

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Facilitating the Provision of Spectrum- Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services	)	WT Docket No. 02-381
	)	
2000 Biennial Regulatory Review Spectrum Aggregation Limits For Commercial Mobile Radio Services	)	WT Docket No. 01-14
	)	
Increasing Flexibility To Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and To Facilitate Capital Formation	)	WT Docket No. 03-202
	)	

**REPLY COMMENTS OF T-MOBILE USA, INC.**

T-Mobile USA, Inc. (“T-Mobile”) hereby submits reply comments with respect to the Commission’s Notice of Proposed Rulemaking in the above captioned proceeding.<sup>1</sup>

T-Mobile fully supports the Commission’s initiatives to accelerate and deepen the deployment of wireless services to rural America. T-Mobile files these reply comments principally to urge the Commission in attempting to promote service to rural areas not to abandon certain of its rules and policies on wireless service that have been working well

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<sup>1</sup> See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services, Notice of Proposed Rulemaking*, WT Docket Nos. 02-381, 01-14, 03-202, FCC 03-222 (rel. Oct. 6, 2003) (hereinafter “NPRM”). All citations to initial comments filed in response to this NPRM will be short cited herein.

in serving the interests of wireless consumers throughout the nation. The Commission's pro-competitive, deregulatory framework for wireless services has been remarkably successful in facilitating the swift deployment of wireless services in this country. As T-Mobile explains below, proposals to impose new or more onerous regulatory requirements, or to implement more granularized approaches to licensing in the wireless sector, would run counter to the experiences gained over the last decade in what policies facilitate or hinder the types of wireless services that U.S. consumers desire. T-Mobile urges the Commission to continue to build on its most recent, deregulatory measures in order to promote the expeditious deployment of wireless services to rural consumers.

**I. T-MOBILE URGES THE COMMISSION TO CONTINUE TO ADHERE TO AND BUILD UPON THE PRO-COMPETITIVE FRAMEWORK IT HAS ESTABLISHED FOR WIRELESS SERVICES.**

As initial commenters in this proceeding have explained, the Commission's pro-competitive, de-regulatory framework has helped to produce a competitive marketplace for wireless services, in both urban and rural areas.<sup>2</sup> The Commission's market-oriented policies have, over the past decade, helped in creating a wireless sector where multiple service providers, attractive pricing, and innovation in devices and service offerings are the norm for American consumers. T-Mobile urges the Commission to adhere to and build upon that pro-competitive framework as it examines how to further enhance wireless service to rural America.

Specifically, the Commission recently overhauled its rules governing secondary markets in spectrum and spectrum leasing, and is in the process of considering additional

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<sup>2</sup> See CTIA Comments at 2; AT&T Wireless Comments at 3; Cingular Comments at 3.

means to build on these reforms.<sup>3</sup> By substantially streamlining its policies governing de facto spectrum leasing, the Commission has helped to facilitate the potential for transactions that should increase the value of spectrum holdings as well the level of service in rural areas of this country. As T-Mobile has commented in the Secondary Markets docket, the Commission should allow its market-oriented policies in that proceeding to be implemented and take root before it considers more intrusive approaches to regulating wireless services.<sup>4</sup>

Further, T-Mobile concurs with other commenters in this proceeding that have noted the effectiveness of providing universal service funds to wireless carriers in bringing the benefits of telecommunications services to rural and isolated areas of this nation.<sup>5</sup> The Commission should take further steps to streamline the current process for carriers to obtain “ETC” status; moreover, it should decline to impose requirements – such as equal access and primary line restrictions – that would have the effect of limiting the ability of wireless carriers to obtain universal service funding.

T-Mobile also supports the recommendations of several commenters to clarify the rules regarding and to facilitate infrastructure sharing arrangements.<sup>6</sup> In T-Mobile’s experience, infrastructure sharing has been a highly effective method for delivering the benefits of additional wireless competition to consumers in a rapid and cost-efficient manner. The Commission should take steps to clarify its rules and remove regulatory

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<sup>3</sup> See *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, Report and Order and Further Notice of Proposed Rulemaking*, WT Docket 00-230, FCC 03-113 (Oct. 6, 2003).

<sup>4</sup> See T-Mobile USA Reply Comments, WT Docket 00-230, at 5-6 (filed January 5, 2004).

<sup>5</sup> See AT&T Wireless Comments at 11; CTIA Comments at 3.

<sup>6</sup> See CTIA Comments at 15-16; Cingular Comments at 6.

impediments at the federal, state and local levels that obstruct such pro-competitive arrangements.

Simply put, no evidence has been put forth to suggest that a market failure has occurred with respect to the provision of wireless services in this country. Thus, the Commission bears a very heavy burden in justifying the imposition of new regulatory burdens or approaches in the wireless sector. In particular, the Commission should not entertain new performance or build out requirements for incumbent licensees. Not only would such requirements fundamentally undermine the integrity of the auction process, but they would work to alter existing build out plans to the disadvantage of rural consumers by forcing carriers to deploy resources in economically unsound ways.<sup>7</sup> Further, the Commission should refrain from introducing underlays or spectrum easements in licensed bands. As mentioned, T-Mobile believes that the initial steps the Commission has recently taken to promote secondary markets in spectrum constitute the right approach to gauge the value of such untested approaches.<sup>8</sup> In any event, the Commission currently has an open proceeding focusing on the merits of underlays and easements,<sup>9</sup> and it should at a minimum allow that proceeding to conclude before considering the introduction of these approaches in licensed bands.

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<sup>7</sup> See CTIA Comments at 6-7; AT&T Wireless Comments at 6-7; Cingular Comments at 3-4.

<sup>8</sup> See Cingular Comments at 8; CTIA Comments at 8.

<sup>9</sup> See *Establishment of an Interference Temperature Metric to Quantify and Manage Interference and to Expand Available Unlicensed Operation in Certain Fixed, Mobile and Satellite Frequency Bands, Notice of Inquiry and Notice of Proposed Rulemaking*, ET Docket No. 03-237, FCC 03-289 (rel. Nov. 28, 2003).

## **II. THE COMMISSION MUST CAREFULLY CONSIDER THE COSTS OF UTILIZING SMALLER GEOGRAPHIC AREAS IN FUTURE SPECTRUM LICENSING PROCEEDINGS.**

In its NRPM, the Commission seeks comment on the most appropriate size for geographic service areas.<sup>10</sup> In response, the National Telecommunications Cooperative Association (NTCA) urges the Commission to adopt a presumption in favor of small license territories, and if such presumption is rebutted, that a “keep what you use” licensing approach should be utilized in licensing large geographic areas.<sup>11</sup> Further, the Blooston Rural Carriers argue that the single most important factor in making spectrum available in rural areas is the use of smaller (i.e., MSA and RSA-sized) license areas for at least a portion of the spectrum to be made available in each future auction.<sup>12</sup>

T-Mobile urges the Commission to be mindful of the evolution of the wireless sector in this country in evaluating these proposals. T-Mobile’s experience has been that most U.S. consumers – rural as well as non-rural – want national service and pricing plans, i.e., nationwide or near nationwide coverage without the imposition of expensive roaming charges or cumbersome service restrictions and limitations. This type of service can only be delivered efficiently by carriers with national license footprints. The CMRS industry in the United States was hobbled for years by the original balkanized licensing scheme the Commission adopted that used the MSA/RSA approach of dividing the country into almost 750 licensing areas. The Commission itself recognized this problem and moved to somewhat larger licensing areas for the PCS spectrum, although much of

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<sup>10</sup> See NPRM at ¶¶ 59-71.

<sup>11</sup> See NTCA Comments at 6-10.

<sup>12</sup> See Blooston Rural Carriers Comments at 20-22.

the spectrum was still divided up into relatively small geographic areas. Carriers eventually were able to cobble together license footprints by using secondary market transactions in both cellular and PCS licenses to achieve reasonably efficient geographic scope so as to enable them to respond to this consumer demand for national services in an efficient manner. But this process was hardly cost-free – carriers incurred substantial transaction costs and network integration challenges along the way, which set back the growth of the industry, the rollout of innovative services and price plans, and the position of the United States as the leader in wireless services in the global marketplace. The good news is that this process of market place transactions has now resulted in the emergence of multiple carriers with large service footprints competing aggressively to offer nationwide services, with great benefits for both consumers and the performance of the U.S. wireless industry. But having come this far and achieved this much, the Commission should not repeat the mistakes of the past and adopt a “presumption” or other approach favoring small license areas, at least for mobile telephone service.

T-Mobile, like other national carriers, is bringing the benefits of size and scale to rural areas. As Dobson Communications has commented earlier in this proceeding, the distinction between rural and urban markets has become meaningless as the CMRS market has matured.<sup>13</sup> T-Mobile submits that the Commission should be mindful of these marketplace realities, and carefully weigh its consideration of licensing approaches involving smaller geographic areas against the associated costs that history suggests are likely to be incurred.

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<sup>13</sup> See Cingular Comments at 9-10 (quoting Dobson Communications Comments, WT Docket 02-381, at 4 (Feb. 3, 2003)).

#### **IV. CONCLUSION**

T-Mobile fully supports the Commission's efforts to promote wireless service to rural America. In so doing, T-Mobile urges the Commission to continue and to build upon the market-oriented regulatory approaches that have benefited U.S. consumers, rural and non-rural alike.

Respectfully Submitted,

/s/ Thomas J. Sugrue

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