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October 28, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Written *Ex Parte* Presentation**
ET Docket Nos. 04-186 and 02-380

Dear Ms. Dortch:

On October 22, 2008, the Wireless Internet Service Providers Association (“WISPA”) proposed a comprehensive **“licensed-lite” approach for fixed rural broadband service** in the television white spaces. WISPA now wishes to amplify several points of its proposal.

The Commission has Authority to Implement “Licensed-Lite”

The Commission has authority to adopt WISPA’s fixed “licensed-lite” proposal alongside any other process the Commission might adopt for making unlicensed spectrum available for personal/portable devices. In the Notice of Proposed Rule Making, the Commission asked whether fixed devices should be registered in a database that would include operating frequencies, the unique identification of the fixed device, location and channels available for use at that location.¹ In the First Report and Order and Further Notice of Proposed Rule Making, the Commission expressly invited comment on various licensing methods, stating that:

We note that licensing would require us to determine the rights and obligations of such licensees vis-à-vis other licensees. In contrast to unlicensed use, licensees would, by definition, have rights to transmit in this band with some interference protection. For instance, what would be the allocation status of such licensed operations? How would such services fit within the hierarchy of currently authorized TV and other services in the band? Should they have equal, superior, or secondary rights to existing services, and if so, which ones? Would TV band devices used by licensed services be required to incorporate the same type of interference avoidance mechanisms and low power limits that we have proposed for unlicensed devices? Would an exclusive licensing approach or a non-exclusive, shared approach better serve our spectrum policy objectives?

...

¹ See *Unlicensed Operation in the TV Broadcast Bands*, Notice of Proposed rule Making, ET Docket NOs. 04-186 and 02-380, 19 FCC Rcd 10018 (2004) at ¶ 28.

We seek comment on these and any other issues relevant to whether TV band devices should be allowed on an unlicensed, licensed, or hybrid basis.²

It is clear that Commission adoption of WISPA's "licensed-lite" approach for fixed broadband service would fall squarely within the scope of this proceeding.

The Benefits of "Licensed-Lite"

Commission adoption of WISPA's "licensed-lite" approach would ensure that American consumers will be able to receive signals from televisions, WISPs, network interconnections and personal/portable devices without interference. No other proposal in this proceeding offers consumers such a result.

First, unlike an unlicensed regime, the granting of a nationwide, non-exclusive license promotes investment in rural broadband. WISPs today are generally unable to raise the capital necessary to expand networks further into rural and underserved areas because investors are unwilling to provide capital in spectrum bands that are cluttered with "noise" and interference. The issuance of a license, in combination with base station registration and other components of the "licensed-lite" plan, will promote capital investment and facilitate broadband in rural communities.

Second, the "licensed-lite" plan includes an Internet-based registration process that minimizes the potential for interference before service commences. Registration would involve the entry of several data points, including:

- Registrant name, contact information and FRN;
- Location (address including zip code, GPS Coordinates);
- Sector number;
- Registration date or query date (Note: ULS would keep a record of both failed coordination attempts and "polled" queries. Each FRN registrant would be allowed to poll the database for available frequencies without attempting an actual registration);
- Equipment make, model and FCC certification number;
- Frequency (center frequency of channel);
- Antenna heading;
- Antenna height;
- Antenna polarization;
- Antenna pattern (dB down from peak every 10 degrees off peak);
- Service type (*e.g.*, point-to-multipoint, point-to-point, etc.);
- Transmitter power; and
- Date in service.

² See *Unlicensed Operation in the TV Broadcast Bands*, First Report and Order and Further Notice of Proposed rule Making, ET Docket NOs. 04-186 and 02-380, 21 FCC Rcd 12266, 12278 (2006) (emphasis added).

The registration of base stations creates a geolocation database to protect incumbent broadcasters and wireless microphones from harmful interference from fixed operations and unlicensed devices, while enabling coordinated operations by other users. This process also disciplines users by ensuring that they intelligently design reasonable base station facilities.

Third, WISPA urges the Commission to approve a maximum 20 watts transmitter power for fixed “licensed-lite” users. A power level of 4 watts EIRP would allow coverage of only a small geographic area, meaning numerous base stations would need to be deployed to cover a large rural area. By contrast, 20 watts transmitter power will lower infrastructure costs so that WISPs can better serve consumers in rural areas with affordable service. Moreover, point-to-point network interconnections can also be deployed in the band, which will enable long-distance connections for WISPs, backhaul, public safety and community networks.

Fourth, fixed “licensed-lite” operations would avoid transmitting in channels immediately adjacent to digital television frequencies. Such services would not cause interference to these facilities.

Fifth, auctioning spectrum for fixed services will not benefit consumers in rural communities. WISPs have been largely unable to compete with well-heeled wireless companies in Commission spectrum auctions, and thus have not been able to acquire licensed spectrum to build networks to serve rural Americans.

“Licensed-Lite” Would Prevent Abuse

WISPA desires to encourage best practices in the band, and two elements of its proposal are intended to prevent registrants from acting in an anti-competitive manner or from warehousing spectrum. First, base station registrants would be required notify the Commission upon commencement of service to the public within 180 days, or some other reasonable period, following base station registration. If a notice is not timely filed, the registration would be deleted from the database and the registrant would be prohibited from re-registering a base station at the same location. This rule would provide a strong disincentive to any company that wished to file for more base stations than it can build in an effort to warehouse spectrum and keep it from others who would otherwise provide service to the public.

Second, in those cases where a registrant constructs facilities that do not comply with the registration or a coordination agreement, and harmful interference arises, the registrant would be required to either fix the problem or cease transmitting; otherwise, the Commission could initiate an enforcement action. The offending registrant would not be able to resume operations until it complies with the registration or coordination agreement. Here again, WISPA seeks to encourage quality service and quick resolution of interference.

The Commission Should Not Delay Action on “Licensed-Lite”

WISPA understands that other interested parties have asked the Commission to defer action on the white spaces proceeding. These requests should not delay the Commission from taking action to promote meaningful rural broadband service now by establishing a “licensed-lite” approach, even if other, more controversial questions are deferred for further comment.

WISPA respectfully requests that the Commission adopt the proposals set forth in its October 22, 2008 letter, as further described herein. Please contact either myself or WISPA's counsel, Stephen Coran, at (202) 463-4310 if there are any questions.

Respectfully submitted,

/s/ Jack Unger

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