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verizonwireless

Donald C. Brittingham
Director – Spectrum Policy
Federal Relations
202-589-3785

Verizon Wireless
1300 I Street NW
Suite 400 West
Washington, DC 20005

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 24, 2001

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 – 12th Street, SW
Room: TW-A325
Washington, DC 20554

Re: **ET Docket No. 00-258;** Allocation of Spectrum For Advanced Mobile Services
DA 01-786; Final Report on Accommodating 3G in 2500-2690 MHz Band
IB Docket No. 99-81; 2 GHz MSS Services Rules

Dear Ms. Salas:

On April 19, 2001, I met with Peter Tenhula, senior legal advisor to Chairman Powell, to discuss (1) the FCC's Notice of Proposed Rulemaking to allocate additional spectrum for third generation (3G) wireless services, (2) the FCC's Final Report on the 2500-2690 MHz band and (3) New ICO's request for flexibility to offer terrestrial services in the 1990-2025 MHz and 2165-2200 MHz bands. Our discussion is summarized below.

Verizon Wireless believes that it is urgent for the Commission to allocate additional spectrum for 3G and to ensure that such allocations are harmonized worldwide. Specifically, spectrum from within the 1710-1850 MHz, 1990-2025 MHz, 2110-2200 MHz, and 2500-2690 MHz bands should be reallocated for mobile services and made available for 3G.

FCC Final Report. While the FCC did not reach any final conclusions regarding the use of the 2500-2690 MHz band for third generation (3G) wireless services, its findings regarding the viability of segmenting the band are predictably negative because they are based on a series of flawed assumptions.

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1. Vast majority of ITFS spectrum is leased. The Report concludes that most ITFS licensees lease excess capacity, but falls short of concluding that most ITFS spectrum is leased based on a lack of licensing data related to leasing. However, the record in the NPRM is clear, and supported by many ITFS proponents, that most ITFS spectrum is leased for commercial purposes. This is an important factor in determining the impact of a possible band segmentation on the provision of educational services.

2. 90 MHz is not the minimum amount of spectrum required for 3G. The Report assumes that a minimum of 90 MHz would need to be available to support viable and competitive 3G services. While it acknowledges the proposal that Verizon Wireless made in its comments that a reallocation of 60 MHz for 3G in the band may be viable, it concludes that there would not be a significant difference in the band segmentation analysis based on 60 MHz, 90 MHz, or even 120 MHz of spectrum being segmented for 3G. This assumption is a bit perplexing given that the impact on incumbents would vary depending on the amount of spectrum allocated. A reduction in 3G spectrum from 90 MHz to 60 MHz would reduce the impact on incumbent stations by one third (on average), could facilitate the development of a band plan that has minimal impact on commercial MDS operators, would leave more spectrum available for multiple ITFS licensees, and would minimize or even eliminate the need to relocate services to other bands.

   While Verizon Wireless believes that it may be in the public interest to reallocate more than 60 MHz of ITFS spectrum for 3G services, it should not make assumptions that prejudge the outcome.

3. Band segmentation is possible without harming MDS operators. The Report concludes that band segmentation would harm MDS operators by not allowing them to deploy broadband services, not allowing them to serve some segment of customers, or by requiring them to incur considerable additional cost. Importantly, MDS and 3G proponents are all proposing to provide the same kinds of services – i.e., Internet access and other high-speed data services at rates from 128 kbps to 2 Mbps. MDS proponents say they need a minimum of 158 MHz of spectrum to provide such services economically, while 3G proponents say they need about 30-40 MHz of spectrum.

   The MDS position is based on assumptions about cell sizes and network designs that are unrealistic. As the Report notes, a modest reduction in cell size, say from 35 to 25 miles, would allow incumbents to offer the same level of service while requiring only half the amount of spectrum, thus freeing up substantial amounts of spectrum for 3G. The Report notes that "increasing spectrum efficiency is an option that should be pursued." However, increasing efficiency doesn't stop with deploying digital technology. Frequency reuse is an equally important technique for increasing spectrum efficiency.

Importantly, MDS operators have no long term ownership rights to leased ITFS spectrum. Thus, a reallocation of some ITFS spectrum would not undermine their spectrum rights. Moreover, if MDS operators believe that they need additional to deploy broadband fixed services, they can bid in the auction.

4. There is no need for any relocation or any replacement spectrum. The Report concludes that a minimum of 90 MHz of alternate spectrum would need to be identified to accommodate relocated incumbents, and that as much as 202 MHz might need to be found to ensure that the symbiotic relationship between MDS and ITFS is not severed. Again, this is based on flawed assumptions. As Verizon Wireless noted in its comments, a minimum of 60 MHz of ITFS spectrum could be reallocated without the need to relocate incumbent ITFS services because this spectrum is no longer used for its intended purpose, i.e., educational services. Rather, it is leased to commercial operators. Since all of the spectrum is not required for educational services and the MDS operators have no rights to the spectrum beyond their contract term, a reallocation of some spectrum is possible without the requirement to relocate any incumbent systems. If MDS operators want to use the spectrum beyond their current leases, they can buy it at auction.

   If there are some situations where ITFS licensees use more than 60 MHz for educational services, and such use cannot be reduced through the use of more efficient digital technologies, then those systems can be, and should be, accommodated in alternate spectrum bands above 3 GHz. However, substantially less than 90 MHz of spectrum would be required. We believe that some of the fixed bands identified in the Report could easily accommodate such relocations, if they are necessary. However, the Commission should also consider the use of additional bands, such as 3650-3700 MHz and 4940-4990 MHz. These bands are available for use and would be ideal candidates for the services provided and envisioned by ITFS licensees.

5. The relationship between ITFS and MDS is not sacrosanct. The Report claims not to address legal or policy issues concerning leasing arrangements, and yet the entire report is premised on maintaining the symbiotic relationship between MDS and ITFS. Verizon Wireless acknowledges that ITFS licensees need funding that is provided through these leases. However, as we noted in our reply comments, that funding can come from other sources, including the auction of segmented spectrum for advanced wireless services.

6. Report supports need to update FCC rules on emission limits for MDS. The Report concludes that about 4 MHz of guard band would likely be required to separate MDS/ITFS and 3G services in any band segmentation scheme. (While it is discussed in the context of the 2.5 GHz band, we presume that the same applies to the 2.1 GHz band). In arguing this point, the Report notes that the emission limits for MDS operations under real world conditions are likely to be very

different from those that are contemplated in the FCC's rules. If that is the case, then we urge the Commission to modify its rules to reflect real world conditions.

We also discussed New ICO's request for the flexibility to offer terrestrial mobile services using spectrum currently licensed for Mobile Satellite Service (MSS) – i.e., the 1990-2025 MHz and 2165-2200 MHz bands. Verizon Wireless opposes this request. New ICO's request is not consistent with the Commission's rules. Moreover, it would contravene section 309(j) of the Communication's Act that requires that spectrum used to provide commercial terrestrial services be auctioned. New ICO received its MSS licenses for free. Given the enormous sums that Verizon Wireless and other mobile operators have paid for licenses, this would yield a tremendous windfall to New ICO and confer on them an unfair competitive advantage. If MSS is no longer viable, as New ICO suggests, than the spectrum ought to be reallocated for advanced mobile services. Importantly, the 1990-2025 MHz and 2165-2200 MHz bands have been identified worldwide for 3G services. Given the difficulty that the Commission is having in identifying spectrum for 3G, it should not overlook this obvious opportunity.

Please include a copy of this ex parte presentation in the record for the above captioned proceeding. In accordance with § 1.1206 of the Commission's rules, an original and one copy of this ex parte presentation is being filed with the Secretary's office. If you have any questions, you may call me on (202) 589-3785.

cc: P. Tenhula