

proceed with any part of its proposal without first making sure that the entire package it ultimately decides to embrace will be accomplished internationally. Any other course of action will prejudice the interests of the services that rely on international allocation changes.

The best near term opportunity to gauge the sentiment among other ITU members concerning these issues will be the Conference Preparatory Meeting ("CPM") for WRC-97, which commences today and is scheduled to conclude on May 16, the last business day before reply comments are due in this proceeding. Given the fact that developments at the CPM may provide some insight into the international viability of whatever band plan the Commission is to adopt, it may be advisable to permit parties the opportunity to file reply comments after the developments at the CPM can be fully digested.

In any event, because of the uncertainty inherent in seeking changes to the international allocation tables, the Commission must not move to finalize a spectrum plan for the subject bands until the necessary changes are definitively secured. It must also take no action in any of the other proceedings mentioned in the NPRM^{11/} that would prejudice in any way the reaching of an omnibus solution in the instant proceeding.

^{11/} See Amendment of Parts 2, 15, and 97 of the Commission's Rules to Permit Use of Radio Frequencies Above 40 GHz for New Radio Applications, 11 FCC Rcd 4481 (1995).

Accordingly, it will be necessary to delay adoption of a final frequency plan until after WRC-97.

E. The Commission's Proposal To License "Underlay" Wireless Services Is Ill-Defined And Nonreciprocal.

Finally, the Commission has raised the possibility of issuing "underlay" licenses in bands designated for FSS use to the extent that potential uses of these frequencies are not exhausted. TRW supports this concept as a general proposition because of its desire to see that spectrum is efficiently utilized to the maximum extent possible. What is puzzling, however, is that the Commission has advanced this "underlay" concept only for those bands where it proposes FSS as the principal service. To the extent that satellite service can share with HDFS, it would seem logical to permit "underlay" licensing wherever possible, and not just in the bands earmarked for FSS. The Commission ought to encourage this type of spectrum flexibility to the maximum extent it is feasible — and it is too early in the rulemaking process to rule particular bands in or out as candidates for this approach.

Moreover, as noted above, the Commission should not adopt terrestrial allocations throughout the 36/51 GHz band before significant fixed and mobile use develops. Terrestrial users should be encouraged to share spectrum in narrower allocations before additional allocations or "underlay" proposals are pursued.

More significantly, however, it is entirely unclear what the Commission intends by the “underlay” notion. Indeed, the Commission specifically raises the question of how an “underlay” service might be distinguished from a secondary service. See NPRM, FCC 97-85, slip op. at 13 (¶ 24). Given the fact that the Commission suggests that this use “would not interfere with the predominant use” (NPRM, FCC 97-85 slip op. at 12 (¶ 23)), it seems logical to conclude that an “underlay service would either be secondary, or would be a hybrid between primary and secondary status, *i.e.*, neither causing interference to primary users nor receiving protection from them, while at the same time having the priority accorded to a “primary” services vis-à-vis any other service in the band. In fact, in most instances there would appear to be no substantive difference between the two approaches, as they would apply to terrestrial wireless services, either because they are currently the only secondary service allocated in a particular band or because FSS and fixed and mobile services are the only primary services in the band.^{12/}

CONCLUSION

TRW believes that the Commission’s initiation of a comprehensive rulemaking proceeding concerning frequency allocation between 36.0 and 51.4 GHz is a very necessary and timely initiative. While the initial proposal offered in the NPRM does

^{12/} One exception would be the 37.5-38 GHz band, where there is a primary downlink allocation for Space Research and a secondary downlink allocation for the Earth Exploration-Satellite Service.

not adequately provide for the future spectrum needs of the satellite industry, TRW remains optimistic that appropriate adjustments can be made in the course of this proceeding to accommodate the requirements in this band of both satellite and terrestrial users. As in the past, TRW is prepared to offer its technical expertise in achieving such a satisfactory conclusion.

Respectfully submitted,

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