smaller independent stations and religious-formatted stations) of sufficient monies to enable them to construct their DTV facilities.

QUESTIONS ABOUT THE SPECTRUM CLEARING ALLIANCE

QUESTION 1: What Channels does it cover?

ANSWER: The Spectrum Clearing Alliance plan initially covers the reallocation of Channels 59-69. However, the same principles in the Spectrum Clearing Alliance plan could also apply to the reallocation of Channels 52-58, subject to reasonable modifications based upon the experience in clearing Channels 59-69.

QUESTION 2: How many stations are in this band of spectrum?

ANSWER: 42 digital stations and 102 analog stations.

QUESTION 3: Are you proposing to have the stations move to their digital assignments (are they in the core 2-51?) and at that location air digital transmissions but downgrade them to analog? If so, how do those compare to normal analog reception – I heard that it was substandard. Or are you proposing to move to digital and air in digital?

ANSWER: The Spectrum Clearing Alliance plan would permit a television station vacating a channel in the 59-69 band to either (i) obtain a new channel outside the 59-69 band either by entering into an agreement with another station to obtain another channel or receiving another allotment, subject to satisfying the FCC's 2% / 10% interference rule, or (ii) operate with only a single channel. A station with only a single channel would operate as an analog station or a digital station. A single channel station choosing to operate in analog would have to convert to digital on that channel by December 31, 2005, or whenever 75% of the television households in its market can receive digital broadcast signals over the air. By providing stations with such discretion, broadcasters would be more likely to clear the band. The FCC has already blessed the concept of 2-party and 3-party channel swap among broadcasters in which a broadcaster that is reluctant to give up its analog or digital channel in the 59-69 band could "swap" with a broadcaster with a channel in the 2-51 core that is agreeable to operating on a single channel. If a broadcaster elects to broadcast in analog on a digital channel, the signal quality would be the same.

QUESTION 4: How would the auction work? Would you have kind of a pre-auction amongst yourselves first? Still confused about how it would come together.

ANSWER: The Spectrum Clearing Alliance is proposing a band clearing plan whereby broadcasters in the 59-69 band and telcos interested in bidding on the 700 MHz spectrum would enter into a negotiated agreement prior to the government auction of the 700 MHz spectrum. This agreement would provide for a payment to broadcasters for clearing the 59-69 band by a date certain and a guarantee to telcos that the Channel 59-69 spectrum would be available for their wireless uses by the agreed-upon date. The broadcasters participating in the agreement would receive compensation in relation to their station's Grade B coverage. Telcos participating in the agreement would only be obligated to pay the broadcaster if they were the winners in the government auction of the 700 MHz. Thus, prior to the government auction, the telcos would know what it will cost to clear the 59-69 band.

DOW, LOHNES & ALBERTSON, PLLC
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WASHINGTON, D.C.

1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222
DIRECT DIAL:

MEMORANDUM

DATE: August 21, 2001
RE: Spectrum Clearing Alliance

The following outlines various scenarios for band-clearing pursuant to the proposals of the Spectrum Clearing Alliance.

Single Station.

Station A operates on analog Channel 20 and has been allocated DTV Channel 60. This station relinquishes its DTV Channel 60 and continues to operate on analog Channel 20, converting to digital operation on Channel 20 before December 31, 2005 or when 70% of the television households in its market are capable of receiving digital broadcast signals over-the-air using either a digital television set or an analog set equipped with a receiver to convert the digital signal ("DTV Transition Date").

A slightly different scenario involves Station B operating with analog Channel 60 and allocated DTV Channel 20. Station B relinquishes its analog Channel 60, converts to analog operation on Channel 20 and will then convert to digital operation on Channel 20 on the DTV Transition Date.

Two Station Band-Clearing

Station A operates on analog Channel 20 and has been allocated DTV Channel 60. Station B operates on analog Channel 30 and has been allocated DTV Channel 40. Station A relinquishes its DTV Channel 60 in return for receiving Station B's DTV Channel 40. Station B is left with a single channel operation and will make the DTV conversion on Channel 30 on the DTV Transition Date. Station A will follow the normal DTV conversion deadlines.

This band-clearing procedure is essentially the same whether Station A has an analog or digital channel in the Channel 59-69 band.

Three Station Band-Clearing

Station A operates on analog Channel 20 and has been allocated DTV Channel 60; Station B operates on analog Channel 30 and has been allocated DTV Channel 50; and,

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Station C operates on analog Channel 40 and has been allocated DTV Channel 45. Station C enters into an agreement with Station A to give up its DTV allotment Channel 45 and Station A will clear its DTV allotment Channel 60. However, Station C then enters into an agreement with Station B to obtain one of its in-core channels (30 or 50) for its digital allocation. This leaves Station B with only a single channel which it would be permitted to operate in analog until the DTV Transition Date at which point it converts to digital operation on its channel. Both Stations A and Stations C would have analog and digital channels and would operate pursuant to the usual DTV transition.

In the band-clearing agreement involving three TV stations, the outcome is the same as a two-station agreement, but the third station's presence may be required in order to ensure that the band-clearing will occur.



STAMP & RETURN

Lowell W. Paxson / Chairman

June 5, 2001

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room 8-A204C
Washington, DC 20554

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JUN 6 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Re: WT Docket No. 99-168

Dear Chairman Powell:

On March 16, 2001, the Spectrum Clearing Alliance filed a Petition for Clarification and Reconsideration with the Commission seeking certain changes in the band-clearing rules and policies adopted by the FCC in its Third Report and Order in WT Docket No. 99-168 released on January 23, 2001. Since that filing, the parties to the Spectrum Clearing Alliance's Petition have increased from 42% of the existing analog stations in the Channels 59-69 band to slightly more than 60% of the existing analog stations in that band. Members of the Alliance have also met with Commission personnel to brief them on the requested rule changes.

Among other things, the Alliance's Petition requests that any incumbent broadcaster clearing either its analog or digital allotment in the Channels 59-69 band be permitted to operate in an analog format (on a digital assignment if compatible with FCC technical requirements) and convert to digital at any time up until the end of the DTV transition. The broadcasters would construct their new analog facilities with dual purpose antennas so that they would be able to flash-cut from an analog to a digital operation upon making a few minor technical alterations.

As you know, the Balanced Budget Act of 1997 set a deadline of December 31, 2006 for broadcasters to complete the transition to digital broadcasting but further provided that a broadcaster would receive an extension of that deadline if it could demonstrate that less than 85% of the television households in its market are capable of receiving digital broadcast signals via either an over-the-air digital television set or an analog set equipped with a digital receiver to convert the signal to an analog set.

The Alliance continues to believe that permitting the band-clearing broadcasters to delay their transition to digital operations is appropriate and fully justified in these circumstances. First, such a station would have already returned its paired channel for potential use by



The Honorable Michael K. Powell

June 5, 2001

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telecos in the introduction of new 3-G services. Second, there would only be a limited number of affected stations (most likely 80-90 at most) and this would not have a significant negative impact on the conversion to digital. Third, these broadcasters would otherwise be reluctant to clear the band because of the absolute loss of their analog service long before their competitors would cease such analog operations. Finally, this accelerated band clearing will benefit the many public safety organizations eager to utilize the portion of the 700 MHz set aside for such use. The Alliance's band clearing plan will free up this spectrum at no cost to the public safety organizations.

Nevertheless, the Alliance is herein proposing that broadcasters clearing the Channels 59-69 band be permitted to operate in an analog-only format (if they should so choose) and not have to convert their stations to digital until December 31, 2005 or when 70% of the television households in their markets are capable of receiving digital broadcast signals over-the-air using a digital television set or an analog set equipped with a digital receiver to convert the signal to an analog set. This TV household penetration level would be reduced to 50% if full digital multicast must carry rules are implemented by the Commission providing that all free, over-the-air video programming services provided by a digital broadcast station, electing must carry, are carried by all multichannel video programming providers, i.e., cable, DBS, DSL, in its market.

We trust that this proposal of the Spectrum Clearing Alliance is responsive to the issues of the compatibility between the Alliance's band-clearing proposal and the transition to digital by the broadcast industry.

Very truly yours,

Lowell W. Paxson

Chairman

Paxson Communications Corporation