January 14, 2010

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW, TW – A325
Washington, DC 20554

Re: Ex Parte Presentation in WT Docket Nos. 07-195, 04-356, 08-165, 08-166, 08-167, 09-66 and GN Docket Nos. 09-157, 09-47, 09-137

Dear Ms. Dortch:

On January 13, 2010, John Muleta, Milo Medin, Jeffrey Burgan, Kevin Lo of M2Z Networks and Paul Kolodzy of Kolodzy Consulting, along with the undersigned met with Ruth Milkman, Julius Knapp, John Leibovitz, Ira Keltz, Blaise Scinto, Margaret Weiner, Peter Daronco, Gary Michaels, Kevin Holmes, Paul Malmud, Brian Wondrack and Steve Zak to discuss the status of the pending AWS-3 rulemaking.

As part of the above referenced proceedings, CTIA and a number of its member companies including T-Mobile, AT&T, MetroPCS, U.S. Cellular, Motorola, Ericsson and Nokia have argued that the AWS-3 spectrum (2155-2180 MHz) should be held in abeyance until such time that the federal spectrum band at 1755-1780 MHz band is reallocated for commercial use and paired with AWS-3. As a matter of policy, the delay sought by these parties is contrary to the national priority of achieving greater broadband adoption through wireless services and would further exacerbate the ongoing "spectrum crisis" in the United States. As previously noted by M2Z such arguments are based on competitive concerns. This "pairing" proposal is the latest form of regulatory predation in this proceeding designed to add many years of unnecessary delay to the commercial use of the AWS-3 band so as to forestall competition.

Moreover, the parties proposing that AWS-3 be paired with 1755-1780 MHz have done so by ignoring publicly available data that makes it abundantly clear that the suggested pairing of these bands is impractical. Most notably, these parties fail to analyze, or even mention, the 2002 NTIA report that unequivocally concludes that the 1755-1780 MHz band is unsuitable for advanced wireless services because the existing government operations in the band are critical to national defense and homeland security. After an exhaustive multi-year study, NTIA found that the "1755-1770 MHz band is not viable for use by 3G" and cited several reasons for this assessment including the fact that "the impact to or constraints on DOD mobile radiocommunication system operations would be significant and unacceptable in light of DOD's extensive and critical operations in this band" and "that no suitable alternate federal and/or commercial spectrum could be identified for satisfactory relocation of DOD systems."[1] M2Z, therefore, urges the Commission to dismiss the "pairing" concept and move quickly to assign the AWS-3 spectrum for broadband use in a technologically neutral fashion.

[1] *See* An Assessment of the Viability of Accommodating Advanced Mobile Wireless (3G) Systems in the1710-1770 MHz and 2110-2170 MHz Bands, NTIA, at 4 (rel. Jul. 22, 2002).

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Attached is the handout that was distributed at the meeting that highlighted M2Z's concerns regarding the 1755-1780 MHz "pairing" alternative. In order to ensure a complete record, M2Z is hereby submitting the full 2002 NTIA in the above-referenced proceedings. The report can be found at http://www.fcc.gov/3G/3Gva072202.pdf and http://www.ntia.doc.gov/ntiahome/threeg/va7222002/3gva072202web.htm.

Pursuant to Section 1.1206(b) of the Commission rules, an electronic copy of this letter is being filed. Please let me know if you have any questions regarding this submission.

Sincerely,

Uzoma C. Onyeije

cc: Ruth Milkman
Julius Knapp
John Leibovitz
Ira Keltz
Blaise Scinto
Margaret Weiner
Peter Daronco
Gary Michaels
Kevin Holmes
Paul Malmud
Brian Wondrack
Steve Zak

COMMERCIAL USE OF THE 1755-1780 MHZ BAND IS IMPRACTICAL
Military Operations in the Band are Critical for National Defense and Homeland Security

Some parties have argued that the lengthy process[1] of reallocating the 1755-1780 MHz band for commercial use should occur *prior* to the Commission licensing the 2155-2180 MHz band in order to pair the spectrum. These parties, however, fail to mention or analyze the findings of a 2002 NTIA report that thoroughly evaluated and rejected the viability of the 1755-1780 MHz band for advanced mobile wireless services.[2] The NTIA Report explains that existing military use of the 1755-1780 MHz band has and continues to increase due to new kinds of threats faced by the nation and by the introduction of systems that were recently relocated from the 1710-1750 MHz band.[3] The NTIA Report unequivocally concludes that the 1755-1780 MHz band is unsuitable for advanced wireless services due to the critical nature of existing operations in the band and the lack of suitable relocation alternatives, among other things. These facts disprove CTIA's repeated and unsupported assertion that there is "readily available" spectrum in the 1755-1780 MHz band.[4]

The 1755-1780 MHz band is more critical than ever to National Defense and Homeland Security:

- According to NTIA, "[s]ome of the DOD mobile systems (e.g., unmanned aerial vehicles, combat identification systems, etc.) operating in the 1755-1850 MHz range have recently been elevated in importance due to the war on terrorism, homeland defense, and possible requirements for ballistic missile defense."[5]
- NTIA emphasizes that systems that enable soldiers "to send and receive voice, video, map overlay information, and operation plan diagrams" and "provide identification of friendly force by individual and automatic weapons users to a range of 1000 meters or more" exist in the 1755- 1770 MHz range.[6]
- According to the DOD, it "anticipates that the 1755-1850 MHz band will experience increased use due to growth in military spectrum requirements to support mobile wireless applications."[7]
- NTIA concludes that for DOD mobile systems "the potential identification of *comparable spectrum* outside this range or in small increments, would require redesign of the equipment."[8]
- NTIA explains that the Navy deploys Precision Guided Munitions within the band and that: "the loss of this 1755- 1770 MHz band would severely constrain Navy PGM systems to the point of reducing training effectiveness."[9]

Spectrum for relocating existing operations in the 1755-1780 MHz band is unavailable or impractical:

- The NTIA Report explains that "no suitable alternate federal and/or commercial spectrum could be identified for satisfactory relocation of DOD systems."[10]
- NTIA also explains that "the Air Combat Training Systems (ACTS) use two ground-to-air and two air-to-ground frequencies above 1770 MHz. The ground-to-ground component of the system uses fixed links in the 1764-1770 MHz range." NTIA goes on to state that "relocation of these links to higher bands will require a significantly increased infrastructure complexity."[11]
- NTIA states that moving all operations within a smaller set of operating channels increases the likelihood of co-site interference. Inter-system interference reduces the ability of ICIDS to accurately identify friendly soldier, potentially leading to friendly fire casualties. No acceptable alternate bands have been identified for relocation of either Land Warrior or ICIDS."[12]

End Notes

[1] *See* September Commission Meeting Presentation at slide 73 (Sept. 29, 2009); *see also* Letter from Christopher Guttman-McCabe, CTIA, to Chairman Julius Genachowski, Commissioner Michael J. Copps, Commissioner Robert M. McDowell, Commissioner Mignon Clyburn and Commissioner Meredith Attwell Baker, GN Docket No. 09-51 at 16 (filed Sept. 29, 2009) ("CTIA *Ex Parte*").
[2] *See* An Assessment of the Viability of Accommodating Advanced Mobile Wireless (3G) Systems in the 1710-1770 MHz and 2110-2170 MHz Bands, NTIA (rel. Jul. 22, 2002) available at: http://www.fcc.gov/3G/3Gva072202.pdf ("NTIA Report").
[3] NTIA Report at 3-4.
[4] *See* CTIA *Ex Parte* at 2. CTIA has also claimed that the 1755-1780 MHz band is "readily-available" in subsequent *ex partes* in the following dockets: GN Docket Nos. 09-157, 09-47, 09-137 and WT Docket Nos. 08-165, 08-166, 08-167, 09-66 on Sept. 30, 2009; Oct. 2, 2009; Oct. 5, 2009; Oct. 29, 2009 and Nov. 3, 2009.
[5] *See* NTIA Report at 18 (emphasis added).
[6] *See* NTIA Report at 19 (emphasis added).
[7] *See* NTIA Report at 18 (emphasis added).
[8] *See* NTIA Report at 19 (emphasis added)
[9] *See* NTIA Report at 19 (emphasis added).
[10] *See* NTIA Report at 4.
[11] *See* NTIA Report at 19 (emphasis added).
[12] *See* NTIA Report at 19 (emphasis added).