



**CTIA**

*Building The Wireless Future*

Cellular Telecommunications & Internet Association

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Diane J. Cornell

Vice President for  
Regulatory Policy

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July 12, 2001

JUL 13 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
12th Street Lobby, TW-A325  
Washington, DC 20554

**Re: Ex Parte Presentation  
Petition for Rulemaking of the Cellular Telecommunications &  
Internet Association Concerning Reallocation of 2 GHz Spectrum  
for Terrestrial Wireless Use; IB Docket No. 99-81; ET Docket No.  
00-258/RM-9920/RM-9911.**

Dear Ms. Salas:

Today, the attached letter was forwarded to Chairman Powell, Commissioner Tristani, Commissioner Abernathy, Commissioner Copps, and Commissioner Martin, their wireless advisors, Donald Abelson, Chief of the International Bureau, Bruce Franca, Acting Chief of the Office of Engineering and Technology, and Thomas Sugrue, Chief of the Wireless Bureau. The letter relates to CTIA's Petition for Rulemaking concerning reallocation of the 2 GHz Mobile Satellite Services spectrum.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter is being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Diane Cornell

Attachment(s)

No. of Copies rec'd 011  
List A B C D E



# CTIA

Cellular Telecommunications & Internet Association

# ORIGINAL

Thomas E. Wheeler

President/CEO

## RECEIVED

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July 12, 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: Petition for Rulemaking of the Cellular Telecommunications & Internet Association Concerning Reallocation of 2 GHz Spectrum for Terrestrial Wireless Use; IB Docket No. 99-81; ET Docket No. 00-258/RM-9920/RM-9911.

Dear Chairman Powell:

The Cellular Telecommunications & Internet Association ("CTIA") submits this letter in response to several *ex parte* filings addressing CTIA's Petition for Rulemaking concerning reallocation of the 2 GHz Mobile Satellite Service ("MSS") spectrum, and the related 2 GHz MSS applications. On behalf of our carrier members, CTIA in its petition urges the Commission to consider the potential reallocation of the 2 GHz band in light of changed circumstances in the MSS industry since applications originally were filed – changes which were highlighted by New ICO in its ancillary terrestrial component proposal. We also submit that the Commission should defer granting any 2 GHz MSS license until it considers the issues raised by CTIA in its petition. As the Commission is considering these issues, there are several measures it could take to further a sound spectrum management policy that are detailed in the text below.

Currently, 70 MHz of spectrum is set aside for MSS use in the 2 GHz band. It is reasonable to expect that most – and perhaps all – of the current MSS applicants will ultimately not launch and provide service in that band. Given increasing spectrum needs for other services, the track record of underutilized MSS spectrum in other bands, the financial condition of numerous MSS companies, and the claims made by New ICO that MSS is not viable without terrestrial flexibility, the Commission should consider whether it is in the public interest to license an additional 70 MHz for MSS. In the long run, the most efficient course for all affected parties would be to consider, on an expedited basis, whether to reallocate the MSS spectrum in the 2 GHz band before individual MSS licenses are granted. If all indications are that the MSS industry may not need all or even most of the 2 GHz band, or that the underlying rationale for the 70 MHz MSS allocation is no longer justified, it makes little sense for the Commission to ignore this reality and proceed with licensing MSS providers.



This is particularly true for New ICO, which claims that terrestrial use is integral to its viability. In this circumstance, the Commission should address New ICO's ancillary terrestrial component ("ATC") proposal before it grants the company's licenses (see Letter from AT&T Wireless Services, Inc., Cingular Wireless LLC, Sprint PCS and Verizon Wireless to Chairman Michael Powell, June 13, 2001 in IB Docket No. 99-81). New ICO's proposal raises broad policy, technical and equity issues that would require extensive comment by affected parties before any such change in the service rules could be considered. Moreover, if the Commission should determine, after notice and comment, that the MSS spectrum may be used for the provision of terrestrial services, that spectrum should be made available via auction to all interested users.

CTIA and its member companies submit that prompt action on our petition for rulemaking is especially important because of its potential relevance to the pending rulemaking proceeding addressing spectrum for advanced mobile services, ET Docket No. 00-258/RM-9920/RM-9911. The Commission could significantly speed a resolution of this complex docket by incorporating the CTIA petition into a Further Notice that would consider whether the 2GHz MSS band could be made available to free up additional spectrum for advanced mobile services, possibly by providing a location for incumbent users from other bands. In this context, it is important that the Commission ensure that the entire 2 GHz MSS band be considered for reallocation in order not to limit its flexibility as this proceeding unfolds.

If, contrary to CTIA's position, the Commission concludes that it is necessary to move ahead with granting the 2 GHz MSS licenses, the terrestrial wireless industry urges the Commission to take the measures detailed below. Absent these safeguards, it would be extremely difficult for the Commission to implement whatever decisions it might ultimately make in a proceeding addressing CTIA's petition for rulemaking and related spectrum matters. Sound spectrum management policy requires that the Commission not in effect prejudge the outcome of that proceeding.

First, the Commission should expressly state that each 2 GHz MSS license is granted subject to any rulemaking proceeding that impacts this band. Second, the Commission should confirm that any 2 GHz MSS license is for the provision of satellite service only, consistent with the existing MSS service rules, and that terrestrial use such as that proposed by New ICO is not permitted.

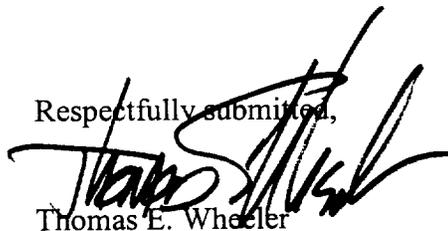
Third, the Commission should clearly limit any 2 GHz MSS licensee that might launch and start to provide service to the 5 MHz of spectrum (2.5 MHz in each direction) that the FCC found necessary to provide service in its MSS service rule proceeding (see *Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, Report and Order, 15 FCC Rcd 16127, ¶17 (2000)). As the rules currently stand, the first licensee that launches its service is able to use the entire 70 MHz of spectrum until subsequent licensees launch. In light of current spectrum constraints, that is not an efficient use of spectrum. It would be more appropriate for the Commission to clarify that a licensee is only entitled to use 2.5 MHz of spectrum in each direction, consistent with its findings in the MSS Service Rules Order. Moreover, in an effort to ensure that any of the 2 GHz MSS spectrum that is returned to the Commission can ultimately be

used efficiently for other services, each licensee should, upon launch, be restricted to utilizing only that location within the 2 GHz MSS band that the Commission decides will best further the FCC's broader spectrum management needs.

Fourth, if the Commission determines that it should proceed with licensing, it should consider applying additional milestones to the 2 GHz licensees in light of the changed conditions that have developed since the plans for this band were originally crafted. For example, the licensees should be required to demonstrate early in the process their ability to relocate and fully compensate incumbent users in the band. In addition, all filings made by 2 GHz licensees that demonstrate their progress in meeting their required milestones should be made available for public comment, and subject to careful FCC review. If any licensees fail to meet their milestones, the Commission should rigorously enforce the milestones and recover that licensee's spectrum for other uses. In this context, if any 2 GHz MSS licensee fails to satisfy any milestone or otherwise withdraws its application, the Commission should clarify that the abandoned spectrum reverts to the FCC to be made available for other services, rather than becoming available to remaining MSS licensees for their use.

In conclusion, CTIA respectfully urges the Commission to consider the possible reallocation of the entire 2 GHz MSS spectrum and New ICO's ATC proposal before it grants any license. If the Commission decides to license the 2 GHz MSS applicants, the clarifications enumerated above will insure that the spectrum is used in an efficient manner as soon as possible.

Respectfully submitted,



Thomas E. Wheeler

cc: The Honorable Gloria Tristani  
The Honorable Kathleen Q. Abernathy  
The Honorable Michael J. Copps  
The Honorable Kevin J. Martin  
Peter Tenhula  
Adam Krinsky  
Bryan Tramont  
Lauren Maxim Van Wazer  
Samuel Feder  
Donald Abelson  
Bruce Franca  
Tom Sugrue