

In the Matter of)	
)	
Fostering Innovation and Investment in the Wireless Communications Market)	GN Docket No. 09-157
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51

**COMMENTS OF THE
WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”) offers these Comments in response to the Commission’s Notice of Inquiry in the Matter of Fostering Innovation and Investment in the Wireless Communications Market (“*NOP*”).¹ The Commission has the opportunity in this proceeding to further its mission of enabling further broadband innovation and investment. The FCC record itself provides an abundantly compelling case for continuing to foster innovation and investment.

History

WISPA was founded in 2004 and represents the interests of more than 300 Wireless Internet Service Providers (WISPs), vendors, system integrators and others interested in promoting the growth and delivery of wireless broadband services to Americans. Collectively, using license-free frequencies, WISPs provide broadband fixed wireless services to more than 2,000,000 home and business subscribers. Many subscribers live in rural areas with little or no access to broadband Internet via DSL or cable . Other subscribers live in unserved “pockets” in urban areas that have been bypassed as “unprofitable” by DSL and cable service providers. Finally, in urban areas

¹ See *Fostering Innovation and Investment in the Wireless Communications Market; A National Broadband Plan for Our Future*, FCC 09-66, GN Docket No. 09-157; GN Docket No. 09-51 (rel. Aug. 27, 2009).

where DSL and cable are available, WISPs provide a “third pipe” to access the Internet independently of telephone company and cable company facilities. This is important because the WISP wireless infrastructure provides an alternate Internet access capability that typically remains in service when accidents, emergencies or weather extremes cause traditional telco or cable Internet access to be interrupted. To build upon this history of innovation, WISPA has filed extensive comments² and *ex parte* presentations³ promoting interference-free use of the television white spaces and has sought reconsideration of the white space rules seeking to eliminate costly and burdensome spectrum sensing rules and to amend other rules to make WISP deployment more flexible, cost-effective and attractive to investment. WISPA representatives have participated actively in proceedings at NTIA, RUS and the FCC concerning the broadband stimulus provisions of the American Recovery and Reinvestment Act of 2009, advocating grant eligibility and selection criteria to best promote broadband service delivery to rural and unserved Americans⁴. Additionally, WISPA recently submitted Reply Comments in response to the Commission’s Public Notice regarding access to aggregate Form 477 data under the Broadband Data Improvement Act⁵ and Comments in response to the Commission’s NOI

² See WISPA Comments filed Feb. 20, 2007 in *Unlicensed Operation in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, First Report and Order and Further Notice of Proposed Rulemaking, ET Docket Nos. 04-186, 02-380, 21 FCC Rcd 12266 (rel. Oct. 18, 2006); see also Petition for Reconsideration of the Wireless Internet Service Providers Association in ET Docket Nos. 04-186, 02-380 filed March 16, 2009.

³ See, e.g., Notices of Ex Parte Presentations from Stephen E. Coran, Counsel to WISPA, to Marlene H. Dortch, FCC Secretary, ET Docket Nos. 04-186 and 02-380, dated August 1, 2008; Letter from Jack Unger, WISPA Secretary and FCC Committee Chair, to Marlene H. Dortch, FCC Secretary, ET Docket Nos. 04-186 and 02-380, dated October 22, 2008; Notices of Ex Parte Presentations and Letters from Stephen E. Coran, Counsel to WISPA, to Marlene H. Dortch, FCC Secretary, ET Docket Nos. 04-186 and 02-380, dated October 28, 2008.

⁴ See Comments of WISPA filed June 8, 2009 in *A National Broadband Plan for the Future*, GN Docket No. 09-51.

⁵ See Reply Comments of WISPA filed August 4, 2009 in response to Public Notice, “Comment Sought on Providing Eligible Entities Access to Aggregate Form 477 Data as Required by The Broadband Data Improvement Act,” DA 09-1550, rel. July 17, 2009 (“*Public Notice*”); Erratum, rel. July 23, 2009.

concerning the Deployment of Advanced Telecommunications Capability in a Reasonable and Timely Fashion⁶.

WISPA wishes to thank the Commission for this additional opportunity to contribute suggestions to assist in the achievement of the Commissions goals of advancing wireless innovation and investment.

Cause and Effect

The impressive real-world record of WISP broadband deployment and service delivery could not have taken place if the FCC had not enabled modern-day WISP operations by allocating unlicensed spectrum during the 1980s-1990s.⁷ The WISP record of service delivery today is a dramatic demonstration of the results of the innovation, investment, and economic expansion that took place because of past FCC allocations of license-free spectrum. License-free spectrum that is available to all without the need for billions of dollars in up-front auction costs created both the WISP success story and the Wi-Fi success story that we are all familiar with today.

The FCC can benefit in this proceeding by reviewing its own history of innovative regulation. The FCC's Part 15 ISM unlicensed rules enabled long-range broadband wireless Internet access delivery using 900 MHz thus creating the fixed broadband wireless industry. This FCC ruling also legalized unlicensed 2.4 GHz operations creating

⁶ See Comments of WISPA filed September 4, 2009 in *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act; A National Broadband Plan for Our Future*, GN Docket No. 09-137; GN Docket No. 09-51 (rel. Aug. 7, 2009).

⁷ See, e.g., First Report and Order in GEN Docket No. 81-413, 101 FCC 2d 419 (1985) and First Report and Order in GEN Docket No. 87-389, 4 FCC Rcd 3493 (1989)(authorizing unlicensed spread spectrum uses under Part 15); Amendment of the Commission's Rules to Provide for Operation of Unlicensed NII Devices in the 5 GHz Frequency Range, Report and Order, FCC 97-5 (rel. Jan. 9, 1997)(authorizing unlicensed U-NII devices under Part 15).

the Wi-Fi industry and allowing further expansion of the fixed broadband wireless (WISP) industry. The FCC's later decision to allocate 5 GHz frequencies for Unlicensed National Information Infrastructure (U-NII) use allowed further expansion of both the WISP industry and the Wi-Fi industry. Today's revolution is the use of advanced Wi-Fi based wireless products could not have occurred had the FCC not decided to allow license-free spectrum operation. The successful world-wide 802.11a/b/g/n standards, based on access to license-free spectrum have together demonstrated and delivered huge returns in innovation and investment. License-free spectrum access has been and is an unrivaled success story; this is innovation **delivered**. Moving forward, we respectfully request that the FCC simply act to replicate its previous success and create more license-free spectrum. If you allocate it, investment and innovation are almost guaranteed to occur.

FCC Action

We respect the FCC's request not to repeat arguments already made on specific issues in other proceedings however since the success of the WISP industry and the entire license-free wireless industry exists in a direct cause-effect relationship with FCC actions, we must respectfully restate that investment and innovation in the broadband wireless communications industry only takes place after innovative rulemaking by the FCC. In our previous filings, WISPA has provided a significant number of suggestions to assist the FCC in its efforts to stimulate innovation. We submit that FCC action on our following recent suggestions will lead to the additional innovation and investment and resulting economic progress that the FCC is working to bring about.

- **TV White Space Rules** – Take action on WISPA’s Petition for Reconsideration to adjust FCC rules to remove the last roadblocks to practical outdoor use of this very-needed spectrum.
- **TV White Space Database** – Take action to proceed with your solicitation of bids for vendors to provide TV White Space geo-location database services.
- **More Spectrum** – Take action now to make more license-free spectrum available, especially sub-2 GHz spectrum with desirable non-line-of-sight (NLOS) propagation characteristics.
- **Shared, Non-Exclusive Licensing** – Consider and take action on the use of more shared, non-exclusive “licensed-lite” licensing mechanisms such as are in use today in the 3650-3700 MHz frequency band and as WISPA has recommended be used for outdoor (fixed) operation in the TV White Space frequency range.

Conclusion

WISPA appreciates the FCC’s focus on innovation and investment. Achieving these goals is not “rocket science”. We respectfully suggest that the FCC take action now to follow through on work that you already have “in process”. Simply take action now.

Respectfully submitted,

**THE WIRELESS INTERNET
SERVICE PROVIDERS ASSOCIATION**

September 30, 2009

By: */s/ Richard Harnish, President*
/s/ Jack Unger, Chair of FCC Committee