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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Rule Making of the Cellular	)	
Telecommunications Industry Association	)	
Concerning Implementation of WRC-2000;	)	RM-9920
Review of Spectrum and Regulatory	)	
Requirements for IMT-2000	)	

To: The Commission

COMMENTS

Arizona Board of Regents for Arizona State University (ASU), Boston Catholic Television Center, Inc., Butler County Community College, California State University, Northridge, Charlotte-Mecklenburg Public Broadcasting Authority, Connecticut Public Broadcasting, Inc., Diocese of Youngstown, Ohio, Dutchess Community College, Educational Television Association of Metropolitan Cleveland, Friends University, Hampton Roads Educational Telecommunications Association, Inc., Hartnell Community College District, Jefferson County Board of Education, Monterey County Superintendent of Schools, New Jersey Public Broadcasting Authority, Newman University, San Jose State University, Santa Clara County Board of Education, Santa Cruz County Superintendent of Schools, University of North Carolina, WHYY, Inc., Wichita Public Schools-USD #259, Wichita State University, by their counsel, file these comments in response to the Public Notice DA00-1673, released July 28, 2000 regarding the Petition for Rulemaking filed by the Cellular Telecommunications Industry Association (CTIA) .[1]

[1] Separately, Commenters have filed an opposition to the Satellite Industry Association petition listed on the same Public Notice.

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List A B C D E

1. The parties to these Joint Comments (Commenters) include a broad spectrum of ITFS licensees and applicants, which have joined to urge the Commission to save the 2500-2690 MHZ band for its existing and planned future uses. Some have held licenses for over 20 years and operate widespread networks based on traditional ITFS design considerations including hundreds of receive sites. Others are license holders which have Excess Capacity Leasing Agreements with "wireless cable" entrepreneurs and which are still pursuing construction and activation of facilities. Some have participated in the conversion of analog television systems to digital transmission systems; others have participated in two-way digital experiments and are looking forward the advantages of the recently changed rules to implement two-way digital systems.

2. For example, Arizona State University (ASU) offered 119 courses via ITFS in fiscal 2000. In addition, 116 Internet courses were offered. Enrollment in these courses delivered via these technologies totaled 4679 in fiscal 2000 and continues to increase, permitting students who cannot get to a campus to have access to a university education. ASU has done this while working with its excess capacity lessee on a digital conversion program, one of the first in the country.

3. Joint Commenter The Hampton Roads Educational Telecommunications Association, Inc. (HRETA) was started in 1961 by Norfolk and Hampton Public Schools as an experiment in instructional television. Working with numerous educational partners, HRETA has used ITFS technology for fifteen years to deliver educational and public service information to a wide array of learners, including medical education to rural medical health facilities, televised college credit courses and educational

programming service to thirteen (13) area secondary school systems for use in the classroom and media centers.

4. In some markets, the transition to digital technology and the two-way rules are being extensively studied and measured by educators with ITFS licenses, as in Wichita, Kansas. The Wichita ITFS License Holders (Joint Commenters Butler County Community College, Friends University, Newman University/Diocese of Wichita, Wichita Public Schools - USD 259 and Wichita State University) has been meeting since August of 1999 to better understand the FCC's two-way ruling and to make the necessary adjustments to the spectrum. The group has established that the two-way channels could benefit the 90,000 students at the institutions in providing a number of services, and is presently planning a transition of its analog video system to a digital system.

5. Other Commenters have mature programs which require all the channel capacity they can maintain. For example, San Jose State University programs over 80 hours a week to over 500 students, while at the same time working with Sprint in development of a two-way system which will provide commercial high-speed Internet service to the Bay area. Similarly, Commenter Jefferson County Public Schools of Louisville, Kentucky uses its ITFS system extensively, providing 160 hours of instructional programming per week to over 150 schools, in addition to 4-6 hours a week of professional development training.

6. Participants in this comment include Hartnell College, an applicant since 1995 which has been unable to so far resolve the application tie-up, but which has been following the changing rules governing ITFS, looking forward to provision of educational

services to remote locations and students' homes, as well as the accommodation of students with odd working hours or requirements in other languages which may be better met through ITFS than through conventional classroom methods.

7. As a preliminary procedural matter, the Commenters must point out that the Commission has established a deadline during the absolute worst time for educators to address an issue of importance to them. Coordination of comments during the month of August in light of the academic schedules which predominate among many of the Commenters was unrealistic, and it is urged that the Commission consider more carefully the needs of affected parties when planning comment or reply comment dates in any proceeding which might result from this Petition.

8. The CTIA Petition seeks initiation of a rulemaking proceeding to "begin the process of designating additional spectrum for third generation ("3G") wireless service..." (Petition, p. 1). CTIA urges, among other matters, a study of the domestic availability of the 2500-2690 MHZ band for future mobile services.

9. The Commenters urge the FCC to conduct such a study, as well as a study to determine how much additional spectrum is in fact required for "3G" services. The Commission has already identified approximately 200 MHZ of spectrum for reallocation over the next three to five years. Policy Statement "Principles for Reallocation of Spectrum to Encourage the Development of Telecommunications Technologies for the New Millennium, FCC99-354 (Released November 22, 1999). In the Policy Statement, the Commission notes that the National Telecommunications and Information Administration had identified the "unauctioned parts" of the 2500-2690 MHz band as spectrum that might substitute for 15 MHz required to be reallocated under the 1997 Budget Act.

The Commission should use the rulemaking proceeding requested by CTIA to announce with certainty that it will not reallocate or disturb the existing licensing of the ITFS and MMDS stations in the 2500-2690 MHz band but will look elsewhere for "3G" spectrum.[2]

10. The reservation of spectrum for ITFS is unique and merits preservation. The Commission should follow the same path here that it does concerning requests to "dereserve" FM and TV channels specially allocated for educational operation; that is, to disfavor all attempts to invade the little spectrum reserved for such purposes, Deletion of Noncomemercial Reservation of Channel *16, Pittsburgh, Pennsylvania, 11 FCC Rcd 11700 (1996) and cases cited Id. at 11708-11709. In addition, the Commission's maintenance of the ITFS allocation advances the interests of education as embodied in Section 706 of the Telecommunications Act of 1996.[3] Congress required the FCC to annually survey the development of "Advanced Telecommunications" services and in particular their availability to elementary and secondary schools and classrooms. Future surveys will show the benefits of permitting undisturbed the development

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[2] The Commenters have no view as yet as to whether the 2500-2690 MHz band might accommodate mobile services in additional to the existing fixed licensing; and look forward to studies being conducted by interested parties and by the Commission to determine this possibility. However, even if mobile uses were added as a permissible use of the band, the exiting licensing scheme will permit mobile carriers requiring additional capacity to negotiate for ITFS licensee's excess capacity in the same way that MMDS licensees now negotiate for additional capacity for fixed systems. In that way, the party valuing the spectrum the most can still secure spectrum, but the primary benefit of ITFS use of the spectrum and benefit to the educational community can be preserved.

[3]See Sec. 706, Pub.L. 104-104, Title VII, Feb. 8, 1996, 100 Stat. 153, reproduced in the notes under 47 U.S.C.Sec. 157; See Second Report in CC Docket No. 98-146, FCC00-290, Appendix A.

of ITFS spectrum for this purpose, a development which has only begun under the new two-way rules.

11. The Commenters look forward to assisting the Commission in developing the record to show that reallocation of the 2500-2690 MHz band is unjustified at this time. Preservation of the ITFS allocation will benefit the educational community which hold the ITFS licenses, the commercial entities which hold the MMDS licenses and work cooperatively with the ITFS community, and the public, which will have a choice of services other than that provided by their local cable company or telephone company.

Respectfully submitted,

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August 28, 2000

CERTIFICATE OF SERVICE

I, Nancy M. Cassady, Secretary in the law offices of Schwartz, Woods & Miller, do hereby certify that I have on this 28th day of August, 2000, sent by First Class United States mail, postage prepaid, copies of the foregoing COMMENTS to

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