

CTIA Presentation on License Renewal Harmonization NPRM and Order

Presentation to
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November 15, 2010

Summary

- CTIA applauds the FCC for working to harmonize the license renewal process across the Wireless Radio Services.
 - Done properly, such actions will reduce the burden on wireless licensees when applying for renewal and on FCC staff in processing renewals.
- However, in adopting the Order freezing competing applications and conditionally granting renewals pending the outcome of the rulemaking, there exists the potential for retroactive rulemaking.
 - The Commission should continue to grant renewals under its existing rules during the pendency of this proceeding.

Petition for Reconsideration

- CTIA led a coalition of wireless providers and associations in petitioning the Commission for reconsideration of the Order.
 - The coalition consists of AT&T, Cricket, CTIA, RCA, Sprint, T-Mobile, U.S. Cellular and Verizon Wireless.
- The Petition seeks reconsideration of the portion of the Order that will grant all renewals during the pendency of the proceeding on a conditional basis, pending the outcome of the rulemaking.
 - Such action could constitute retroactive rulemaking, in that licensees whose renewals are granted during the pendency of the rulemaking face the possibility of having their licenses rescinded under a new, more stringent renewal standard.
 - Moreover, even if the Commission were to hold all renewals pending the outcome, rather than grant them conditionally, this would not eliminate the potential for retroactive rulemaking.
 - Secondary retroactivity exists where an agency upsets the investment-backed expectations of licensees made in reliance on the regulatory *status quo*.
- From an economic and policy perspective, the uncertainty created by conditional grants likely would chill investment, thwarting the Commission's goal of increasing wireless broadband deployment nationwide.

Petition for Reconsideration

- Additional uncertainty is added to this process when one considers that the Commission is under no obligation to complete this rulemaking by any date certain.
 - As the Commission itself noted, more than 430,000 license renewals are expected to be filed in the next ten years in the Wireless Radio Services.
- In order to promote the continued investment and buildout of the Wireless Radio Services, licenses renewed during the pendency of the Commission’s rulemaking should not be granted under the cloud of retroactive revocation.
 - Rather, the Commission should continue to grant license renewals while it determines if and how it will reform the license renewal process.

Petition for Reconsideration

- CTIA, *et al.*, filed its Petition pursuant to § 1.429 of the Commission’s rules for reconsideration of rulemaking proceedings.
- The Commission Order constitutes a rulemaking with respect to the clauses ordering a freeze of competing applications and conditional grant of renewals pending the outcome of the proceeding.
 - This is consistent with past Commission precedent:
 - 700 MHz Wireless Mics: The Commission froze the application and authorization process and held pending applications and authorizations in abeyance. 23 FCC Rcd 13106 at ¶¶ 23-24 (2008). This Order was published in the Federal Register as a “Final Rule.” 73 FR 51375 (2008).
 - MDS/ITFS Transition: The Commission resolved a Petition for Reconsideration on interim licensing processing requirements during the transition from MDS/ITFS to BRS/EBS. Ordering clauses only refer to § 1.429, not § 1.103. 18 FCC Rcd 16848 (2003).
 - This is consistent with current Commission rulemaking:
 - The Commission is currently seeking comment on whether to amend § 1.429 to “make clear that this rule, rather than the ‘catch-all’ reconsideration provision in section 1.106, applies to petitions for reconsideration of Commission orders adopting rules without notice and comment.” 25 FCC Rcd 2430 at ¶ 7 (2010).