

June 25, 2008

Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* Submission in WT Docket Nos. 04-356, 07-195

Dear Chairman Martin and Commissioners Copps, Adelstein, Tate, and McDowell:

The Advanced Wireless Service (AWS) auction was one of the biggest, most successful wireless auctions in the Federal Communications Commission's (FCC's) history, thanks in large part to flexible service rules that provide licensees the freedom to develop unique services and business models that respond to consumer demands. The FCC has been nothing short of bullish about potential uses for AWS spectrum, suggesting that this spectrum would "enable a broader range of broadband services, including Internet access at faster speeds."

The AWS auction raised approximately \$13.9 billion for the U.S. Treasury. The AWS auction included 104 license winners, the majority of which were small carriers and new entrants qualifying as Designated Entities. About a decade ago, the PCS auctions were a similar success, raising approximately \$19.6 billion for the U.S. Treasury and setting the stage for the incredible growth and innovation that has characterized U.S. wireless industry. These auctions were successes by any measure.

Importantly, the AWS auction has set the stage for existing wireless competitors, as well as new entrants, to deliver next generation wireless broadband services to America's consumers. Those carriers include existing wireless carriers, like T-Mobile, Leap Wireless, US Cellular, NTELOS, and Cellular South, as well as new entrants, such as Stelera Wireless. Some of these companies are already using spectrum won in the AWS-1 auction to deliver wireless broadband services to consumers. In an ever-tightening capital market, these carriers are attempting to raise funds and position themselves to compete against the existing wireline broadband platforms and deliver a third broadband "pipe" to the person.

Unfortunately, the success of the PCS and AWS auctions – indeed the integrity of the auction process more generally – is being placed at risk by a proposal to move away from the Commission's long-standing and successful flexible-use spectrum policy and implement service rules tailored to one company's unique and unproven business model. If adopted, this proposal would amount to a give away of 20 to 25 MHz of highly valuable spectrum to M2Z, a company with significant financial backing. The so-called AWS-3 spectrum has been valued at anywhere from \$1.5 to

\$5.3 billion. And, contrary to some reports, a long list of entities has already publicly expressed interest in AWS-3 spectrum, if that spectrum does not come with strings attached. AWS-3 can hardly be characterized as “junk spectrum” only fit to be given away.

M2Z, a company that has never served a single customer, is promising “free” advertising-based services on a small portion of assigned spectrum – a unique and unproven business model. The M2Z proposal raises more questions than it answers about service quality and availability.

If permitted to operate as proposed, M2Z’s service will cause costly, service-degrading interference to the adjacent operations of competitors, such as T-Mobile, US Cellular, and Leap Wireless. Even M2Z has admitted that mobile transmissions in the AWS-3 band will interfere with AWS-1 mobile receptions. M2Z just makes light of the problem it will create. Proposed rules for the so-called AWS-2 “H Block” also pose a similar risk of interference to broadband PCS operations.

Broadband PCS and AWS-1 licensees spent billions of dollars at auction with the expectation that they would be able to deliver reliable services that enable consumers to access the Internet and dedicated video services wherever they want, whenever they want. Those same companies that risked billions of dollars of capital to obtain scarce spectrum resources and are now seeking additional funding to finance their wireless broadband deployments are being told after the fact *caveat emptor* – buyer beware. How can the FCC expect investors and the carriers they fund to show up at future auctions and fully utilize their spectrum if they have no confidence that the FCC is an honest broker? Broadband PCS and AWS-1 licensees purchased spectrum confident that they could use that prime spectrum real estate to the fullest under conditions the FCC put in place. Indeed, U.S. wireless carriers now serve approximately 260 million subscribers with the expectation that they can and will provide a high-quality service. Now the FCC is planning to pull the rug out from under those same licensees by developing new rules that will cause harmful interference to their customers.

In your desire to create more broadband competition, the FCC should be mindful of the unintended consequences of proposed actions. As you consider service and technical rules for the AWS-2 and AWS-3 bands, I hope you will reconsider proposals that will undoubtedly undermine two decades of successful, market-oriented spectrum policies. Pursuant to Section 1.1206 of the Commission’s Rules, this letter is being electronically filed with the FCC Secretary’s office. If you have any questions regarding this submission, please contact the undersigned.

Sincerely,

A handwritten signature in cursive script that reads "Steve Largent".

Steve Largent