

December 7, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands – WT Docket No. 03-66

Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands – IB Docket No. 02-364

NOTICE OF ORAL EX PARTE COMMUNICATION

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, I am writing to advise that yesterday I met on behalf of the Wireless Communications Association International, Inc. ("WCA") separately with John Giusti, Legal Advisor to Commissioner Copps, and Barry Ohlson, Senior Legal Advisor to Commissioner Adelstein. The purpose of the meetings was to discuss the above-referenced proceedings involving the rules governing the Broadband Radio Service ("BRS") and the Educational Broadband Service ("EBS").

During the course of the meetings, WCA discussed the adverse unintended consequences that will likely flow from any decision to reinstitute a 15-year limit on the maximum duration of EBS excess capacity leases. In particular, WCA noted that most potential lessees are planning to deploy state-of-the-art broadband networks, and require the certainty of long-term spectrum access to justify the substantial investment required. WCA argued that if the Commission unduly restricts the length of EBS excess capacity leases, many potential EBS lessees will be driven to other spectrum that can either be acquired outright or leased for longer terms, including the Wireless Communications Service, the Advanced Wireless Service, BRS and 700 MHz. Thus, WCA noted, the leasing revenue that has been responsible for the funding of most EBS

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systems for the past two decades could be materially reduced, jeopardizing the future of EBS in many areas of the country.

WCA also emphasized the importance of providing BRS and EBS licensees a fair opportunity to meet performance obligations, and thereby avoiding a situation in which licensees retain obsolete facilities that do not necessarily meet public demand, merely to satisfy a premature performance evaluation. WCA reiterated the importance of evaluating performance on a systemwide basis, rather than channel-by-channel. In addition, it repeated its prior arguments in support of crediting licensees that have provided substantial service during their license term, even if that service has been discontinued prior to the substantial service deadline. WCA also stressed that if the Commission adopts a single date for measuring performance of every BRS and EBS licensee, it should provide for an automatic extension of that deadline in cases where a transition to the new bandplan is delayed because a transition plan is submitted to the Commission for adjudication as to its reasonableness.

At each meeting, WCA also stressed the importance of providing an automatic opt-out of the transition process for any system operator that provides digitized multichannel video programming using more than seven channels. WCA reiterated that in such cases, system operators do not have the option of aggregating their usage in the Middle Band Segment (which is limited to just seven channels) and thus cannot operate under the new bandplan.

WCA also expressed concern that the Commission not unduly delay its auctioning of the small amount of BRS and EBS spectrum that is currently available. It urged that the available BRS Basic Trading Area authorizations that have been forfeited for non-payment of installment debt be scheduled for auction promptly under the rules currently in place for BRS auctions. In support of that position, WCA noted that such an auction will promote transitions to the new bandplan, since presumably any auction winner will desire to secure a rapid return on its new investment by transitioning and deploying new services. In addition, WCA suggested that if the Commission is not prepared to adopt rules to govern EBS white space auctions at this time, it keep WT Docket No. 03-66 open and adopt rules to govern EBS white space auctions later in 2006.

Finally, WCA urged the Commission to resolve the serious issues that have been presented regarding interference at 2496-2500 MHz. WCA stressed that unless the current rules are changed, it will prove challenging at best to deploy facilities at 2496-2502 MHz comparable to those BRS channel 1 licensees have deployed at 2150-2156 MHz. The substantive arguments WCA advanced are largely reflected in its prior filings in ET Docket No. 02-364, although it did additionally note that Motorola has recently filed documentation supporting WCA's position regarding interference from Part 18 devices to BRS at 2496-2500 MHz.

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Should you have any questions regarding this presentation, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

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Association International, Inc.