

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

In the Matter of)	
)	
Service Rules for the 698-746, 747-762)	WT Docket No. 06-150
And 777-792 MHz Bands)	
)	
Revision of the Commission’s Rules to Ensure)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency)	
Calling Systems)	
)	
Section 68.4(a) of the Commission’s Rules)	WT Docket No. 01-309
Governing Hearing Aid-Compatible Telephones)	

**REQUEST FOR EXTENSION OF COMMENT DEADLINE
OF
CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association® (“CTIA”) hereby requests an extension of the comment and reply comment deadlines for the *NPRM* in the above-captioned proceedings¹ until 14 and 28 days, respectively after the down payment deadline following the close of Auction 66. CTIA requests this extension reluctantly, as the Commission will need to act quickly to clarify the rules for the 700 MHz AWS spectrum and proceed with the auction that must commence no later than January 28, 2008.² Nonetheless, the timing of the *NPRM* and Auction 66 creates a unique confluence of events that may warrant a limited extension.

¹ See In the Matter of Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 04-356, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4 of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, *Notice of Proposed Rule Making, Fourth Further Notice of Proposed Rule Making, and Second Further Notice of Proposed Rulemaking*, FCC 06-114 (rel. Aug. 10, 2006) (“*NPRM*”), 71 Fed. Reg. 48506 (Aug. 21, 2006).

² Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4, § 3003.

As of the date of this filing, Auction 66 remains ongoing and parties that applied to participate in the auction remain subject to the anti-collusion rule until the down payment deadline, which falls ten business days after release of the public notice announcing the close of the auction – thus their participation in the instant rulemaking could be inhibited until the rule is no longer in effect. *Even if Auction 66 were to conclude today and the FCC were to immediately issue the public notice the anti-collusion rule would (absent a waiver of the rule) still be in effect until after the comment deadline.* More broadly, all interested parties should have an opportunity to review and analyze the outcome of Auction 66 as they consider whether the Commission should revise the service rules governing AWS spectrum in the 700 MHz band. Given that comments are due September 20, 2006, CTIA asks the Commission to promptly consider this request.

In the *NPRM*, the Commission seeks comment on proposed revisions to the service rules governing the 700 MHz AWS spectrum, including the size of service areas, the size of spectrum blocks, and other service-related requirements such as secondary market/spectrum leasing requirements.³ The Commission seeks public comment on these questions now to address developments in the industry in the years since the Commission first adopted service rules for the 700 MHz AWS spectrum.⁴ Participation in, and the outcome of, Auction 66 will inform the questions posited in the *NPRM* and overall industry developments in the marketplace.

Notably, the Commission expressly seeks comment on particular issues that are directly affected by Auction 66. For example, the Commission seeks comment on whether to modify service area sizes and generally “ask[s] commenters to consider such factors as the amount of spectrum that will have been assigned over [cellular market areas] by the conclusion of the AWS

³ See *id.* at ¶¶ 27-79.

⁴ *Id.* at ¶¶ 1, 24-25.

auction this year and assess how much additional spectrum over small areas may (or may not) be needed” from 700 MHz spectrum.⁵ The Commission further asks whether to alter the size of spectrum blocks in the 700 MHz band. In doing so, the Commission seeks input in light of “evolving needs and market demands,”⁶ issues that will be influenced by the outcome of Auction 66. Until Auction 66 is complete and interested parties have an opportunity to review and analyze new spectrum licensees and their respective markets, the record in this proceeding may at best be incomplete and at worst speculative.

According to the anti-collusion rule, all Auction 66 short-form applicants, irrespective of whether they qualified to participate or whether they ultimately submitted bids in the auction at all, “must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy, which may include communications *regarding the post-auction market structure.*”⁷ Applicants also may not communicate regarding their own bids or bidding strategies.⁸ These restrictions apply until the down payment deadline.⁹ As noted earlier, even if the auction concludes this week, the rule would remain in effect beyond the comment deadline.

In order to ensure compliance with the Commission’s anti-collusion rule, many Auction 66 participants have adopted internal safeguards to restrict the activities of their business personnel involved in bidding strategy and auction-related activities – the very people whose

⁵ *Id.* at ¶ 27.

⁶ *See id.* at ¶ 34.

⁷ *See* Public Notice, *Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006*, AU Docket No. 06-30, Report No. AUC-06-66-B, FCC 06-47, ¶ 15 (rel. Apr. 12, 2006) (citing 47 C.F.R. § 1.2105(a)(2)(viii)) (emphasis added).

⁸ 47 C.F.R. § 1.2105(c)(1).

⁹ *See id.*

expertise would be utilized in preparing comments on the *NPRM*. Thus, for Auction 66 applicants, the participation of personnel with the most to contribute to the record may be limited. The Commission's anti-collusion rule impacts CTIA in particular because CTIA relies on input from multiple entities prior to advocating a position for the wireless industry.

CTIA is mindful that the Commission does not routinely grant extensions for filing deadlines. Nonetheless, the Commission has often recognized that extending the deadlines for comments and reply comments is warranted when necessary to ensure that the Commission receives full and informed responses to the issues and that affected parties have a meaningful opportunity to develop a complete record for the Commission's consideration.¹⁰ Further, the Commission has previously suspended a comment cycle where the parties' ability to meaningfully comment was dependent on the outcome of another pending proceeding.¹¹ In this case, the timing of the *NPRM* and Auction 66 may warrant a limited extension.

¹⁰ See, e.g., *Elimination of Rate-of-Return Regulation of Incumbent Local Exchange Carriers, Federal-State Joint Board on Universal Service*, Order, 18 FCC Rcd 26307, ¶ 2 (WCB 2003); *Telephone Number Portability*, Order, 18 FCC Rcd 26604, ¶ 5 (WCB 2003); *Elimination of Rate-of-Return Regulation of Incumbent Local Exchange Carriers, Federal-State Joint Board on Universal Service*, Order, 18 FCC Rcd 26307, ¶ 2 (WCB 2003).

¹¹ See *Aircell, Inc.*, Order, 17 FCC Rcd 8258 (WTB 2002) (suspending comment cycle on pending waiver request until after Commission issues Order on Remand addressing D.C. Circuit decision relating to waiver request already granted to Aircell).

For the foregoing reasons, an extension of the comment and reply comment deadlines for 14 and 28 days, respectively, beyond the Auction 66 down payment deadline may be necessary to (1) enable industry to meaningfully participate in the *NPRM* by providing informed, thorough comments responsive to the Commission's inquiries, and (2) to ensure that the Commission can base its decision making on a complete record. Thus, grant of CTIA's request is consistent with the public interest.

Respectfully submitted,

/s/ Paul Garnett

CTIA – THE WIRELESS ASSOCIATION®

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

Paul W. Garnett
Assistant Vice President, Regulatory Affairs

Michael F. Altschul
Senior Vice President & General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Its Attorneys

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