



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

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Federal Communications Commission
Office of the Secretary

December 10, 2008

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

Dear Chairman Martin:

I write to express the Bush Administration's views on WT Docket No. 07-195 ("In the Matter of Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band"), regarding the use of the 2155-2175 MHz band for advanced wireless services (AWS-3). I encourage you and the other Commissioners to consider the Administration's views before taking action on this spectrum and before making a final decision in the above-referenced proceeding.

Under your leadership, the Federal Communications Commission (FCC) has freed hundreds of megahertz of spectrum for new and innovative wireless services, stripped away unnecessary regulations, and made broadband and wireless services more available and affordable than ever before. These important achievements have provided great benefits to American consumers and laid a foundation for the Nation's future technological advancement.

As you know, in March 2004 President George W. Bush set a goal of universal and affordable broadband access by 2007. The Administration has worked to meet this goal through policies that expand and encourage competition. This includes allowing broadband providers the flexibility to build and manage their networks within a transparent and competitive market. Spectrum allocation decisions that promote a level regulatory playing field and the flexible use of spectrum are the best means to further the success achieved to date in expanding wireless broadband choices for consumers. Wireless service providers are competing fiercely and investing billions of dollars to build mobile broadband networks.

I understand that the draft AWS-3 order would constrain a provider's use of this spectrum, favoring a particular business model and potentially precluding the spectrum from allocation to the most valuable use. In particular, one mandate would require that the licensee provide free broadband services at government-mandated speeds. This mandate would likely lead to congested and inefficiently used broadband, and it would be inconsistent with the Administration's view that spectrum should be allocated by markets rather than governments.

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The history of FCC spectrum auctions has shown that the potential for problems increases in instances where licensing is overly prescriptive or designed around unproven business models. In contrast, open and highly competitive auction processes have supported both greatly expanded broadband services and the taxpayers' interests in spectrum license allocation. Moreover, a government-mandated free nationwide network is not the most effective or efficient way to assist underserved areas.

The Administration believes that the AWS-3 spectrum should be auctioned without price or product mandates. The FCC should rely on market forces to determine the best use of spectrum, subject to appropriate government rules to prevent harmful interference.

I look forward to a decision that is consistent with the policies and principles that are best suited to bring innovative and affordable broadband services to the American people. Thank you for your consideration of these views.

Sincerely,



Carlos M. Gutierrez

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