CTIA
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Abandoned 2 GHz MSS Spectrum

Presentation in IB Dockets 05-220 & 05-221

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OVERVIEW

- There is significant interest from diverse parties in conducting a rulemaking to determine the best use of the unassigned 24 MHz of 2 GHz MSS spectrum.
- The 24 MHz of spectrum is in high demand – as demonstrated by Intel's estimate that the spectrum is valued at $9 billion.
- The FCC has consistently declined to adopt a policy regarding abandoned 2 GHz spectrum.
- Neither TMI nor ICO has shown that it *needs* more spectrum. To the contrary each already has more spectrum than the FCC found was needed to commence operations *and* ATC was adopted to allow more efficient use of existing spectrum.
- Reallocating to auctionable, terrestrial use all unassigned spectrum – which could then be acquired by MSS to provide additional terrestrial services – will ensure its highest and best use.

THE FCC HAS DECLINED TO ADOPT A POLICY TO ADDRESS ABANDONED 2 GHz MSS SPECTRUM

- There is no 2 GHz redistribution policy:
  - "Spectrum abandoned by authorized systems may be available for expansion of *systems that are operational* and require additional spectrum. We do not, however, establish a policy or rule for redistribution of abandoned spectrum here." *2 GHz Order*, 15 FCC Rcd 16127, ¶ 18 (2000) (emphasis added).
  - "[W]e have not established nor do we do so here any policy or rule regarding the use of additional abandoned spectrum that may result after future MSS milestone reviews are completed." *AWS Third R&O*, 18 FCC Rcd 2223, ¶ 32 (2003).
- The FCC has said all options should be considered:
  - The FCC has emphasized its "continuing spectrum management obligations to ensure that the [2 GHz MSS] spectrum is used efficiently and effectively," including consideration of "the reallocation of spectrum if 2 GHz MSS licensees fail to meet their milestones" *AWS Third R&O* at ¶ 29.
- The *Space Station Reform* proceeding did not alter this decision.
  - Therein, the FCC reiterated that "[t]he *2 GHz Order* did not specify any policy" regarding abandoned spectrum and made clear that "[w]e emphasize that we are not addressing this 2 GHz issue in this proceeding." *Space Station NPRM*, 17 FCC Rcd 3847, ¶ 48 & n.54 (2002).

THERE IS SIGNIFICANT INTEREST FROM DIVERSE ENTITIES IN PROCEEDING BY RULEMAKING

- Many commenters agreed with CTIA that the current bifurcated proceedings do not make sense and that the FCC should determine the best use of all 24 MHz of abandoned spectrum in a single rulemaking proceeding, including the American Petroleum Institute (API), Cingular, Inmarsat, Total RF, Sirius, T-Mobile and USCC.
- Diverse proposed uses of the abandoned spectrum include: terrestrial (CTIA, Cingular, T-Mobile, USCC, Sprint Nextel and Intel); critical infrastructure industries (API and UTC); SDARS (Sirius); BAS (Total RF and the Society of Broadcast Engineers); MSS expansion spectrum (Inmarsat and Globalstar); and amateur radio (Henry Ruhwiedel).
- These diverse proposed uses should be resolved by a rulemaking.

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BOTH TMI AND ICO MAKE CLAIMS FOR MORE SPECTRUM, BUT NEITHER HAS SHOWN IT IS *NEEDED*

- In the *Big LEO NPRM*, the FCC sought "substantiated projections of [Iridium's] future spectrum requirements," including "demand of Iridium customers for spectrum" and "technical information on . . . projected spectrum use." 18 FCC Rcd 1962, ¶¶ 267-68 (2003).
- ICO essentially admits it has not provided "a technical or otherwise compelling showing of need for additional spectrum" (ICO 05-220 Reply at 10) and TMI acknowledges "[t]here is no attempt to forecast the market demand for the service" (TMI 05-221 Comments, Ex. C at 3 n.8).
- ICO and TMI simply state that additional spectrum will "allow" or "enable" them to serve important public interest goals.
  - If this claim were correct, satellite licensees could acquire more spectrum for free simply by associating their requests with public interest goals – without any obligation to show more spectrum is *needed* to achieve them.
- Neither shows why more spectrum is needed when each already has more spectrum than needed to commence operations and ATC was adopted to allow more efficient use of existing spectrum.

REALLOCATING THE SPECTRUM TO TERRESTRIAL USE IS PARTICULARLY WARRANTED GIVEN THAT TMI AND ICO SEEK THE SPECTRUM FOR ATC.

- TMI has stated that "[t]o deploy a modern ATC network, at least 2 x 10 MHz of spectrum is needed," (TMI 4/19/05 Letter at 7), and ICO has similarly advocated 2 x 10 MHz "to establish a fully competitive MSS with an ancillary terrestrial component" (ICO 5/3/05 Letter at 1).
- As the FCC suggested previously, ICO and TMI can seek to acquire spectrum reallocated to terrestrial at auction "to provide additional terrestrial services that would complement their MSS (and ATC) offerings." *AWS Sixth R&O*, 19 FCC Rcd 20720, ¶ 46 & n.94 (2004).
- TMI's latest admission that its "terrestrial/satellite system will compete vigorously with … cellular/SMR/PCS providers" and the combined handset will be "essentially indistinguishable in form, price and function from a terrestrial handset" further demonstrates that it is appropriate to reallocate the spectrum to auctionable, terrestrial use (TMI 05-221 Comments at 10 n.10, 17).

CONCLUSION

- The record supports the prompt commencement of a rulemaking to determine the highest and best use of all of the 24 MHz of abandoned 2 GHz MSS spectrum.
- Any such rulemaking must weigh the benefit to the public of converting the 24 MHz to an auctionable service versus the unproven spectrum needs of two non-operational entities.
- Premature conclusions to award large swaths of this spectrum to the benefit of only a few private entities in the absence of a full rulemaking are particularly inappropriate here.