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"The Association for Fixed Wireless Broadband Access"

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

August 1, 2001

Hon. Michael K. Powell
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *ET Docket No. 00-258*

Dear Mr. Chairman:

I am writing to add WCA's voice to those others in the broadband wireless industry, in the educational community and on Capitol Hill calling for the Commission to promptly remove the 2500-2690 MHz band from consideration for possible reallocation for third generation mobile services.

MDS and ITFS spectrum has been under a microscope for possible reallocation to 3G mobile wireless carriers for more than a year. During this period, the Commission staff issued an *Interim Report* in November 2000, a *Notice of Proposed Rulemaking* in January 2001 and a *Final Report* in March 2001. Voluminous responsive comments, reply comments and *ex parte* submissions have created a comprehensive record. After months of study and analysis, the *Final Report* found that the "MDS industry has invested several billion dollars to develop the band for fixed wireless data systems . . . [that] will provide a significant opportunity for further competition with cable and digital subscriber line (DSL) services and deliver broadband services to rural America."[1] It concluded that sharing the band between MDS/ITFS and 3G was not technically possible,[2] and that there was "no readily identifiable alternative frequency band that could accommodate a substantial relocation of the incumbent operations in the 2500-2690 band."[3] Moreover, it determined that if any attempt were made to divide the band among wireless broadband and mobile 3G services, "delivery of fixed broadband wireless services to the public and educational users would be delayed, and in rural areas or smaller markets, may never be realized."[4]

[1] *Final Report* at 13.

[2] *Id.* at 92-93.

[3] *Id.* at iii.

[4] *Id.* at 92-93.

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Given this record, it is not surprising that the overwhelming majority of the wireless carriers commenting in this proceeding advocate the use of spectrum other than the 2500-2690 MHz band for mobile 3G. Indeed, Verizon Wireless is the only party objecting to the efforts by the MDS/ITFS community and Capitol Hill to have the 2500-2690 MHz band removed from consideration, and even Verizon admits it strongly prefers reallocating other spectrum for 3G. While Verizon does not dispute the fundamental conclusions of the *Final Report* regarding the use of the 2500-2690 MHz band for broadband, and fails to present any plan for accommodating broadband MDS/ITFS usage elsewhere, it nonetheless would have the Commission hold the 2500-2690 MHz band hostage to the possibility that the 1755-1850 MHz band cannot be reclaimed from government use. To accept Verizon's position is to do a grave disservice to consumers across America.

No amount of further delay is going to change the *Final Report*'s recognition that the 2500-2690 MHz band is poised to meet the most pressing communications need in this country – the need for more extensive broadband deployment. The fact of the matter is that residential broadband services are not widely available, in large part because Verizon's local exchange affiliate, other ILECs and the cable industry have chosen not to construct the necessary infrastructure. Moreover, in those areas where residential broadband is available, there are usually only one, and at best two, providers. The recent wave of residential broadband price increases (many on the order of 25% or more) imposed by Verizon's DSL affiliate, other ILECs and the cable industry speaks volumes about the need for an additional broadband vehicle to bring the benefits of competition to consumers.

The indisputable evidence in the record establishes that consumers across the country are being harmed by the cloud of uncertainty that has been overhanging the use of MDS/ITFS for broadband. As reiterated just yesterday in testimony before the U.S. Senate Subcommitee on Communications by the Chairman and CEO of Nucentrix Broadband Networks, system operators in many markets have been forced to delay the deployment of broadband wireless systems pending the outcome of this proceeding, as the investment community is simply unwilling to provide essential funding until the Commission provides definitive guidance on the future of the 2500-2690 MHz band. Similarly, several vendors have been forced to slow development of new generations of 2500-2690 MHz broadband technology until the Commission acts. Removing the 2500-2690 MHz band from further consideration in this proceeding will lift the cloud of uncertainty and unleash a compelling competitive alternative to the ILEC-DSL and cable duopoly.

Whatever the merits of 3G, the Commission has all the information it needs to conclude, right now, that the benefits of promoting immediate deployment of the 2500-2690 MHz band for broadband take precedence. Such a decision hardly sounds the death knell for 3G should the 1755-1850 MHz band remain unavailable. What Verizon conveniently ignores is that to the extent additional spectrum is needed for 3G (and just recently Qualcomm reiterated that it is not), there is additional spectrum available at 700 MHz, the 1910-1930 MHz unlicensed PCS band, the 2110-2150 MHz band and even in the 1990-2025/2165-2200 MHz bands that the Cellular Telecommunications & Internet Association wants reallocated for 3G and at least one incumbent

satellite interest wants to use for its own terrestrial 3G services. In short, removing the 2500-2690 MHz band from consideration hardly precludes the identification of substantial additional spectrum for 3G services.

The Commission's staff is to be applauded for its exhaustive analysis of the 2500-2690 MHz band and for its thoughtful conclusions regarding the future of that band. However, the time has come to conclude the analysis once and for all. It is now time for the Commission to lift the cloud of uncertainty over MDS/ITFS definitively, and in the process spur the broadband deployment that the Commission, Congress and the American public so clearly want.

Respectfully,

Andrew Kreig

Andrew Kreig
President

cc: Hon. Gloria Tristani
Hon. Kathleen Q. Abernathy
Hon. Michael J. Copps
Hon. Kevin J. Martin
Peter A. Tenhula
Adam Krinsky
Bryan Tramont
Lauren Van Wazer
Samuel Feder
Office of the Secretary (for inclusion in the docket)