

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

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In the Matter of)

Reallocation of the 216-220 MHz,
1390-1395 MHz, 1427-1429 MHz,
1429-1432 MHz, 1432-1435 MHz
1670-1675 MHz and 2385-2390 MHz
Government Transfer Bands)

)
)
) WT Docket No. ~~02-081~~
) RM-9267
) RM-9692
) RM-9797
) RM-9854
) RM-9882

02-81

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OFFICE OF THE SECRETARY

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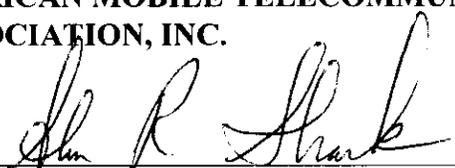
To: The Commission

**COMMENTS OF THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

Respectfully submitted,

**AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.**

By: _____


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The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding.¹

I. INTRODUCTION

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association’s members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio (“SMR”) service operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and the 450-512 MHz bands. These members provide commercial wireless services throughout the county to the Private Land Mobile Radio (“PLMR”) user community. Because the Notice proposes service rules for the 1392-1395/1432-1435 MHz band recently allocated for mobile and fixed services, a band potentially useable for non-consumer PLMR wireless communications, the Association and its members have a significant interest in the outcome of the proceeding.

II. DISCUSSION

2. In the Notice, the Commission proposes new service rules for the licensing of 27 megahertz of spectrum from the 216-220 MHz, 1390-1395 MHz, 1427-1429.5 MHz, 1429.5-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz bands. This spectrum was transferred from Government to non-Government use pursuant to the provisions of the Omnibus

¹ 47 C.F.R. § 1.415; *Notice of Proposed Rule Making*, WT Docket No. 02-08, FCC 02-15 (rel. Feb. 6, 2002) (“Notice” or “NPR”).

Budget Reconciliation Act of 1993 and the Balanced Budget Act of 1997. In the Reallocation Report and Order, the Commission paired the 1392-1395 MHz band with the 1432-1435 MHz band and assigned the six megahertz of paired spectrum for fixed and mobile services.² AMTA will limit its comments to this spectrum, since it is the only allocation suited for private wireless use out of the 27 megahertz of spectrum allocated from Government to non-Government use.³

3. The PLMR community is at a critical time in its history. The entities that comprise this constituency include both private internal systems operated by users themselves and systems provided by third parties, such as AMTA's members, which have proven highly valuable in offering spectrum-efficient, cost-effective service specifically tailored to the needs of eligible PLMR users. Both commercial and private internal entities are experiencing increasingly intractable spectrum shortages while faced with increasing demand for communications capability. Additional spectrum that is meaningfully available is required to address the needs of this community.⁴

A. The 1392-1395/1432-1435 MHz Bands Should Be Licensed Exclusively To Band Managers.

² See, *Report and Order and Memorandum Opinion and Order*, ET Docket No. 00-221, FCC 01-382 (rel. Jan. 2, 2002) ("Reallocation Report and Order").

³ AMTA, and the Land Mobile Communications Council ("LMCC"), also had urged the FCC to pair the 1390-1392/1427-1429 MHz bands and allocate that spectrum for site-specific licensing by PLMR eligibles. Instead, the lower portion of that pair was assigned to the fixed-satellite service and the higher portion to the Wireless Medical Telemetry Service. *Id.*

⁴ This spectrum need was specifically recognized by the Commission as recently as 1999 in its *Spectrum Policy Statement*. See, *Principles for Reallocation of Spectrum to Encourage the Development of Telecommunications Technologies for the New Millennium, Policy Statement*, 14 FCC Rcd. 19868 (1999) ("Policy Statement").

4. In the Notice, the Commission questions whether band managers are an appropriate licensing framework for the 1392-1395 MHz and 1432-1435 MHz allocation. The Commission proposes that licensees have the option of electing to operate either as a Band Manager or as a regular, non-Band Manager-type licensee.⁵

5. While AMTA generally favors non-restrictive access to spectrum, it submits that, in this instance, limiting eligibility to Band Managers will best serve the FCC's avowed intent to promote the establishment of a new Land Mobile Communications Service ("LMCS") for the PLMR user community that makes use of spectrum efficient radio technologies.⁶ The Policy Statement recognized that the requirements of this segment of the telecommunications industry might not be satisfied without a regulatory framework crafted to accommodate them. Specifically, in discussing use of some portion of the government transfer spectrum for a new LMCS ; the Commission noted that "... there may be strong public policy reasons to employ strategies collateral to auctions for ensuring that this spectrum is used for the highest valued purposes."⁷

6. The Association is convinced that this objective is most likely to be achieved through Band Manager licensing, an approach that reasonably reconciles the statutory requirement that the spectrum be auctioned with the multiplicity of communications needs typical of the PLMR user community. Band Managers, as spectrum lessors to the broad variety of PLMR eligibles, including third-party providers such as AMTA's members, have the economic incentive to

⁵ Notice at ¶38.

⁶ Policy Statement at ¶ 24.

⁷ *Id.*

participate in geographic-based competitive bidding. By contrast, a significant percentage of those prospective lessees have highly-defined areas in which they require communications capability, areas which often will not mirror the boundaries of the FCC's auction markets, a fact that necessarily will discourage auction participation. Moreover, this bifurcation of economic responsibility, with Band Managers making the upfront investment in spectrum while their lessees invest in the technology to be deployed on it, is a reasonable balance that can be expected to promote the introduction of more advanced, spectrum efficient technologies.

7. Should the Commission permit eligibility for both Band Managers and non-Band Managers in this band, it is doubtful that the LMCS envisioned in the Policy Statement will be realized in this spectrum. Rather than creating a home for the deployment of improved technologies by the myriad individual entities that comprise the PLMR community, the Commission will simply have presented another opportunity for spectrum to be utilized by consumer-oriented commercial operators.

8. AMTA, as the representative of the specialized wireless communications provider industry, is firmly convinced that many individual PLMR requirements can be satisfied on commercial systems, an opinion that increasingly has been confirmed in the marketplace. It nonetheless believes that the Band Manager concept is well suited to promote both the commercial and non-commercial PLMR interests the Commission intended to satisfy in its proposed LMCS allocation and recommends that it be adopted as the exclusive licensing framework for this allocation.

9. AMTA further recommends that Band Managers in this spectrum be subject to the same rules and regulations as were adopted for the 700 MHz Guard Band Managers. The Commission implemented those provision for 700 MHz Band Managers after careful consideration and based

on an extensive record in that proceeding.⁸ There is no indication as yet that those provisions need revision or reconsideration. Absent an affirmative determination that changes are required, AMTA recommends that the FCC implement the same rules and regulations for the subject spectrum.

A. This Band Should Be Licensed In Smaller Geographic Service Areas and Spectrum Blocks.

10. In the Notice, the Commission proposes geographic area licensing and seeks comment on the appropriate market definitions to be used. The Commission tentatively has concluded to license the 1670-1675 MHz band on a nationwide basis and questions whether the 1392-1395/1432-1435 MHz band also should be licensed on a nationwide basis.⁹

11. For many of the reasons described above, AMTA does not support licensing this band on a nationwide basis. Nationwide licensing may be appropriate for broadband consumer-oriented commercial services and administratively convenient for the agency, but it typically is not compatible with PLMR use. PLMR eligibles come in all shapes and sizes but it is the rare entity that requires anything approximating nationwide coverage. Some of the largest may need to communicate throughout expansive regions, but the majority have relatively localized market needs, coverage requirements that generally are mirrored by the commercial providers that serve them such as AMTA's members.

12. Adoption of the Band Manager concept would alleviate this problem to some extent, but

⁸ See Service Rules for the 746-764 and 776-794 MHz Bands and Revisions to Part 27 of the Commission's Rules, WT Docket No. 94-168.

⁹ Notice at ¶¶32-33.

AMTA is concerned that the interests of the smallest, most localized users may be overlooked by Band Managers with nationwide responsibility. Instead, AMTA suggests that Regional Economic Area Groupings (REAGs) are the appropriate service area for this spectrum. REAGs would “provide large enough service areas” and at the same time “will permit the dissemination of licenses among a wide variety of applicants.”¹⁰ The FCC already is familiar with this geographic grouping so its utilization would not add complexity to or delay completion of this proceeding.

13. AMTA also disagrees with the suggestion that “the paired 1392-1395 MHz and 1432-1435 MHz bands could be licensed as one six-megahertz block of paired spectrum per service area”.¹¹ AMTA recommends instead that a minimum of two licenses in blocks of 3 MHz per license (*i.e.*, 1.5 MHz paired) be assigned in each of the six REAGs. Twelve licenses of 1.5 MHz paired, instead of one nationwide license, still “would maximize the value of the spectrum”¹² for Band Managers leasing to multiple users, but would introduce much needed competition to an otherwise monopolistic environment. If a particular Band Manager is advised that the advanced technologies intended to be deployed by a lessee demand greater bandwidth, the Band Manager should be free to acquire whatever additional spectrum is needed to accommodate that technology in the desired geographic area.

III. CONCLUSION

14. For the reasons described above, AMTA recommends that the FCC proceed promptly to act in a manner consistent with the positions expressed herein.

¹⁰ Notice at ¶31.

¹¹ Notice at ¶35.

¹² *Id.*

CERTIFICATE OF SERVICE

I, Janelle T. Wood, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this March 4, 2002, caused to be mailed, first-class, postage prepaid, a copy of the foregoing Comments to the following:

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A handwritten signature in black ink that reads "Janelle T. Wood". The signature is written in a cursive style with a horizontal line underneath it.

Janelle T. Wood