Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands	)	WT Docket No. 12-70
	)	
Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz	)	ET Docket No. 10-142
	)	
Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands	)	WT Docket No. 04-356

COMMENTS OF THE
CONSUMER ELECTRONICS ASSOCIATION

The Consumer Electronics Association ("CEA")[1] hereby responds to the Notice of Proposed Rulemaking and Notice of Inquiry ("*NPRM-NOI*")[2] seeking comment on rules to govern the provision of terrestrial service in the 2 GHz Mobile Satellite Service ("MSS") band (2000-2020 MHz and 2180-2200 MHz). In this proceeding, the Commission should rapidly make additional spectrum available for stand-alone terrestrial broadband services "by removing unnecessary barriers to flexible use of spectrum currently assigned to . . . [MSS] in the 2 GHz

[1] CEA is the principal U.S. trade association of the consumer electronics and information technologies industries. CEA's more than 2,000 member companies lead the consumer electronics industry in the development, manufacturing and distribution of audio, video, mobile electronics, communications, information technology, multimedia and accessory products, as well as related services, that are sold through consumer channels. Ranging from giant multi-national corporations to specialty niche companies, CEA members cumulatively generate more than $195 billion in annual factory sales and employ tens of thousands of people.

[2] *See Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*, WT Docket Nos. 12-70 & 04-356, ET Docket No. 10-142, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 12-32 (rel. Mar. 21, 2012) ("*NPRM-NOI*").

band."[3] With the addition of fixed and mobile allocations to the MSS 2 GHz band, the FCC has established the "predicate for more flexible use of the band for terrestrial mobile broadband services" and should now adopt flexible operating rules that can "increase investment and utilization of the band in a manner that further serves the public interest."[4]

The FCC should prioritize the expeditious completion of this rulemaking and the "rapid provisioning of competitive mobile broadband services to consumers"[5] so that flexible use AWS-4 licenses can be used to help address the "widely-acknowledged" need for more broadband spectrum.[6] CEA has long championed the allocation of additional spectrum to wireless broadband services to address the "looming spectrum crisis" that threatens "our national priorities and competitiveness."[7] As CEA's President and CEO Gary Shapiro has explained,

> Many of the new products and services coming to market in consumer electronics require wireless broadband, mak[ing] the "spectrum crunch" the most critical technology public policy issue today. Demand for wireless broadband services

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[3] *Id.* ¶ 1. *See also* Comments of CEA, *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, ET Docket No. 10-142, at 2 (July 8, 2011) ("CEA Spectrum Task Force Comments") ("[T]he FCC should continue to evaluate the 2 GHz MSS band and other allocations in order to identify bands where additional flexibility may be appropriate.").

[4] *NPRM-NOI* ¶ 14 (internal citations omitted).

[5] *Id.* ¶ 99.

[6] *Id.* ¶ 12.

[7] *See, e.g.*, Comments of CEA, *Spectrum for Broadband*, GN Docket Nos. 09-47, 09-51, 09-137, at 1 (Oct. 23, 2009). *See also* CEA, *Better Living through Wireless: The Wireless Revolution and U.S. Spectrum Policy*, CEA Washington Insider Series, at 6-7 (Apr. 2008), *available at* http://www.caba.org/resources/Documents/IS-2008-44.pdf (calling for the identification of both Federal and commercial spectrum bands for reallocation to more efficient and intensive commercial use); Gary Shapiro, President and CEO, CEA, "10 Ways CES is Improving the World through Innovation," 2012 International CES Keynote, at 3 (Jan. 10, 2012), http://ce.org/CorporateSite/media/Presentations-Media/Documents/Garys_Opening_Keynote.pdf ("We are fighting for more spectrum to ensure the continued success of wireless broadband innovation.").

have nearly exhausted available spectrum, creating a crisis that can only be served by allocating additional spectrum for broadband.[8]

I. FLEXIBLE USE RULES ADVANCE THE PUBLIC INTEREST BY FOSTERING THE PROVISION OF STAND-ALONE TERRESTRIAL BROADBAND SERVICES

The Commission should adopt licensing and operating rules for the AWS-4 band that generally follow the Part 27 rules.[9] The proposed flexible rules would appropriately "permit market forces to determine what services are ultimately offered in these bands."[10]

Consistent with this approach, any licensee should be permitted to use AWS-4 spectrum for "any terrestrial use permitted by the United States Table of Frequency Allocations"[11] in Part 2 of the FCC's rules. This would provide licensees with the flexibility to offer stand-alone fixed or mobile wireless broadband services, on a common carrier or non-common carrier basis or both.[12] Maximum flexibility in allocations and service rules is a "critical means of ensuring that spectrum is put to its most beneficial use."[13]

Geographic partitioning and disaggregation of the AWS-4 licenses should also be permitted to the extent technically feasible.[14] A provider's ability to partition and/or disaggregate a given license facilitates more efficient spectrum use by permitting licensees to tailor geographic area licenses and spectrum blocks to better meet market demands. Allowing

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[8] Gary Shapiro, President and CEO, CEA, CE Week Welcome Keynote, New York, NY, at 1 (June 23, 2011), http://www.ce.org/CorporateSite/media/Presentations-Media/Documents/ShapiroSpeechforCEWeek.pdf.

[9] *See, e.g.*, *NPRM-NOI* ¶ 17.

[10] *Id.* ¶ 103.

[11] *Id.* ¶ 100.

[12] *See* 47 C.F.R. § 27.10; *NPRM-NOI* ¶¶ 104-106.

[13] *NPRM-NOI* ¶ 101.

[14] *See id.* ¶¶ 112-115.

partitioning and disaggregation is also consistent with the rules governing spectrum with similar allocations, such as PCS and other AWS licenses.[15]

In addition, the Commission should extend its spectrum leasing policies and rules to the AWS-4 licenses.[16] Application of these rules in the AWS-4 context will promote the Commission's secondary markets policies, and support "more efficient, innovative, and dynamic use of the terrestrial spectrum, expand the scope of available wireless services and devices, enhance economic opportunities for accessing spectrum, and promote competition among terrestrial wireless service providers."[17] In short, facilitating AWS-4 secondary markets will promote the public interest by enabling increased competition, innovation, and investment.

II. THE COMMISSION SHOULD STRIVE TO COMPLETE THIS RULEMAKING AS RAPIDLY AS POSSIBLE

The expedited licensing of the AWS-4 band will provide additional spectrum to fuel the continued innovation and rapid growth in mobile services by helping to address the widely-acknowledged broadband spectrum shortage.[18] Consumers' insatiable demand for mobile services only continues, as demonstrated by the most recent data released from the wireless industry.[19] For 2011, wireless data traffic grew by 123% (growing more than 100% for the third

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[15] *See, e.g.*, 47 C.F.R. § 27.15; *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, & 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Notice of Proposed Rulemaking and Order, 25 FCC Rcd 6996, 7024 ¶ 74 (2010).

[16] *See NPRM-NOI* ¶¶ 116-117.

[17] *Id.* ¶ 116.

[18] *See id.* ¶¶ 10-12; *see also* CEA Spectrum Task Force Comments, *supra* note 3, at 3-7 (detailing the urgent need for additional broadband spectrum).

[19] In April 2012, CTIA-The Wireless Association reported the results of its 55th semi-annual survey of the U.S. wireless industry, comprised of data through year-end 2011. Reply Comments of CTIA-The Wireless Association, *Wireless Telecommunications Bureau Seeks Comment on the State of Mobile Wireless*, WT Docket No. 11-186, at 2 & n.3 (Apr. 30, 2012).

year in a row) and "now amounts to more than 866 billion megabytes a year."[20] The growth in wireless data traffic and the need for more broadband spectrum is being driven by the rapid adoption of advanced mobile devices, including smartphones, wireless-enabled tablets and laptops, and wireless broadband modems. For 2011, the number of smartphones connected to wireless networks grew by 43% and the number of wirelessly connected tablets, laptops, and broadband modems grew by 49%.[21] As a result of the ever-increasing demand for mobile services, "U.S. wireless networks are on average running at 80% of total capacity – the highest utilization of any region in the world."[22]

President Obama has stated:

> America's future competitiveness and global technology leadership depend, in part, upon the availability of additional spectrum. The world is going wireless, and we must not fall behind . . . . Expanded wireless broadband access will trigger the creation of innovative new businesses, provide cost-effective connections in rural areas, increase productivity, improve public safety, and allow for the development of mobile telemedicine, telework, distance learning, and other new applications that will transform Americans' lives . . . . This new era in global technology leadership will only happen if there is adequate spectrum available to support the forthcoming myriad of wireless devices, networks, and applications that can drive the new economy.[23]

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[20] *Id.* at 5.

[21] *Id. See also* Nielsen Co., *America's New Mobile Majority: a Look at Smartphone Owners in the U.S.* (May 7, 2012), http://blog.nielsen.com/nielsenwire/?p=31688 ("In March 2012, a majority (50.4%) of U.S. mobile subscribers owned smartphones, up from 47.8 percent in December 2011.").

[22] Julius Genachowski, FCC Chairman, Prepared Remarks to International CTIA Wireless 2012, at 4 (May 8, 2012), http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0508/DOC-313945A1.pdf ("2012 CTIA Remarks").

[23] Presidential Documents, Memorandum on Unleashing the Wireless Broadband Revolution, 75 Fed. Reg. 38387, 38387 (July 1, 2010).

As Chairman Genachowski has similarly explained, "America's global leadership in mobile, and the strategic bandwidth advantage so many have worked hard to create, is being threatened by the looming spectrum crunch."[24]

Completing this rulemaking and licensing the AWS-4 spectrum as expeditiously as possible also will further the goals outlined in the National Broadband Plan ("NBP") to "*accelerate* terrestrial deployment" in the MSS bands[25] and to make 300 MHz of spectrum available for broadband services by 2015.[26] Although the new rules are expected by year end,[27] the Commission should seek to further expedite this proceeding in light of the pressing need for additional broadband spectrum. Finally, prompt FCC action will complement the initiatives of other federal government entities to address the pressing demand for additional broadband spectrum. For example, the NTIA has undertaken a "fast track" review of several federal bands for potential commercial mobile use;[28] and Congress recently passed legislation to facilitate the use of additional spectrum for mobile broadband services.[29]

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[24] Julius Genachowski, FCC Chairman, Remarks at the 2012 Consumer Electronics Show, at 5 (Jan. 11, 2012), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-311974A1.pdf. *See also* Julius Genachowski, FCC Chairman, *Spectrum: Oxygen of Wireless World*, The Hill (Sept. 24, 2009), http://thehill.com/special-reports/technology-september-2009/60265-spectrum-oxygen-of-wireless-world ("[T]he explosive demand for wireless innovation is testing the limits of a fundamental resource: spectrum. It is the oxygen of the wireless world – fueling every aspect of our mobile broadband ecosystem.").

[25] *Connecting America: The National Broadband Plan* at 87 (Mar. 16, 2010) (emphasis added).

[26] *Id.* at 84 & Ex. 5-E (calling for an MSS S-band order in "2011" to help ensure the goal of 300 Megahertz is fulfilled by 2015).

[27] 2012 CTIA Remarks, *supra* note 22, at 8.

[28] *See* U.S. Department of Commerce, *An Assessment of the Near-Term Viability of Accommodating Wireless Broadband Systems in the 1675-1710 MHz, 1755-1780 MHz, 3500-3650 MHz, and 4200-4220 MHz, 4380-4400 MHz Bands* (Oct. 2010), http://www.ntia.doc.gov/files/ntia/publications/fasttrackevaluation_11152010.pdf.

[29] *See, e.g.*, Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6401 (providing the Commission with additional authority to allocate flexible-use commercial spectrum).

III. CONCLUSION

In light of the ever increasing demand for mobile broadband services, the Commission should promptly complete this rulemaking and license the AWS-4 band with flexible use rules in order to enable the timely deployment of terrestrial services in the 2 GHz MSS band.

Respectfully submitted,

CONSUMER ELECTRONICS
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May 17, 2012