

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

In the Matter of)	
)	
Wireless Operations in the 3650-3700 MHz Band)	ET Docket No. 04-151
)	
Rules for Wireless Broadband Services in the 3650-3700 MHz Band)	WT Docket No. 05-96
)	
Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band)	ET Docket No. 02-380
)	
Amendment of the Commission’s Rules With Regard to the 3650-3700 MHz Government Transfer Band)	ET Docket No. 98-237

Exparte Comments of WiMAX Forum

The WiMAX Forum (“the Forum”) is an industry-led, non-profit corporation formed to promote and certify compatibility and interoperability of broadband wireless products. Our 371 member companies support the industry-wide acceptance of the IEEE 802.16 and ETSI HiperMAN wireless MAN standards.

The Forum fully supports the Commission’s goals in the above-referenced proceedings, including rapidly providing low cost access to the band for rural wireless Internet service providers (“WISPs”). In our previous filings on these proceedings, the Forum stated our support for the Federal Communications Commission’s (FCC or “the Commission”) recommendations to license on a non-exclusive but registered basis in Rural Service Areas (RSAs) and other “less congested areas”.

However, the Forum believes that the “tragedy of the commons” problems are likely to be severe in large urban areas. We also concur with the Wireless Communications Association International, Inc and numerous other respondents that quality of service is critical for service providers deploying long-range wireless broadband technologies.

Therefore, the Forum requested that the FCC explore alternate means to contention-based protocols for “more congested areas”. Although the Forum did not make specific recommendations on how to handle these congested areas at that time, we did welcome future interactions with the Commission to expeditiously develop recommendations for these areas.

Having reviewed the various proposals for efficient use of the band in congested areas, the Forum believes that exclusive licensing in heavily congested areas is meritorious. Specifically, the Forum supports the Intel Corporation, Redline Communications Inc. and Alvarion, Inc. Petition for Reconsideration in the above-referenced proceeding. In their petition, they requested the FCC make the following modifications to the original Commission proposal: (i) retain non-exclusive licensed use in rural areas but remove the contention-based protocol requirement; and (ii) stipulate exclusive licensed use in the Top 50 MSAs¹. We concur that prescribing exclusive licensing in the Top 50 MSAs will promote quality of service and business investment certainty in these markets and prevent a “tragedy of the commons” from occurring.

Therefore, the Forum requests that the Commission promptly reconsider the *3650 MHz Band Order* and modify its rules for the 3650 MHz band to prescribe non-exclusive

¹ The Top 50 MSAs refer to the 50 largest Metropolitan Statistical Areas based on population.

licensed use without the contention-based protocol in rural areas and exclusive licensed use in the Top 50 MSAs.

Respectfully

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