

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

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| In the Matter of |) | |
| |) | |
| Service Rules for Advanced Wireless Services In the 2155-2175 MHz Band |) | WT Docket No. 07-195 |
| |) | |
| Service Rules for Advanced Wireless Services In the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands |) | WT Docket No. 04-356 |

**REPLY COMMENTS OF
CTIA – THE WIRELESS ASSOCIATION[®]**

CTIA – The Wireless Association^{®1} (“CTIA”) hereby respectfully submits these brief reply comments in response to the Commission’s Advanced Wireless Service (“AWS”) *Further Notice of Proposed Rulemaking*.² Joined by a long list of entities, CTIA opposes the Commission’s proposed rules for the Advanced Wireless Service (AWS) 2 and 3 bands. Parties ranging from the American Civil Liberties Union, the Hearing Loss Association of America, the American Consumer Institute, a group of twenty-two public interest and industry groups, and numerous small, medium, and large terrestrial and satellite-based mobile wireless competitors have raised legitimate concerns about different aspects of these proposed rules.³

¹ CTIA – The Wireless Association[®] is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Services (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, Advanced Wireless Service, as well as providers and manufacturers of wireless data services and products.

² Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band, WT Docket No. 07-195, *Further Notice of Proposed Rulemaking*, FCC 08-158 (rel. June 20, 2008) (“AWS Further Notice”), published at 73 Fed. Reg. 35995 (June 25, 2008).

³ *See, e.g.*, Comments of the American Civil Liberties Union, WT Docket No. 07-195, filed July 25, 2008; Letter from Brenda Battat, Hearing Loss Association of America, to Marlene H. Dortch, FCC, filed August 4, 2008; *See* The American Consumer Institute, *Consumers Wonder: “Who Will Pay for Free Wireless Internet Services?”*, available at <http://www.theamericanconsumer.org/TINSTAFL.pdf> (visited Aug. 8, 2008); Joint Public Interest and Industry Comments Submitted on Behalf of the Center for Democracy & Technology et al.; Comments of AT&T Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of Ericsson Inc and Sony Ericsson Mobile Communications (USA) Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of the Independent Telephone and Telecommunications Alliance, WT Docket No. 07-195, filed July 25, 2008; Comments of MetroPCS

Based in part on the results of the *only* actual testing of handsets, numerous parties have raised concerns that the proposed technical rules will result in harmful interference to consumers utilizing adjacent broadband PCS and AWS-1 spectrum. The resulting interference to AWS-1 and PCS licensees would violate a variety of statutory and contractual rights. Such interference, the existence of which has not been refuted by any party in the docket, will undermine broadband deployment and service quality.⁴ Those concerns can only be addressed with stringent out-of-band emission limits, mobile device power limits, and frequency separation between mobile transmissions and mobile receives. To that end, CTIA welcomes recent statements from FCC Chairman Kevin J. Martin suggesting that the Commission work cooperatively with the carrier community on joint testing to ensure that concerns about interference are addressed. If M2Z has any confidence in the modeling its advocacy has relied upon, it should end its protestations and embrace the opportunity to set the record straight with joint testing.⁵

Communications, Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of Motorola, Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of the National Telecommunications Cooperative Association, WT Docket No. 07-195, filed July 25, 2008; Comments of Nokia Inc. and Nokia Siemens Networks, WT Docket No. 07-195, filed July 25, 2008; Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies and the Western Telecommunications Alliance, WT Docket No. 07-195, filed July 25, 2008; Comments of PCIA – The Wireless Infrastructure Association, WT Docket No. 07-195, filed July 25, 2008; Comments of Qualcomm Incorporated, WT Docket No. 07-195, filed July 25, 2008; Comments of the Rural Telecommunications Group, Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of SpectrumCo LLC, WT Docket No. 07-195, filed July 25, 2008; Comments of Terrestar Networks Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of TCA, Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of T-Mobile USA, Inc., WT Docket No. 07-195, filed July 25, 2008; Comments of United States Cellular Corporation, WT Docket No. 07-195, filed July 25, 2008;

⁴ M2Z and the papers it references never refute that interference will occur. *See, e.g.,* Ofcom, Statement, *On the impact of interference from TDD terminal stations to FDD terminal stations in the 2.6 GHz band*, at 18 (Pub. April 21, 2008) (“Based on the results of the analysis outlined in the previous section, we believe that there is a risk of significant 1st adjacent-block interference from TDD terminal stations towards FDD terminal stations”); Alion Science and Technology, *AWS-3 to AWS-1 Mobile-to-Mobile Interference Effect: Preliminary Analysis* at 12, in M2Z Ex Parte Letter, WT Docket No. 07-195, attach. (filed June 3, 2008) (“where the devices are separated by only one meter and the AWS-1 receiver is operating near a minimum desired signal level, the frequency separation required to suppress interference below threshold levels is excessive . . . the required separation . . . can be as little [sic] 14 MHz, or greater than 25 MHz”). Instead, M2Z just makes light of the problem it will create.

⁵ To quote Queen Gertrude in William Shakespeare’s *Macbeth*, “The lady doth protest too much, methinks.”

Numerous parties also correctly question the Commission’s proposal for a “designer allocation” for the AWS-3 band that is specifically tailored to a business plan of a single potential bidder and a business plan that has failed in the past. With flexible service rules, the AWS-3 spectrum has been valued at anywhere from \$1 to \$5 billion.⁶ That value would be squandered if the proposed “designer allocation” is adopted.

In spite of inventive branding, the proposed business plan for AWS-3 will not deliver “free” or “Lifeline” broadband service to America’s low-income and/or rural consumers. Riddled with loopholes, the proposed service – assuming it is ever made available to consumers – will not be free, will not deliver true broadband speeds, and will not be limited to low-income consumers. It is not surprising then that noted economists question the alleged economic benefits of this proposal.⁷ The proposed network-based filtering requirement also would violate the First Amendment of the United States Constitution.

Tellingly, a long list of potential broadband competitors have already publicly expressed interest in the AWS-3 spectrum, if that spectrum does not come with strings attached. With over 96% of the U.S. population already living in zip codes with Third Generation (3G) mobile wireless broadband service availability and over 68% percent of the U.S. population living in zip codes three or more 3G competitors,⁸ these competitors are looking to deliver the fourth, fifth, or sixth broadband “pipe” to consumers. But, they need access to more licensed spectrum for that to happen.

⁶ See George S. Ford, *et. al*, *Calculating the Value of Unencumbered AWS-III Spectrum*, Phoenix Center Perspectives No. 08-01 (June 25, 2008); Robert Hahn, Alan T. Ingraham, J. Gregory Sidak, and Hal J. Singer, *The Static and Dynamic Inefficiency of Abandoning Unrestricted Auctions for Spectrum: A Critique of Professor Wilkie’s Analysis of the M2Z Proposal*, Attachment B to Comments filed by CTIA-The Wireless Association®, WT Docket No. 07-195, filed July 25, 2008, at 24.

⁷ See *id*; see also George Ford, *Valuing the AWS-3 Spectrum: A Response to Comments*, Phoenix Center Perspectives No. 08-02 (July 21, 2008).

⁸ See CostQuest Associates, U.S. 3G Mobile Wireless Broadband Competition Report, Attachment A to Comments filed by CTIA-The Wireless Association®, WT Docket No. 07-195, filed July 25, 2008, at 3.

For these reasons, the Commission should not adopt proposed rules for the AWS-2 and AWS-3 bands which would reverse two decades of auction policies that provide licensees flexibility in service offerings and protect incumbent users from harmful interference. Rather than abandon these sound policies, the FCC should adopt rules that promote flexible use by the auction winner and eliminate the onerous conditions — a free broadband offering, network-based filtering, and open access — proposed for the AWS-3 licensee. At the same time, the FCC should adopt power limits for AWS-2 and AWS-3 band licensees that adequately protect existing broadband PCS and AWS-1 licensees from interference.

Respectfully submitted,

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