

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

Wireless Telecommunications Bureau Opens)	DA 06-1279
Filing Window for Proposals to Develop and)	
Manage the Clearinghouse that will Administer)	
the Relocation Cost Sharing Plan for Licensees)	
in the 2.1 GHz Bands)	
)	
Amendment of Part 2 of the Commission's Rules)	ET Docket No. 00-258
to Allocate Spectrum Below 3 GHz for Mobile and)	
Fixed Service to Support the Introduction of New)	
Advanced Wireless Services, including Third)	
Generation Wireless Systems)	
)	
Service Rules for Advanced Wireless Services in)	WT Docket No. 02-353
the 1.7 GHz and 2.1 GHz Bands)	

**CTIA—THE WIRELESS ASSOCIATION®
CLEARINGHOUSE PLAN**

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Robert B. Mesirow
Vice President, Operations

Michael F. Altschul
Senior Vice President and General Counsel

CTIA – THE WIRELESS ASSOCIATION®
1400 16th Street, N.W., Suite 600
Washington, D.C. 20036
(202) 785-0081

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Executive Summary

CTIA – The Wireless Association® submits this proposal to establish a non-profit, cost-sharing clearinghouse. If accepted, CTIA will form an independent, not-for-profit entity that will administer the cost-sharing clearinghouse functions of the relocation of Fixed Service and Broadband Radio Service incumbents from the 2.1 GHz band. The clearinghouse will contract with Comsearch, a leading provider of spectrum management and frequency coordination software and services, to handle the day-to-day operations of the relocation and cost-sharing.

CTIA, through its contract with Comsearch, will develop a database that will be used to calculate and manage cost-sharing obligations for the clearinghouse. CTIA's timely development of the database will ensure its ability to accept and handle requests for cost-sharing almost immediately following the initial issuance of AWS licenses.

CTIA is well qualified to develop and administer the clearinghouse. The CTIA clearinghouse, through its relationship with Comsearch, will have extensive expertise in dealing with complex filings, such as those expected to be filed with the 2.1 GHz cost-sharing clearinghouse. Indeed, Comsearch provided similar services to the cost-sharing clearinghouse in the 1.9 GHz band. In addition, CTIA will fund the clearinghouse as an added service to its members, which include a wide variety of wireless licensees. Administrative costs will be paid through a reasonable transaction fee charged to clearinghouse participants. CTIA also will protect information filed with the clearinghouse from unauthorized disclosure and data loss. CTIA will work with other clearinghouse managers to ensure an effective and efficient clearing of the 2.1 GHz band. Finally, CTIA will employ fair, practical dispute resolution procedures in the event that parties are unable to settle disagreements over cost-sharing amounts.

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CTIA – THE WIRELESS ASSOCIATION® CLEARINGHOUSE PLAN

CTIA – The Wireless Association® (“CTIA”) hereby submits its proposal for a non-profit, cost-sharing clearinghouse to the Federal Communications Commission (“FCC” or “Commission”) in accordance with the above referenced proceedings.¹ CTIA, in cooperation with Comsearch (a leading provider of spectrum management and frequency coordination software and services), seeks to establish a non-profit, cost-sharing clearinghouse. CTIA expects that its members, who hold Broadband Radio Service (“BRS”), Fixed Microwave Service (“FS”), and Mobile Satellite Service (“MSS”) licenses, will be affected by relocation requirements. In addition, CTIA members are likely to be winning bidders in the upcoming Advanced Wireless Service (“AWS”) auction and will trigger cost-sharing obligations commensurate with their success. CTIA urges the Commission to accept its proposal to

¹ See Wireless Telecommunications Bureau Opens Filing Window for Proposals to Develop and Manage the Clearinghouse that will Administer the Relocation Cost Sharing Plan for Licensees in the 2.1 GHz Bands, Public Notice, 21 FCC Rcd 6616 (2006).

administer cost-sharing based on the parameters discussed herein and CTIA's and Comsearch's extensive experience in the wireless industry.

I. CTIA IS WELL QUALIFIED TO SERVE AS THE 2.1 GHZ CLEARINGHOUSE

CTIA is an international organization representing all sectors of wireless communications – cellular, personal communication services, and enhanced specialized mobile radio. As a non-profit membership organization founded in 1984, CTIA represents service providers, manufacturers, wireless data and Internet companies, and other contributors to the wireless universe. CTIA is a Section 501(c)(6) not-for-profit corporation organized under the laws of the District of Columbia. CTIA has not issued any shares or debt securities to the public, and CTIA has no parent companies, subsidiaries, or affiliates that have issued any shares or debt securities to the public.

As required by the Commission, the cost-sharing clearinghouse proposed by CTIA will be established as a not-for-profit entity. The clearinghouse will establish an Advisory Panel made up of entities from the various affected services, *i.e.*, BRS, FS, AWS, and MSS. This Advisory Panel will provide policy guidance to the clearinghouse and ensure that parties affected by the cost-sharing and relocation processes have an adequate say in the mechanics of the operations. CTIA will provide personnel to support and help manage the day-to-day administrative requirements for the clearinghouse, and provide legal and regulatory personnel to the extent necessary.

The clearinghouse will contract with Comsearch to handle the day-to-day operations of the relocation and cost-sharing (including determination of when cost-sharing is triggered and notification to the parties of such a trigger). Headquartered in Ashburn, Virginia, Comsearch is

an independent engineering firm specializing in spectrum management of terrestrial microwave, satellite, and mobile telecommunications systems. Since 1977, Comsearch has been a leading provider of engineering services and software both domestically and internationally for microwave, satellite, and mobile communications systems. Comsearch has played leading frequency coordination and database development roles in two FCC services: the Wireless Medical Telemetry Service (“WMTS”), and the 70-90 GHz Service.

For WMTS, Comsearch is the technical partner to the American Society for Healthcare Engineering of the American Hospital Association (“ASHE”). ASHE is the FCC-designated frequency coordinator for the WMTS. Comsearch has worked closely with ASHE, the FCC, and the healthcare community to develop a web-based medical telemetry device registration database (www.wmtssearch.com). To date, this database contains over 2100 registered WMTS deployments in over 2000 hospitals. In the 70-90 GHz service, Comsearch has played a critical role in the early development of industry-proposed procedures for a streamlined device registration and interference management system, and was appointed by the FCC as a Site Registration Manager in these bands. This is a web-based application (www.gigabitlink.com) that permits licensees to identify available spectrum in these bands and register their links, ensuring interference-free operation. Comsearch’s database provides interference analysis with commercial systems as well as automatic coordination with the National Telecommunications and Information Administration (“NTIA”).

Comsearch provided similar services for the unlicensed Personal Communications Service (“PCS”), enabling the 1910 to 1930 MHz band to be cleared of 99% of all microwave

links.² Comsearch is also the leading provider of spectrum management and frequency coordination services for the Fixed Microwave Service and many satellite services regulated by the FCC. As such, Comsearch brings to the cost-sharing clearinghouse unrivaled technical acumen and experience.

CTIA will establish this clearinghouse to enable cost-sharing for relocations of both FS and BRS incumbents in the 2110 to 2155 MHz (“2.1 GHz”) bands. CTIA believes that separating the cost-sharing functions between differing entities for the AWS spectrum would be inefficient and suggests that the Commission only entertain proposals from entities seeking to provide clearinghouse services for the entire 2.1 GHz band. Bifurcation of these functions would unnecessarily complicate calculations of cost-sharing and require additional coordination among parties that would not be necessary if the clearinghouse entity is able to handle both FS and BRS cost-sharing requests.

II. CLEARINGHOUSE DEVELOPMENT WILL BE COMPLETED IN AN EXPEDITIOUS FASHION

CTIA has expended a great deal of time and effort in ascertaining the costs associated with creating and administering a clearinghouse for the 2.1 GHz spectrum. In the Fixed Service, there are slightly over 3500 private fixed microwave links that will require relocation with approximately 650 different license holders. There are also approximately 1450 common carrier fixed microwave links that require relocation, with approximately 150 different licensees. The total number of microwave links (more than 4900) exceeds the number of links that were

² UTAM, Inc., <http://www.utam.org> (last visited July 5, 2006). Comsearch provided UTAM with a database of the incumbent microwave links in the 1910 – 1930 MHz band as well as engineering analyses of interference potential into these incumbents from proposed devices. Comsearch provided data and services to UTAM until its sunset in 2005.

relocated from the 1850-1990 MHz (“1.9 GHz”) PCS band. In addition to fixed links, BRS incumbents must also be relocated. There are approximately 150 BRS systems co-channel in the 2.1 GHz band that must be relocated. Thus, relocation cost-sharing is likely to be much more complex and extensive than what was required for the PCS/microwave relocation in the 1.9 GHz band, given the greater number of microwave links to be relocated, the introduction of common carrier microwave links which were not present in the 1.9 GHz spectrum, and the need to relocate commercial BRS incumbents.

CTIA, through its contract with Comsearch, will develop and maintain a database that will utilize Comsearch’s existing fixed microwave database information and compiled BRS technical information to calculate and manage cost-sharing obligations for the clearinghouse. Comsearch already has developed a database of information and can modify the system to accept additional parameters necessary to determine if cost-sharing obligations are triggered. Some additional costs will be required for the development of software to calculate and manage the cost-sharing process.

CTIA anticipates that software development and related database modifications will require three to four months to develop and test. CTIA believes that any cost-sharing clearinghouse must have the ability to accept and handle requests for cost-sharing immediately following the initial issuance of AWS licenses. CTIA will complete all development and be prepared to handle clearinghouse responsibilities three to four months after the FCC issues its clearinghouse approval decision.

III. CTIA HAS THE REQUISITE TECHNICAL EXPERTISE TO DEVELOP AND ADMINISTER THE CLEARINGHOUSE

Cost-sharing for the 2.1 GHz band is an extremely complicated undertaking. Unlike 1.9 GHz cost-sharing, for the 2.1 GHz band there are three possible triggering methods depending upon the incumbent or relocater:

Relocator	Subsequent Licensee			
	AWS		MSS Downlink (optional)	MSS ATC
	FS Microwave	BRS		
AWS	Proximity Threshold Box	Line of sight	TSB-86	Proximity Threshold Box
MSS Downlink	Proximity Threshold Box	n/a	TSB-86	Proximity Threshold Box
MSS ATC	Proximity Threshold Box	n/a	TSB-86	Proximity Threshold Box

In more detail, the three triggering methods are: (1) the Proximity Threshold Box, (2) Line of Sight (two variants dependent on the BRS incumbent), and (3) Technical Service Bulletin (“TSB”) 86.

*Proximity Threshold Box.*³ As was the case for the 1.9 GHz band, the clearinghouse utilizes a proximity threshold box to determine if a cost-sharing obligation is triggered for fixed microwave links. The proximity threshold box is an imaginary box around a relocated microwave link with the dimensions as shown in Figure 1 below. If an AWS base station or

³ Comsearch worked with Sprint to develop the original proximity threshold box. See Reply Comments of the Sprint Telecommunications Venture, WT Docket No. 95-157, at Attachment B (filed Jan. 12, 1996).

MSS auxiliary terrestrial component (ATC) site falls within the box, it triggers the potential for cost-sharing.⁴

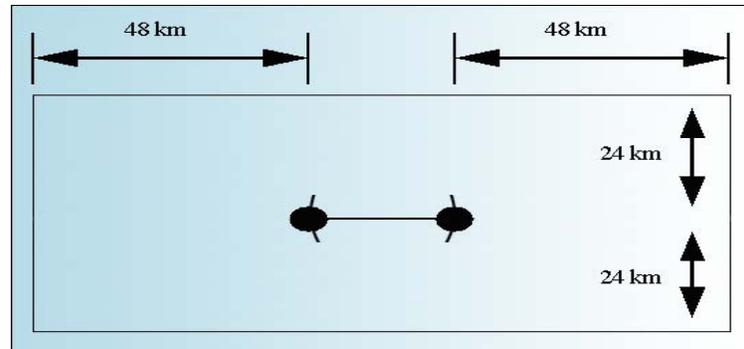


Figure 1: Microwave Proximity Threshold Box

Line-of-sight (LOS). For BRS incumbent cost-sharing, the clearinghouse administers a LOS test to determine if a cost-sharing obligation has been triggered.⁵ In addition, all or part of the relocated BRS system had to be initially co-channel with the licensed AWS band(s) of the AWS entity, the AWS relocater must have paid the relocation costs of the BRS incumbent, and the other AWS entity must have turned on or be prepared to turn on a fixed base station at commercial power. The LOS test would demonstrate that the new AWS fixed base station would have been within the line of sight of the incumbent BRS system (calculated in two fashions dependent on the nature of the BRS incumbent).⁶

TSB-86. Participation by MSS licensees for the purposes of cost-sharing occasioned by the relocation of a microwave link due to potential interference from the MSS downlink is

⁴ See 47 C.F.R. § 27.1168.

⁵ See *id.*, § 27.1184.

⁶ *Id.*

optional.⁷ However, considering that MSS participation is mandatory for the purposes of handling ATCs, CTIA believes that full-scale MSS participation in the clearinghouse will benefit all parties. Accordingly, CTIA will extend an invitation to all MSS operators to participate in the clearinghouse.

The relocation trigger method for MSS is TSB-86, which is an engineering analysis.⁸ MSS entrants trigger a cost-sharing obligation only if the results of the TSB-86 analysis demonstrate that the MSS space-to-Earth downlink would have interfered with the relocated fixed microwave link.⁹ Thus, the clearinghouse must have the requisite technical expertise to utilize TSB-86 to demonstrate to the MSS licensees that a cost-sharing obligation has been triggered, should MSS licensees elect to participate in the clearinghouse. CTIA will develop the capabilities necessary to address MSS licensees' needs and offer these services to MSS. In addition, Comsearch has extensive experience using TSB-86 and has software modules that enable automatic calculation of the interference effects from MSS downlinks to fixed microwave links.

Based on the industry's prior experience with the 1.9 GHz clearinghouse, CTIA expects that several small licensees will not be aware of the FCC's cost-sharing rules. Upon designation as a clearinghouse by the FCC, CTIA will undertake an effort to alert all AWS licensees of their

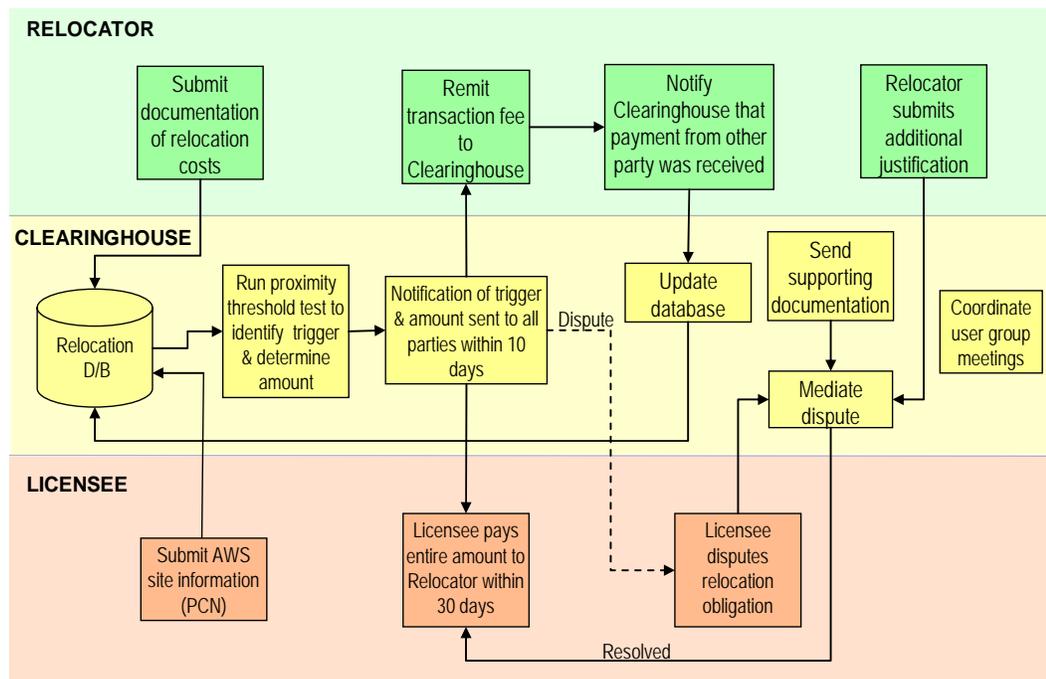
⁷ *See id.*, § 27.1166(e).

⁸ *See* Criteria and Methodology to Assess Interference Between Systems in the Fixed Service and the Mobile-Satellite Service in the Band 2165-2200 MHz, TSB86, Telecommunications Industry Association (1999) available at <http://ftp.tiaonline.org/SAT-DIV/JWG/WORKING/July%206%201999-Final%20Draft%20Version%2010.3/TSB-86V10.3.doc>.

⁹ *See* 47 C.F.R. § 101.82.

obligations to comply with the appropriate cost-sharing rules and CTIA’s status as an AWS cost-sharing clearinghouse. CTIA will also reach out to MSS licensees, even though their participation in the clearinghouse is voluntary, to alert them to their obligations and the services that CTIA could provide as a clearinghouse. In addition, CTIA will alert MSS licensees of their requirement to file ATC site data with the clearinghouse.

CTIA expects to have a streamlined and effective process for handling cost-sharing obligations. This process is depicted below:



CTIA anticipates that data collection will be accomplished in accordance with the requirements established by the Commission in an electronic fashion. In particular, relocating parties will provide itemized costs and documentation of these costs electronically to the clearinghouse in a standard format within 30 calendar days of the date a relocation agreement is signed with an incumbent.¹⁰ Data will be uploaded through a web-based application and gathered through establishment of a secure, online website. Self-relocating FS license holders also will be permitted to avail themselves of the same process and procedures.

AWS licensees and MSS licensees (deploying ATC sites) that initiate operations in the 2.1 GHz band will file detailed data, in the format of PCNs, with the clearinghouse prior to beginning operations. The clearinghouse will then be able to determine if the new system would trigger a relocation reimbursement obligation. CTIA will provide a web-based facility to file PCN and reimbursement obligations within the clearinghouse database.

The CTIA clearinghouse, through its relationship with Comsearch, will have extensive experience in dealing with these complex filings and is well-positioned to administer the clearinghouse functions described by the Commission. Comsearch personnel who have worked on PCNs in other contexts (especially for coordination among FS licensees and applicants, as well as for PCS licensees) will be responsible for managing and handling the data filed to the clearinghouse and the responses from the clearinghouse to parties that trigger a reimbursement obligation. CTIA personnel will be responsible for working with the Commission to resolve any disputes among affected parties and to discuss any rule or policy changes necessary to expeditiously effectuate clearing of the 2.1 GHz band.

¹⁰ See, e.g., 47 C.F.R. § 27.1166.

IV. CTIA HAS SECURED THE UPFRONT FUNDING NECESSARY TO INITIATE THE 2.1 GHZ CLEARINGHOUSE

In order to effectuate the initialization of a cost-sharing clearinghouse, CTIA has developed an estimated budget for costs. These costs include contract payments to Comsearch to develop and maintain the clearinghouse data, legal fees, personnel and administrative support, and other one-time costs. As the establishment of the database, including hardware and software, is expected to be the greatest initial cost, expenses for the clearinghouse are expected to diminish after the first year. CTIA estimates first year expenses associated with hardware and software to be less than \$700,000 and expects that number to decrease over time. CTIA also estimates that there will be additional costs involved in the operation of the clearinghouse, based in part on the number of companies that utilize the clearinghouse and the number of links relocated. CTIA will reevaluate costs and establish budgets on a going forward basis, based primarily on the number of relocations and reimbursements anticipated in the remaining operational years.

To establish the clearinghouse operation, CTIA has received approval from its Board to create and maintain the clearinghouse with CTIA funds as an added Member service. CTIA will therefore provide upfront costs to initiate the clearinghouse, which will then be recovered from the transaction fees. Administrative costs for the clearinghouse will be paid through a transaction fee charged to clearinghouse participants, which is currently estimated at \$2500. The fees generated from relocating these facilities should cover the costs of initiating, maintaining, and operating the clearinghouse. These transaction fees will be due 30 days after the AWS or MSS licensee receives a reimbursement notification from the clearinghouse.

In addition, the clearinghouse, as required by the Commission, will be a not-for-profit entity. To ensure all payments collected are spent on clearinghouse activities and that appropriate costs submitted by relocators are reimbursable, the clearinghouse will have its own accounting books and records. An independent auditor will audit and oversee these books each year to ensure that all appropriate accounting safeguards are in place.

V. INFORMATION FILED WITH THE CLEARINGHOUSE WILL BE PROTECTED

CTIA recognizes the commercial sensitivity of the data that is to be filed with the clearinghouse. For example, AWS license holders filing PCN information with the clearinghouse prior to initiating operations would be entrusting the clearinghouse to protect information from being revealed to the public or other competitors. CTIA will ensure that the clearinghouse establishes prudent safeguards to protect this sensitive information, including requiring all participants to execute a non-disclosure agreement with the clearinghouse.

Moreover, CTIA does not anticipate gathering any more technical data in the clearinghouse database than is necessary to effectively manage the cost-sharing process. Relocators will not be required to provide relocation agreements to the clearinghouse, but will be required to maintain this information themselves. By not gathering this information, CTIA will mitigate the possibility that sensitive information may be compromised through the cost-sharing process.

Any data that is provided to the clearinghouse will be treated as confidential and only shared among other parties that have a bona fide need to analyze the data. Parties that need access to this information will be governed by the non-disclosure agreement that they execute with the clearinghouse. Further, the data provided will be carefully screened to ensure that only

the data necessary to effectuate and/or evaluate cost-sharing obligations is shared with the appropriate parties.

The database itself will be maintained in a secure manner by Comsearch. Data will be backed up daily and will be sent offsite to a major commercial offsite storage facility in an undisclosed location. BGP Routing¹¹ and alternate data center facilities will be available for disaster recovery purposes. Database diagnostics will be run on a daily and weekly basis. The Comsearch data center has complete environmental monitoring with remote alert capability, redundant cooling and Uninterruptible Power Supply¹² power with diesel generator backup. Confidential data is encrypted using 128 bit Secure Sockets Layer before being transmitted over the Internet. The application web server will reside in a DMZ network zone¹³ with the Sybase Database server in a higher security, non-routable IP network behind a Checkpoint Firewall and Cisco Border Router. Internet access to the higher security network will be allowed using only Virtual Private Networking with two factor authentication including one-time password keys. These protections for the clearinghouse data are consistent with precautions taken to protect commercial systems that contain sensitive data.

¹¹ BGP refers to “Border Gateway Protocol” routing, and is the routing protocol used to exchange routing information across the Internet. It makes it possible for internet service providers (“ISPs”) to connect to each other and for end-users to connect to more than one ISP. BGP is the only protocol that is designed to deal with a network of the Internet's size, and the only protocol that can deal well with having multiple connections to unrelated routing domains.

¹² An Uninterruptible Power Supply is a device that sits between a power supply (*e.g.*, a wall outlet) and a device (*e.g.*, a computer) to prevent undesired features of the power source (*e.g.*, outages, sags, surges, bad harmonics, etc.) from the supply from adversely affecting the performance of the device.

¹³ A DMZ network is a demilitarized zone network. DMZ isolates the network with a small separate network that is in addition to the internal network and separate from the Internet. A DMZ is a neutral zone where clients from the Internet can access resources such as Web servers, but cannot access the internal network.

VI. CTIA WILL WORK WITH OTHER CLEARINGHOUSE MANAGERS SHOULD MORE THAN ONE BE DESIGNATED

In the 1.9 GHz relocation process, the Commission determined that two entities should be approved as cost-sharing clearinghouses.¹⁴ In reaching this decision, the Commission found that the benefits of having two clearinghouses outweighed any disadvantages.¹⁵ In the 1.9 GHz band, however, the market ultimately could support only one cost-sharing clearinghouse. This practical experience suggests that a single cost-sharing clearinghouse in the 2.1 GHz band may be appropriate and most efficient.

Nevertheless, to the extent the Commission again approves more than one entity to serve as a cost-sharing clearinghouse for the 2.1 GHz band, CTIA is committed to cooperate to the extent necessary with any other entity accepted by the FCC. As the data collected by CTIA's clearinghouse will be electronically collected and stored, sharing of information can be accommodated. CTIA expects that any other clearinghouse would require cost-sharing registrants to effectuate a non-disclosure agreement similar to what CTIA will require of cost-sharing registrants prior to the sharing of any data, including not only data stored by the other clearinghouse but also any data stored by CTIA that is then shared with the other clearinghouse as part of the cost-sharing process.

VII. THE CLEARINGHOUSE WILL ACT IMPARTIALLY ON ALL REQUESTS

CTIA will establish safeguards to dictate that all actions taken by the clearinghouse are fair and impartial. This will be accomplished via three methods: (1) establishment of an

¹⁴ See *Amendment of the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation*, Memorandum Opinion and Order, 11 FCC Rcd 9394 (1996).

¹⁵ *Id.* at ¶ 23.

Advisory Panel involving all affected parties; (2) user meetings among all parties using the clearinghouse; and (3) discussions and reporting to the Commission.

Advisory Panel. To render important policy guidance and advice to the clearinghouse, CTIA will develop and establish an Advisory Panel. This Advisory Panel will have an open membership and include affected parties from the FS, MSS, AWS, and BRS. The Advisory Panel will meet on a regular basis to discuss policy issues affecting the operation of the cost-sharing clearinghouse. Recommendations of the Advisory Panel will be provided to the clearinghouse Board and will be afforded due consideration. Issues under the purview of the Advisory Panel will include: dispute resolution issues, guidance on operations of the clearinghouse itself where there is no clear FCC guidance, interpretations of FCC requirements and policies, recommendations of changes to FCC rules and requirements, and other business that would affect the seamless operation of the clearinghouse. With all affected parties having a voice in the operations of the clearinghouse, CTIA will be able to maintain the integrity of the cost-sharing process.

User Meetings. In addition to the formalized Advisory Panel, CTIA will also schedule User Meetings to discuss process, procedures, and any problems and issues raised by the parties using the clearinghouse. These meetings will likely convene periodically during the start of the clearinghouse process and then meet on an as-needed basis once the process was fully underway. CTIA expects that these meetings would help define the issues for discussion at the Advisory Panel.

Regulatory Feedback. Finally, CTIA expects to have meetings with the Commission to discuss dispute resolution and rules clarification, as needed. These meetings will also serve as an opportunity to provide the Commission with feedback on clearinghouse process and operations.

VIII. DISPUTE RESOLUTION

CTIA will support the clearinghouse to aid in the resolution of any disputes that arise. CTIA will require each participant in cost-sharing proceedings to hold themselves to the highest standards of good faith and fair dealing.

In this context, good faith and fair dealing would require, at a minimum, that all parties to the cost-sharing process respond promptly to communications regarding cost-sharing disputes. At the time a payee invoices a payor for a cost-sharing amount identified by the clearinghouse, the payee would also be required to include an itemized schedule of the amounts for which cost-sharing is requested. If a payor elects to dispute cost-sharing amounts identified by the clearinghouse, the disputing entity will be required to provide an itemized listing, broken down in the same level of specificity as the supporting documentation provided by the payee, of the amounts believed to be unreasonable, the amount by which the licensee believes the individual amounts to be unreasonable, and the basis for the licensee's belief that the costs are unreasonable. The payor should pay undisputed amounts (*i.e.*, amounts not specifically identified as being unreasonable) promptly.

CTIA will permit either the payor or payee to invoke the dispute resolution process at any time within 60 days of invoicing. The clearinghouse shall confer, separately or jointly, with the parties and, unless the parties agree otherwise, determine whether or not any questions of rule interpretations exist that must be referred to the FCC. If the clearinghouse refers a question of

interpretation to the FCC, CTIA hopes that the FCC will establish an expedited process for public comment on such requests and disposing of such requests. The dispute shall be held in abeyance pending FCC resolution.

In order to limit factual disputes, CTIA will establish a presumption of reasonableness if the relocation agreement contains an exhibit for each relocated link that: (i) itemizes relocation costs in a prescribed format and (ii) contains a certification by both the relocator and the incumbent that:

The undersigned certifies to the Federal Communications Commission that, to the best of my knowledge and belief and subject to penalties for perjury, the total costs for the relocation of this link to comparable facilities are \$_____, allocated as shown in this exhibit.

In the case of a self-relocating incumbent, or in other cases where obtaining dual certifications is impossible or impractical, relocators should have the same presumption available to them if they obtain a third party estimate and the third party is able to render the required certification. The presumption of reasonableness would impose the burden of proof on any subsequent trigger contesting the reasonableness or amount of the claimed costs, to the extent such costs are consistent with the exhibit, by introducing third party evidence proving that the costs were, in fact, unreasonable or excessive. This presumption of reasonableness would extend to any subsequent parties relying on the contract to justify cost sharing, thus eliminating the problems attendant with a claimant attempting to justify the reasonableness of a relocation contract to which they were not a party. The absence of such a certification should not establish a presumption of unreasonableness or excessive costs. Rather, in the case where no presumption

exists, the determination as to the reasonableness of costs shall be based on a review of the evidence—including the relocation contract—provided by each party.

To the extent a dispute implicates questions of fact, CTIA will require the parties to submit the matter for non-binding mediation by the American Arbitration Association (“AAA”) at the parties’ expense under the mediation rules established by the Commercial Arbitration and Mediation Center for the Americas (“CAMCA”). If both parties elect, the dispute may also be voluntarily submitted for binding arbitration at the AAA under the CAMCA arbitration rules. If a party does not consent to mediation or withdraws from mediation, or mediation is completed subject to FCC review, the payee may submit a formal complaint under Section 208 of the Communications Act of 1934, as amended,¹⁶ seeking FCC resolution of this matter. CTIA believes the FCC should adopt expedited procedures under Section 208 for such complaints, and permit the FCC to award attorney’s fees in the event it determines that parties to such disputes have acted in bad faith.

¹⁶ See 47 U.S.C. § 208.

IX. CONCLUSION

As detailed herein, CTIA requests that the Commission formally designate CTIA as a 2.1 GHz cost-sharing clearinghouse for both FS and BRS relocation.

Respectfully submitted,

CTIA – THE WIRELESS ASSOCIATION®

By: /s/ Christopher Guttman-McCabe

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Robert B. Mesirov
Vice President, Operations

Michael F. Altschul
Senior Vice President and General Counsel

1400 16th Street, N.W., Suite 600
Washington, D.C. 20036
(202) 785-0081

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