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June 5, 2008

VIA ELECTRONIC FILING

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: WT Docket No. 07-195
Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band

Dear Chairman Martin:

T-Mobile USA, Inc. ("T-Mobile") is concerned that the service rules reportedly under consideration in the above-referenced AWS-3 proceeding will seriously undermine competition in wireless broadband services by creating harmful interference to AWS-1 licensees like T-Mobile and by foreclosing multiple bidders, possibly including T-Mobile, from competing for the AWS-3 spectrum when it is auctioned. T-Mobile respectfully requests that, at a minimum, the Commission defer consideration of this matter until its August meeting so that these issues can be more thoroughly examined and resolved in a manner that best serves the public interest.

While some commenters only promise wireless broadband years from now, T- Mobile is aggressively deploying advanced wireless broadband services today. After paying nearly $4.2 billion for its AWS-1 licenses (including around $1.4 billion for those in the F Block and $1.14 billion for the E Block) in 2006, T-Mobile has thus far invested approximately $2 billion more to build out its network in 2008 alone. It has already launched UMTS (3G) service in New York City, and plans to complete deployment in 25 additional markets by the end of this year. T-Mobile's UMTS service will have potential data transmission capabilities of greater than 3 Mbps per sector -- truly high speed broadband comparable to the offerings of cable and landline telephone companies. T-Mobile has already placed approximately one million AWS-ready handsets either in customer hands or the supply chain, and other handsets, including an Android Open Handset Alliance device, are well into the development phase. As an innovator and value-leader in the wireless industry, T-Mobile will use these exciting innovations to enhance the competitiveness of the wireless marketplace at a time when the Commission and Congress have expressed concern about industry consolidation in the wake of the 700 MHz auction.

These substantial public interest benefits will be put at risk, however, if the Commission allows mobile transmit operations on the AWS-3 band. Contrary to M2Z Network's ("M2Z's") claims, the strenuous objections now being lodged against the Commission's purported proposal by myriad entities, including Samsung Telecommunications America, LLC, Ericsson Inc., Sony

Ericsson Mobile Communications USA Inc., QUALCOMM Incorporated, Rural Cellular Association, Rural Broadband Group, Computer & Communication Industry Association, the Technology Policy Institute, CTIA—The Wireless Association, MetroPCS Communications, Inc., Verizon Wireless, and T-Mobile, are not "11th hour filings" and they have not been "previously been rebutted on the record."[1/] Rather, in the Commission's rulemaking proceeding and in response to M2Z's now-dismissed license application, a number of these parties and other commenters emphasized that mobile transmissions in AWS-3 spectrum will seriously interfere with mobile receivers in the adjacent F Block and E Block, leading to capacity and coverage loss as well as blocking. Even assuming that more exacting filters were developed and deployed in AWS-1 handsets , information placed on the record last year by Avago, a leading manufacturer of handset filters,[2/] and T-Mobile's on-going tests show that they would not prevent harmful interference absent a large guardband and significant restrictions on AWS-3 power levels and out-of-band emissions.[3/]

Consistent with its usual practice in developing technical rules for new services, it is important that the Commission protect AWS-1 licensees from interference originating in the AWS-3 band. Failure to do so will jeopardize the actual progress that T-Mobile is making on deploying its 3G broadband network and service -- and the concrete competitive benefits that will accrue to the public as a result -- in favor of the speculative prospect of a new entrant on the AWS-3 block. The uncertainty posed by the Commission's willingness to allow incompatible uses immediately adjacent to the AWS-1 band is significant and could slow the rollout of T-Mobile's service to the public at a time when further competition in the broadband market is needed.

T-Mobile is also concerned about reports that the proposed service rules are tailored to the unproven business plans of a particular company, a strategy that proved notably unsuccessful in the first D Block auction. The Commission's guiding principle in utilizing competitive bidding has always been to ensure that spectrum licenses are provided to those who value them most highly. By placing unnecessary and onerous conditions on the licenses, however, the Commission will discourage other parties from participating in the auction for these frequencies because the conditions would preclude them from putting the spectrum to a higher use. For instance, if the reported conditions on the AWS-3 spectrum were eliminated or reduced, it could be used in conjunction with the AWS-1 band to increase downlink capacity and thereby provide wireless broadband consumers with faster download speeds. T-Mobile, as the national carrier with the largest AWS-1 spectrum holdings but the smallest amount of total spectrum available for wireless broadband, might find this pairing particularly attractive for enhancing its service

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[1/] Letter from Uzoma C. Onyeije, M2Z Networks, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 07-195 & 04-356, at 1 (June 3, 2008).

[2/] *See* Verizon Wireless Comments, WT Docket No. 07-195, at Attachment B (Dec. 14, 2007).

[3/] *See* Attached Declaration of Neville R. Ray, Senior Vice President for Engineering and Operations, T-Mobile.

offerings and competing even more aggressively with the larger national players, as well as with wireline and cable broadband providers.

Among other conditions, a requirement to provide "free" wireless broadband service is especially misguided. The proposal is highly dubious on both technical and economic grounds. The commitment to offer free service is reportedly limited to just 25 percent of the spectrum available. It will be difficult if not impossible to offer free wireless service of 768 kbps on 5-6 MHz of spectrum to any appreciable number of people, far less to 95 percent of the U.S population as the order apparently requires. To make this service viable, access will likely have to be rationed in some way; and since the Commission is requiring that it be ubiquitously available at a zero price, degradations in the speed or quality of service that render it unattractive to most people would seem to be a likely outcome. Recognizing these risks with the service as defined by the Commission, a number of groups have urged the Commission to require that the free service have access to the entire band.

The proposal also does not make sense economically, as commenters in this proceeding have noted. A mandated pricing plan is inconsistent with the flexible nature of the industry to date and could hamper the ability of carriers to adapt to changes in consumer needs. While M2Z has talked about using an advertiser supported model for the free service, past free offerings have proved unsuccessful, whether offered as part of a government sponsored proposal (Philadelphia's and San Francisco's Muni-WiFi initiatives) or strictly on a private basis (Juno and NetZero's advertiser-supported dial-up Internet access).[4/] If free service on the AWS-3 band were to meet the same fate, the spectrum would unusable until the Commission devises a new plan or removes the condition.[5/] In particular, if the "free" business plan mandated for AWS-3 proved non-viable, the licensee presumably could not just change it, but would have to seek permission from the Commission. The Commission might then specify a new set of prices or service characteristics to try to keep the service viable, finding itself drawn into forms of rate and service regulation that were characteristic of the monopoly landline era over 30 years ago together than the competitive, dynamic wireless industry.

While there is always a first time and it is the essence of competition that providers be allowed to experiment with different pricing models in offering their service, that hardly means that this or any other particular pricing model should be mandated for an entire block of spectrum. If M2Z or any service provider believes an advertiser-based system is viable, it should be able to take that approach and offer free service to attract large numbers of users, thereby enhancing its

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[4/] Thomas Lenard, President and Senior Fellow, Technology Policy Institute, Comments, WT Docket No. 07-195, at 4-7 (June 5, 2008).

[5/] TDS Telecommunications Corporation and United States Cellular Corporation Joint Reply Comments, WT Docket No. 07-195, at 8 (Jan. 14, 2008); *see also* T-Mobile USA Petition to Deny, WT Docket No. 07-16, at 10 (March 2, 2007).

appeal to advertisers. But that is a far cry from mandating that any company that wishes to compete to use that spectrum should be required to adopt that business plan.

As numerous commenters have pointed out in this proceeding, imposing a free service obligation or any pricing plan on the AWS-3 licensee is also unnecessary in view of the multiple competitors and multitude of rate plans already available in the marketplace.[6/] Three national wireless carriers offer broadband service and the fourth, T-Mobile, is in the process of entering that market now. The recently announced Clearwire venture is a fifth provider of broadband wireless that plans to operate on a national basis. Regional carriers are similarly moving ahead to implement broadband. With this existing and rapidly growing competition, it is hard to think of a less auspicious time for the Commission to mandate the offering of free service. It is unnecessary to ensure the rapid rollout of wireless broadband and could even have negative impacts by adding uncertainty just when private investment and innovation are taking off. Especially in rural areas, the free service requirement could destabilize the marketplace and deter investment in networks that are already being deployed in favor of a speculative business model.[7/]

To the extent the Commission remains interested in imposing conditions on the AWS-3 license, the Commission and interested parties need time to consider these and other alternatives that comport more closely to the objectives of section 309(j) of the Communications Act and that will attract multiple bidders and promote a competitive and successful auction. Flexible service rules that take into account adjacent band characteristics will maximize the number of bidders and ensure that the spectrum is put to its highest and best use.

T-Mobile shares the Commission's goals of a competitive wireless marketplace and the availability of broadband service for all Americans. We are confident that, given some additional time, appropriate technical and service rules for the AWS-3 band can be devised that promote these goals without undermining the progress already being made toward realizing them.

[6/] *See, e.g.,* AT&T Reply Comments, WT Docket No. 07-195, at 9 (Jan. 14, 2008); CTIA Comments, WT Docket No. 07-195, at 14-17 (Dec. 14, 2007); WCAI Comments, WT Docket No. 07-195, at 18-19 (Dec. 14, 2007). Petitioners opposing M2Z's license application last year also addressed the infirmities with a requirement to provide free service. *See* AT&T Reply, WT Docket No. 07-16, at 12-13 (April 3, 2007); CTIA Reply, WT Docket No. 07-16, at 19 (April 3, 2007); Rural Broadband Group Petition to Deny, WT Docket No. 07-16, at 7-8 (March 16, 2007); T-Mobile USA Petition to Deny, WT Docket No. 07-16, at 10 (March 2, 2007); WCAI Petition to Deny, WT Docket No. 07-16, at 6 & n.19 (March 2, 2007).

[7/] *Ex Parte* Letter from Gregory Whiteaker, Counsel to Rural Broadband Group, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 07-195, at 1-2 (June 4, 2008); *Ex Parte* Letter from Gregory Whiteaker, Counsel to Rural Broadband Group, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 07-195, at 2 (June 3, 2008).

Sincerely,

/s/

Thomas J. Sugrue
Vice President, Government Affairs

cc: Honorable Michael J. Copps
Honorable Jonathan S. Adelstein
Honorable Deborah Taylor Tate
Honorable Robert M. McDowell