

**WISPA**  
**Wireless Internet Service Providers Association**  
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October 31, 2008

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

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

Dear Ms. Dortch:

**Lip service or rural service?** Two filings this week propose rules for the television White Spaces that would virtually eliminate the possibility that this spectrum could be used to meet the fixed broadband access needs of Americans in rural communities.

In a Notice of Ex Parte Presentation dated October 29, 2008, FiberTower Corporation, Sprint Nextel Corporation, the Rural Telecommunications Group, Inc. and COMPTEL (collectively, the “FiberTower Group”) reiterated its proposal for television White Space licensing and modified its proposed corresponding technical rules. In a Notice of Ex Parte Presentation dated October 28, 2008, CTIA-The Wireless Association® (“CTIA”) proposed a so-called “measured approach” that initially would make available only a limited amount of White Space spectrum on an unlicensed basis, with the remaining spectrum held by the Commission for future auction. The Wireless Internet Service Providers Association (“**WISPA**”) **strongly opposes both of these proposals**, which would only serve the private interests of the established cellular telephone companies and backhaul providers at the expense of consumers in rural American communities.

WISPA has presented the FCC with a truly balanced, middle-of-the-road, “licensed-lite” proposal. The WISPA proposal meets the needs of all end users and all wireless industry groups, including the broadcasting incumbents, wireless microphone users, the cellular companies, the backhaul providers, and the all-important unlicensed wireless community. WISPA urges the Commission to stay true to its expressed purpose of bringing economic development and economic benefit not just to the cellular companies and backhaul providers but also to the people of America as a whole.

***The FiberTower Group Proposal Provides No Opportunities For Fixed Broadband In Rural Communities***

While professing to promote rural broadband, the FiberTower Group’s proposal would do just the opposite. The Part 101 licensing scheme proposed by FiberTower addresses only the backhaul needs of rural consumers while allowing the “spectrum warehousing” that would deny the use of White Space spectrum for meeting the other half of the rural access need – the absolute need for **point-to-multipoint spectrum** that reaches and connects the rural homes and offices. Under the FiberTower Group’s approach, a WISP desiring to provide point-to-multipoint service would be required to coordinate each path – each link to a residence, hospital, public safety site, business enterprise or other end user – before service to that end user could be provided. No WISP could afford to build a network on this expensive point-to-point basis. WISPs need **interference-free point-to-multipoint spectrum** to build a “final-mile” network that will provide affordable Internet service to citizens who have no service today.

To make matters worse, the FiberTower Group proposes to initially set aside six White Space channels in rural areas – just 36 MHz – for its Part 101 licensed approach. By setting an arbitrary limit on the supply of spectrum available for licensed use, the FiberTower Group would have no trouble applying for links on all six available channels on the effective date of the new rules, precluding others from applying.

In addition, the FiberTower Group’s plan would allow licensees 18 months to construct without having to serve a single customer. WISPA has proposed a “**use it or lose it**” rule pursuant to which a registrant that fails to commence service to the public within 180 days of registering a base station would lose that registration right and would be permanently barred from re-registering that location.

Viewed in the proper light, the FiberTower Group’s approach is a **giant leap backward for rural consumers**. The combination of link-by-link frequency coordination and long build-out periods conspire against rural consumers by effectively making White Space spectrum unavailable for “final-mile” connections to rural residents. The FiberTower plan must be rejected as nothing more than a transparent attempt to hijack White Space spectrum and deny more productive use of that spectrum.

***The CTIA Proposal Provides No Opportunities For Fixed Broadband In Rural Communities***

CTIA proposes auctioning Channels 38-51, reserving Channels 2-20 for future consideration and allowing unlicensed use for Channels 21-36. WISPA objects to the CTIA plan, which does little to further the Commission’s primary objective of promoting broadband Internet access in rural communities.

**Auctions do not promote rapid deployment** of affordable broadband services in rural areas. Handing over approximately one third of the White Space spectrum to the cellular telephony industry today through auctions and reserving another one third of the White Space spectrum for future auctions that would also likely be won by the large cellular carriers

effectively assures that local and regional wireless WISPs will never be able to use two-thirds of the White Space spectrum to provide fixed wireless broadband service to consumers in rural communities.

There is no record of any auction winner ever using any auctioned spectrum to deploy fixed broadband Internet access service to rural consumers. In rural and underserved communities where the need for fixed broadband Internet access is greatest, the cost to acquire licensed spectrum via auction prohibits meaningful participation by service-minded WISPs seeking to meet the pent-up demand. On the contrary, WISPs who have heretofore been forced to use crowded and “noisy” unlicensed spectrum have an admirable record of rolling out broadband Internet access to 2,000,000 Americans. WISPA urges the Commission to reject any plan to auction any part of the TV White Spaces. Auctions serve to raise the costs of network deployment and prevent fixed broadband service from ever being delivered to rural America. In contrast to the CTIA’s spectrum-auction proposal, WISPA’s “licensed-lite” proposal enables **White Space spectrum to be available immediately** and placed into service quickly.

To further promote competition and thus speed the rollout of broadband fixed wireless service to rural communities, WISPA would support reasonable measures to prevent possible future spectrum warehousing attempts on the part of licensed-lite operators. WISPA would not object to FCC rules that initially limit any single licensee or organization to a maximum of three 20-watt “licensed-lite” base station registrations at each tower location. This provision would help ensure that there is adequate spectrum for multiple White Space users at each location. After a “licensed-lite” registrant demonstrated full use of those three frequencies, additional frequencies could be registered.

***WISPA’s “Licensed-Lite” Approach Accommodates Everyone***

Unlike other proposals that serve only the private interests of their promoters and give lip service to the real needs and interests of the rural consumers who are at the heart of this long proceeding, WISPA’s “licensed-lite” proposal accommodates the needs of all industry groups and especially the need of America’s rural consumers. No other proposal submitted in this proceeding accomplishes this. WISPA requests that the Commission **take action now** to avoid further delay in the provision of broadband fixed Internet access service in rural areas. WISPA requests that the Commission approve WISPA’s “licensed-lite” approach on November 4, 2008 even if other more controversial questions are deferred for further comment.

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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