

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

In the Matter of)	
)	
Unlicensed Operation in the TV Broadcast Bands)	ET Docket No. 04-186
)	
Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band)	ET Docket No. 02-380
)	

REPLY COMMENTS OF EARTHLINK, INC.

EarthLink is one of the Nation's leading Internet service providers ("ISPs"), with approximately 5.4 million customers, of which approximately 1.3 million are broadband customers. EarthLink seeks to provide Internet access to its customers using every available transmission network, and does in fact provide service to customers using DSL, cable, satellite, wireless, and narrowband dial-up services. EarthLink is also an active participant in on-going broadband over power line ("BPL") trials, and is constantly exploring new ways to provide Internet access to consumers. EarthLink applauds the Commission for undertaking this NPRM, and urges the Commission to complete this proceeding in a timely manner.

The comments to date in this proceeding demonstrate the importance of permitting unlicensed operation in the TV spectrum bands. If properly done, this proceeding could significantly enhance the nation's deployment of broadband services

throughout the country by enabling consumers to access those services using unlicensed wireless devices. So long as the Commission ensures that wireless ISPs can obtain access to transmission services and interconnection to the Internet, unlicensed wireless networks could in the future provide a viable, competitive alternative to the present-day duopoly of ILEC DSL and MSO cable modem service.

EarthLink encourages the Commission to include in the final rule as much of the TV spectrum as possible in order to maximize the opportunity for consumers to be able to use this valuable public resource. As the Commission recognized in the NPRM, and as many commenters reinforced, the propagation characteristics of the TV spectrum make it particularly useful for low power, mobile devices that can be used indoors and out to provide next generation broadband services.

As suggested by the WiFi Alliance, Microsoft, and others, EarthLink agrees that the Commission should not specify a particular means for unlicensed devices, fixed or mobile, to determine whether a TV channel is vacant or not. The Commission should set forth the basic ground rules by establishing interference standards, and then let companies determine how best to comply with those requirements. This approach will also avoid locking in place a particular technological solution, thus ensuring that the United States can remain at the forefront of technological innovation as companies continually seek to provide a lower cost solution to meet whatever standards the Commission sets.

In summary, the record in this proceeding clearly demonstrates the tremendous public benefits that would come from allowing unlicensed, non-interfering use of the TV band spectrum. The technology to permit this non-interfering use is already available or

is rapidly being developed from experience gained in the 2.4 GHz and 5 GHz bands. The Commission should act expeditiously to ensure that rules are in place to permit unlicensed uses of the TV spectrum band as soon as possible. By doing so, the Commission would advance the public interest and speed the deployment of broadband services throughout the nation.

Respectfully submitted,



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