

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

In the Matter of )  
 )  
Promoting Efficient Use of Spectrum )  
Through Elimination of Barriers to the ) WT Docket No. 00-230  
Development of Secondary Markets )

**REPLY COMMENTS OF UTSTARCOM, INC.**

UTStarcom, Inc. (“UTStarcom”) hereby submits its reply comments in response to comments submitted in the above-referenced proceeding.<sup>1</sup> UTStarcom reiterates its support for the Commission in its efforts to remove unnecessary regulatory barriers to the development of a secondary market in radio spectrum usage rights. UTStarcom also stresses its recommendation, consistent with those of several others, that the Commission allow a licensee to delegate responsibilities for compliance to a lessee and that the Commission actively encourage leasing.

In reviewing comments, UTStarcom has an additional observation with respect to competition in wireless markets. In particular, many of the largest carriers, holding the largest number of wireless licenses, commented that they believe that leased spectrum should not count against the carriers’ spectrum caps in the PCS band. UTStarcom believes that spectrum caps are critical to the development of competition as well as to the development of technologies that use spectrum efficiently. The simple fact is that the more spectrum controlled by the same large carriers, the less opportunity for additional competitors.

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<sup>1</sup> *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, WT Dkt. No. 00-230, (rel. Nov. 27, 2000) (“NPRM”).

## **I. BACKGROUND.**

As noted in its initial comments, UTStarcom provides equipment to support community wireless network services, which will facilitate rapid and cost effective provision of small-scale wireless networks that can serve a single small town with a population of just a few thousand or a single neighborhood in the middle of a large urban environment. A thriving secondary market, in which potential small operators could obtain small amounts of spectrum for use in limited geographic areas, is well suited to such community wireless network operations.

Currently, where small-scale wireless networks are desired, the existing MTA/BTA licensing structure makes it difficult for potential operators to obtain spectrum. Areas such as small towns outside the population centers of the BTAs and low-income, highly populated areas in the center of cities are often unserved or underserved due to the undesirable economics presented by such areas to the large carriers.

In most cases, the large carriers can easily fulfill their BTA coverage obligations by simply providing service to the rather small areas where population is heavily concentrated. Promoting spectrum leasing in the smaller communities and in areas where there is currently very limited or no wireless service would allow small businesses or non-profit entities to provide wireless local service at very attractive rates.

In preparing its initial comments, UTStarcom's expectation was that the large carriers would be leasing unused spectrum to smaller carriers. Given the position that they have taking in this proceeding, however, it seems that the carriers' primary objective is to become the lessee of spectrum and not the lessor. While UTStarcom agrees that this could be in their interest, it would not be in the public interest because competitive opportunities would be diminished.

## **II. THE COMMISSION SHOULD ENCOURAGE LEASING OF SPECTRUM TO SERVE RURAL AREAS AND SMALL COMMUNITIES.**

The Commission's proposal provides no mechanism for a potential lessee to obtain permission to use unoccupied spectrum when a licensee is not interested in leasing. There is little reason, however, why the Commission could not actively encourage leasing spectrum to serve rural areas or remote or underserved communities. In such circumstances, and upon an appropriate showing by a potential lessee, the Commission could provide incentives for the licensee to engage in lease arrangements to serve such areas or communities within the licensee's larger service area. Without such involvement and encouragement by the Commission, small communities may have little or no wireless service for the indefinite future. Additionally, where a large carrier is allowed to lease spectrum in excess of the 55MHz specified under the current spectrum caps, underserved communities are likely to have very limited choices for wireless service and will continue to see high prices even in cases where designated entities hold the licenses.

## **III. SPECTRUM CAPS WILL RESULT IN MORE EFFICIENT USE OF SPECTRUM.**

While it is likely that the economic value of additional spectrum may, in fact, be higher to an incumbent large carrier interested in protecting a market than to a new, small carrier, it is more likely that a small carrier will use the spectrum more efficiently and to greater competitive benefit. There are many technologies, such as "smart antennas" and very small cells, being developed that will allow more intensive use of spectrum through high reuse. Having spectrum caps in place will encourage large carriers to adopt these technologies, instead of continuing to use system designs that are wasteful of spectrum. Small carriers also will be required to make efficient use of spectrum as a result of not having more spectrum available for use.

**CONCLUSION**

The Commission should take actions to promote secondary markets but should maintain spectrum cap limits with leased spectrum being counted as part of the “capped” spectrum of the lessee.

Respectfully submitted,

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