

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Amendment of Part 90 of)	WP Docket No. 07-100
the Commission's Rules)	
)	

To: The Commission

COMMENTS OF PHILIPS MEDICAL SYSTEMS

Philips Medical Systems (“Philips”) submits these comments on issues raised by the Commission concerning the Wireless Medical Telemetry Service (“WMTS”) in the *Notice of Proposed Rulemaking and Order* (“NPRM”) in the above-captioned proceeding.¹ In the context of soliciting comment on miscellaneous changes to Part 90 of the Commission’s Rules, the Commission solicits comment on specific changes to Parts 2, 90 and 95 of its Rules related to frequency coordination and secondary operation in the 1427-1432 MHz band shared by WMTS under Part 95 and non-medical telemetry and telecommand operations under Part 90.

Philips is pleased to support recognition of secondary operations and effective coordination in 1427-1432 MHz band, and in these comments offers its strong support for the Commission’s proposals with several suggestions to more effectively accomplish the Commission’s objectives.

INTRODUCTION

Philips supports using the 1.4 GHz WMTS band to enhance wireless medical devices and

¹ *Amendment of Part 90 of the Commission’s Rules*, WP Docket No. 07-100, 22 FCC Rcd 9595 (2007).

technologies employed by hospitals to offer improved care for their patients. Philips is one of the first providers of equipment to hospitals using the 1.4 GHz WMTS band. Its 1.4 GHz IntelliVue Telemetry System uses a cellular architecture with smart-hopping technology to sense and avoid other transmissions. This technology provides reliable two-way telemetry communications by seeking out the strongest available signal to complete the communications circuit in the most reliable manner. Use of access points distributed throughout the covered facility enhances system efficacy and provides for needed flexibility to hospitals throughout the United States.

DISCUSSION

In the NPRM, at Appendix C, the Commission proposes a series of amendments to Parts 2, 90 and 95 of its Rules that relate to WMTS secondary status and coordination with non-medical telemetry and telecommand operations. Philips agrees with the objectives of the Commission's proposals and offers the following suggestions to help fine tune the regulatory text that would codify the proposals.

Secondary Status. The Commission proposes to clarify the primary/secondary relationship between the operations of WMTS equipment and licensed non-medical telemetry and telecommand operations. Amendments proposed to Sections 90.259(b)(3), 95.630 and 95.1101 of the Commission's Rules would clarify the complementary primary and secondary access to the band by WMTS and by non-medical telemetry and telecommand operations. A total of one-half of the band -- 2.5 MHz -- would be identified as primary for WMTS and secondary for non-medical telemetry and telecommand, and the remaining 2.5 MHz would be identified as

primary for non-medical telemetry and telecommand and secondary for WMTS.²

The proposed amendments represent the current allocation of the band and now simply would clarify the allocation in the rules governing both services. We agree with these amendments and urge their adoption. The original adoption of service rules for these services predated the secondary allocation to WMTS now set forth in footnote US350,³ discussed below. Accordingly, these rules should be updated to recognize the existing secondary allocations for WMTS. After coordination, Philips has successfully utilized its smart radio technology to use the secondary allocation without incident in certain communities where the 1395-1400 MHz WMTS band remains unavailable due to continuing Federal operations,

In 2005, the Commission amended footnote US350 and it now properly reflects the primary/secondary allocation of the 1427-1432 MHz band.⁴ Our analysis of the proposal in this proceeding to again amend footnote US350 concludes that it would not result in any substantive change, and none is discussed in the text of the NPRM. Since the footnote recently was changed and now correctly specifies the primary and secondary status of WMTS and non-medical

² The Commission has recognized that WMTS is a category of telemetry and that operators of WMTS equipment may obtain Part 90 licenses for the portion of the 1427-1435 MHz band in which it otherwise has secondary status. The Commission also permits WMTS equipment to be operated in the Part 90 licensed service with only Part 95 equipment authorization because of the similarity between the two categories. *See Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands*, Report and Order, 17 FCC Rcd 9980 at para. 192 (2003). None of the proposed changes would affect these prior Commission determinations. To date, Philips has found that operators of its 1.4 GHz equipment, which is "smart" and can sense and avoid other transmissions, prefer Part 95 authorization.

³ Table of Allocations, 47 C.F.R. § 2.106.

⁴ *See Amendment of Parts 2, 25, and 73 of the Commission's Rules to Implement Decisions from the World Radiocommunication Conference (Geneva 2003) (WRC-03) Concerning Frequency Bands Between 5900 kHz and 27.5 GHz and to Otherwise Update the Rules in this Frequency Range*, Report and Order, 20 FCC Rcd 6570 (2005).

telemetry and telecommand, including in the “carve-out” areas, we suggest that the proposed amendment to Part 2 in this proceeding not be adopted. This would leave intact the most recent version.

However, should the Commission nevertheless decide to amend US350 again, we urge that no substantive change be introduced by such amendment. We also suggest that the terminology agreed upon by the National Telecommunications and Information Administration (“NTIA”) and the FCC for allocational matters be employed. Specifically, in the Table of Allocations, the NTIA and FCC have agreed to employ the terms “Federal” and “non-Federal” to avoid the confusion experienced with use of the terms “Government” and “non-Government”, and we suggest that this terminology continue to be used in the Table of Allocations, including in any amendment to footnote 350.

Coordination. The Commission proposes to amend Sections 90.176(d) and 95.1113(b)(1), (5), and (6) to require frequency coordination in compliance with the joint WMTS-Part 90 coordination plan. We strongly agree with the Commission’s tentative conclusion that implementation of the plan is in the public interest and that it would be appropriate to approve the coordination plan by incorporating it by reference in Sections 90.176(d) and 95.1113(b)(5). But for reasons suggested by the Commission,⁵ we suggest that the reference incorporate language recognizing that should the parties to the agreement amend it by mutual consent, the agreement will apply as amended. Providing this flexibility will allow the coordination plan to be updated by the mutual agreement of the coordinators and apply as amended without a need to seek Commission approval of the changes and the delay that would be inherent if approval was required.

⁵ NPRM at para. 27.

CONCLUSION

Philips Medical Systems is pleased to support recognition of WMTS secondary operations in the appropriate service rules for WMTS and for non-medical telemetry and telecommand. Philips also supports approval of the WMTS-Part 90 coordination plan. Clarifying the primary/secondary relationship between the operations of WMTS equipment and licensed non-medical telemetry and telecommand operations will avoid disagreement and assure that all parties are clear on their rights and obligations. Similarly, approval of the joint WMTS-Part 90 coordination plan will minimize any potential for interference.

Accordingly, we strongly support the objectives of the Commission's proposals. We do suggest that no change to Part 2 is needed; and urge that any express approval of the coordination plan permit the plan to be amended by the mutual consent of the parties thereto without the need for regulatory action.

Respectfully submitted,

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