

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

In the Matter of)
)
Use of Portions of Returned 2 GHz Mobile) IB Docket No. 05-221
Satellite Service Frequencies)

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”) respectfully submits these reply comments in response to the comments filed in IB Docket No. 05-221.¹ In this Public Notice, the Commission seeks comment on how it should redistribute or reallocate portions of the 2 GHz spectrum that had recently been surrendered by three 2 GHz mobile satellite service (“MSS”) satellite operators. In addition, the Commission previously sought comment on its proposal regarding the other portions of the 2 GHz spectrum that had been surrendered. As evidenced by the record in this proceeding, all of this spectrum is highly sought after by a number of entities for a variety of uses.² Accordingly, the FCC should initiate a full notice and comment rulemaking to determine how to redistribute and/or reallocate *all* of the surrendered 2 GHz MSS spectrum.

I. THE MOBILE SATELLITE LICENSEES HAVE FAILED TO MAKE A SUBSTANTIVE CASE FOR ADDITIONAL SPECTRUM.

Both TMI and ICO assert that the entire 2 GHz MSS band should simply be redistributed

¹ *Commission Invites Comments Concerning Use of Portions of Returned 2 GHz Mobile Satellite Service Frequencies*, IB Docket No. 05-221, *Public Notice*, FCC 05-134 (June 29, 2005) (“*Public Notice*”).

² See Reply Comments of Cingular, IB Docket No. 05-220, 6; Comments of Sirius, IB Docket No. 05-220, 4; Reply Comments of CTIA, IB Docket No. 05-220, 1; Comments of Inmarsat, IB Docket No. 05-220, 30-32; Comments of Intel, IB Docket No. 05-220, 12-13.

to the remaining 2 GHz MSS licensees.³ Neither, however, has provided any substantive evidence that they are in need of additional spectrum to provide service. Indeed neither has even initiated service to a single customer. Instead, both TMI and ICO rely on unsubstantiated assertions that additional spectrum will allow them to provide broadband services, including ATC. However, these new assertions are inconsistent with the statements made previously in the ATC proceeding that no other spectrum would be required to deploy ATC and that ATC would be *ancillary* to the satellite use of the spectrum.⁴ Both licensees have also experienced substantial delays in their deployment and provision of service.⁵ These delays, when combined with the number of MSS licensees that surrendered their 2 GHz spectrum,⁶ call into question the viability of any MSS system in the 2 GHz band. Nevertheless, the Commission has provided these incumbents with more than sufficient time and spectrum to develop and deploy their systems,

³ Comments of TMI Communications and Company Limited Partnership and Terrestrial Networks Inc., IB Docket No. 05-221, 1 (filed July 29, 2005) (“*TMI Comments*”); Comments of ICO Satellite Services G.P., IB Docket No. 05-221, 3 (filed July 29, 2005) (“*ICO Comments*”).

⁴ See *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.5/2.4 GHz Bands*, Report and Order, 18 FCC Rcd 1962, ¶ 20 (2003).

⁵ *TMI Communications and Company, Limited Partnership and TerreStar Networks Inc. Application for Review and Request for Stay*, Memorandum Opinion and Order, 19 FCC Rcd 12603 (2004) (reinstating TMI’s 2 GHz MSS authorization and granting a waiver of its milestone condition); *ICO Satellite Services G.P. Application for Modification of 2 GHz LOI Authorization*, Memorandum Opinion and Order, DA 05-1504 (May 24, 2005) (modifying ICO’s 2 GHz MSS authorization and extending its milestones).

⁶ See, e.g., Letter from Peter D. Shields, Counsel to Iridium, to Secretary, FCC (dated Mar. 16, 2005) (Iridium surrendering its 2 GHz authorization); Letter from Joseph P. Markoski and Bruce A. Olcott, Counsel for The Boeing Company, to Secretary, FCC (dated Mar. 28, 2005) (Boeing surrendering its 2 GHz authorization); Letter from David D. Otten, Chairman and Chief Executive Officer, Celsat, to Secretary, FCC (dated Apr. 12, 2005) (Celsat surrendering its 2 GHz authorization).

continually expanding the amount of spectrum each entity receives as other licensees drop out.⁷ As a result, this valuable spectrum remains fallow while other entities continue to demonstrate substantial need for additional spectrum *now*, not years from now when services, which may or may not need additional spectrum, may or may not be deployed. Accordingly, it does not make sense for TMI to assert that allocating it additional spectrum for services that it has not even initiated is required for it to efficiently utilize its *current* spectrum.⁸

II. THE CMRS INDUSTRY CAN MORE READILY UTILIZE THE 2 GHZ SPECTRUM FOR BROADBAND WIRELESS SERVICES.

In contrast, the wireless industry reaches over 193 million subscribers nationwide today with increasing demand for voice, data, and video applications on a mobile basis.⁹ As demand for wireless services continues to grow, many wireless providers, and especially smaller independent carriers such as T-Mobile, are attempting to increase capacity, expand coverage,

⁷ *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems*, Third Report and Order, 18 FCC Rcd 2223, ¶ 32 (2003) (redistributing 2 GHz MSS spectrum that was abandoned as a result of the FCC's milestone review to the remaining authorized MSS operators).

⁸ *TMI Comments* at 10.

⁹ *See, e.g., Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, WT Docket No. 02-353, Order on Reconsideration, FCC 05-149, ¶ 2 (Aug. 15, 2005) (“*AWS Order on Reconsideration*”) (“Growth in demand for mobile wireless services, coupled with the rise of the Internet and greater broadband availability, have increased the need for additional spectrum and advanced technologies capable of providing Advanced Wireless Services”); *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands*, Notice of Proposed Rule Making, 19 FCC Rcd 19263, ¶ 3 (Sept. 24, 2004) (“additional spectrum for advanced wireless services in particular, and for commercial mobile radio services (CMRS) generally, is needed primarily because of the explosive growth in demand for these services”); Comments of CTIA – The Wireless Association™, IB Docket No. 05-221, 10 (filed July 29, 2005) (indicating that the number of mobile telephone subscribers has increased by over 32 million in an 18 month time frame). Since the filing of these comments, one million more customers have subscribed to a mobile telephone service. *See* <http://www.wow-com.com> (last visited Aug. 15, 2005) (indicating that there are 193,956,512 current wireless subscribers).

improve service quality, and offer more advanced services.¹⁰ Their ability to do so, however, is severely constrained by their access to spectrum.¹¹ In order for the wireless industry to continue to be robustly competitive, additional spectrum is needed now. Thus, contrary to TMI's assertion that there is no justification for reallocating MSS spectrum for terrestrial use,¹² additional spectrum is needed now to benefit competition, enhance existing services, and deploy new services for customers

In an environment of increasing wireless consolidation, mid-sized and smaller wireless providers such as T-Mobile need additional spectrum to effectively compete in the mobile telephony market. Over the last year, the number of nationwide wireless providers has decreased from six to four.¹³ As the FCC has acknowledged, wireless providers that lack sufficient

¹⁰ These improvements will result in a variety of benefits, including to public safety. In its comments, the Satellite Industry Association asserts that a reallocation of the 2 GHz MSS band will harm public safety. This statement, however, is based on the false assumption that terrestrial services do not benefit public safety. Indeed, terrestrial services are just as critical to public safety as satellite, if not more so. For example, T-Mobile was the first wireless provider to provide federal, state, and local governments with priority access in emergency situations. Press Release, T-Mobile USA, Inc., T-Mobile USA Joins the National Communications System in Announcing Expanded Deployment of Wireless Priority Service (Apr. 24, 2003) (*available at* <http://www.t-mobile.com/company/pressroom/pressrelease69.asp>). Similarly, the wireless industry has deployed E-911. T-Mobile USA, Inc., T-Mobile USA is committed to a partnership with Public Safety to provide Phase I and Phase II E-911 service for our subscribers and roaming customers in times of emergency, <http://www.t-mobile.com/company/publicsafety.asp> (last visited Aug. 15, 2005). These terrestrial initiatives ensure public safety can respond to all emergency situations in an expeditious manner.

¹¹ See, e.g., *AWS Order on Reconsideration* at ¶¶ 2-3 (noting need for additional spectrum to deploy advanced wireless services); *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services*, Second Report and Order, 17 FCC Rcd 23193, ¶ 12 (Nov. 15, 2002) (noting the intensive use of existing commercial wireless spectrum and wireless providers' need for additional spectrum if they are to deploy advanced services).

¹² *TMI Comments* at 24-26.

¹³ *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order,

spectrum to add numerous subscribers will not be able to compete as effectively with the largest providers.¹⁴ To date, T-Mobile has been able to effectively compete with larger wireless providers on the basis of customer service, price, and customer equipment. Customers, however, are becoming increasingly demanding with their desire for larger coverage areas, better service quality, and new advanced services. Without access to additional spectrum assets, smaller wireless providers such as T-Mobile are unable to compete as effectively in these areas. Accordingly, the Commission must ensure that a valuable spectrum band such as 2 GHz is made available for all interested parties, not just satellite entities.

The 2 GHz band is ideal for CMRS operations.¹⁵ Although it is currently utilized by Broadcast Auxiliary Services, a well-defined transition path has been established for relocation.¹⁶ This transition, furthermore, is being financed by Sprint Nextel as part of the 800 MHz rebanding process.¹⁷ Accordingly, upon reallocation, it will readily be available for licensing. For this reason alone, this spectrum is ideal for CMRS licensees such as T-Mobile who are in

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19 FCC Rcd 21522 (2004); *Applications of Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-62, Memorandum Opinion and Order, FCC 05-148 (Aug. 8, 2005) (“*Sprint-Nextel Order*”).

¹⁴ See, e.g., *Sprint-Nextel Order* at ¶ 108 (“rival wireless carriers who lack sufficient spectrum to add numerous subscribers will provide less competitive constraint on the merged firm”).

¹⁵ See, e.g., Comments of T-Mobile USA, Inc., IB Docket No. 05-220, 8 (filed July 13, 2005); Comments of United States Cellular Corporation, IB Docket Nos. 05-220, 05-221, 5 (filed July 27, 2005).

¹⁶ See *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, 19 FCC Rcd 14969, ¶ 252 (2004).

¹⁷ *Id.* at ¶¶ 259-262.

need of more spectrum. In addition, as noted by CTIA and U.S. Cellular,¹⁸ the 2 GHz band is directly adjacent to the J-Block, 2020-2025 MHz paired with 2175-2180 MHz, which the FCC has found to be “best suited” for AWS.¹⁹ By logical extension, the returned 2 GHz MSS spectrum would also be best suited for AWS as it could be used easily in conjunction with the J block (or other PCS/AWS bands) or on a stand-alone basis. Accordingly, reallocating the surrendered 2 GHz MSS spectrum for AWS will promote competition by enhancing the flexibility, spectrum position, and deployment options of CMRS licensees in need of additional spectrum, all stated goals of the Commission.

III. CONCLUSION

Given the history of MSS and the contrasting success of CMRS as demonstrated in the comments received by the Commission, the FCC should initiate a rulemaking to address the future use of the full 24 MHz of surrendered 2 GHz MSS spectrum rather than simply providing additional spectrum to, at best, speculative desires of TMI and ICO. In addition, given the pending spectrum needs of some wireless companies in a consolidating marketplace, this

¹⁸ Comments of CTIA – The Wireless Association™, IB Docket No. 05-220, 3-5 (filed July 13, 2005); Comments of United States Cellular Corporation, IB Docket Nos. 05-220, 05-221, 5 (filed July 27, 2005).

¹⁹ *Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 16043, ¶ 22 (2001).

spectrum should not be authorized without full consideration of the effects on all Commission licensees.

Respectfully submitted,

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