

May 8, 2003

Joink  
1362 Wabash Ave  
Terre Haute, IN  
47807

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

Re: RM-10403  
*WRITTEN EX PARTE PRESENTATION*

Dear Ms. Dortch:

We are writing to you to express our serious concern over proposed changes to the existing rules governing the use of the license-exempt 902 – 928 MHz spectrum. In particular, we believe that adoption of the rule changes proposed by Progeny LMS, LLC will cause irreparable harm not only to Joink's business, but to our customers who rely on the spectrum for affordable broadband access.

Joink is an Internet Service Provider that operates telecommunications networks in Indiana and Illinois. We have deployed wireless broadband networks with equipment manufactured by WaveRider Communications Inc. for the 902-928 MHz band. Our networks have been deployed in 16 communities to date, serving more than 600 business and residential subscribers. Our business plan for 2003 includes the deployment of 900 MHz broadband systems in 20 additional communities, with further expansion planned for 2004 and beyond.

The 902-928 MHz spectrum is ideal for the delivery of broadband services in rural communities because of its unique propagation characteristics that enable non-line-of-sight wireless links. In rural areas where there is significant tree coverage and variable terrain, non-line-of-sight capabilities are essential. The technical advantages of the 902-928 MHz band have enabled Joink to provide broadband service to customers that could not affordably be reached by any other technology. They have also enabled Joink to install community-wide networks without the need for large unsightly antennas on rooftops throughout the communities, thus maintaining the aesthetics that are valued in our markets.

Joink's 900 MHz broadband deployments have been funded by private personal investments and bank loans from community banks in our area. Joink received this funding on the strength of its broadband business plan, its intended markets and the technologies it planned to use in the delivery of broadband services. However, Joink's continued success and the benefits it provides to consumers are dependent on regulatory certainty for license-exempt use of the 902-928 MHz band. We urge the Commission not to take any action in this matter that would undermine our efforts or the funding necessary to sustain them.

Sincerely,

/s/ Zack Johnson

Zack Johnson, President  
Joink, Inc.  
www.joink.com