

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:)	
)	
Auction of Licenses in the 698-746, 747-762,)	WT Docket No. 99-168
and 777-792 MHz Bands Scheduled for June 19, 2002)	GN Docket No. 01-74
(Auction Nos. 31 and 44))	WT Docket No. 02-55

To: The Commission

OPPOSITION TO APPLICATION FOR REVIEW

1. Norwell Television, LLC, the licensee of WWDP(TV), Norwell, Massachusetts, by its attorneys, hereby opposes the Application for Review filed by the Cellular Telecommunications & Internet Association ("CTIA") in the above-referenced proceeding.¹ CTIA raises no claim which would warrant a delay of the auctions for the Lower 700 MHz Band (698-746 MHz) or the Upper 700 MHz Band (747-762 and 777-792 MHz) at this extremely late date.²

2. CTIA claims that the alleged uncertainties regarding exactly how incumbent broadcasters will clear the bands and how the spectrum will be used by successful bidders warrants an indefinite delay.³ The Commission is well aware of these uncertainties and has taken steps to alleviate them, such as developing voluntary band-clearing policies and adopting a reserve price of \$2.6 billion for the Upper 700 MHz band, which will require the rescheduling of

¹ On April 26, 2002, the Commission released Public Notice, DA 02-971, setting a May 3, 2002 deadline for parties wishing to oppose CTIA's Application for Review of the Wireless Telecommunications Bureau's denial of CTIA's request to delay Auction Nos. 31 and 44 beyond the auctions' scheduled June 19, 2002 start date. Therefore, this Opposition is timely.

² As the Commission, potential bidders, and incumbent broadcasters are well aware, the deadline to file short form applications to participate in the auctions is just five days away.

³ See Application for Review, pages 2-4. It must be noted that CTIA already requested and received a nearly two-year delay of the Upper 700 MHz Band auction, after it complained, *inter alia*, that potential bidders and incumbent broadcasters needed more time to develop plans for the broadcasters' voluntary clearing of the band. See Cellular Telecommunications Industry Association Request for Delay of the Auction of Licenses in the 747-762 and 777-792 MHz Bands, 15 FCC Rcd 17406 (2000).

Auction No. 31 if potential bidders' uncertainties keep them from bidding or bidding enough.

3. CTIA is correct that the White House and some members of Congress have publicly stated that they want the auctions to be delayed.⁴ However, if the White House and Congress want the auctions delayed, they have the authority to make that happen by passing the appropriate legislation. The Commission already has failed to meet the statutory deadline to conduct the Upper 700 MHz Band auction, and the statutory deadline for the Lower 700 MHz Band auction is fast approaching. Delaying the auctions now would only further aggravate the Commission's failure to comply with the first deadline and would increase that aggravation by failing to comply with the second deadline.

4. CTIA is mistaken that conducting the auctions on June 19, 2002 will harm public safety and homeland security issues. By conducting the auctions as scheduled, the new permittees will have strong incentives to pursue band-clearing agreements with incumbent broadcasters, thereby quickly freeing up public safety spectrum without any cost being imposed on public safety entities. Any delay in the auction will only delay the availability of public safety spectrum critical to the nation's post 9-11 security.

5. Potential bidders expend untold amounts of time and money preparing for auctions by creating business plans and developing technologies to maximize potential spectrum acquisitions, obtaining financing to implement the business plans and research and develop technologies, participating in the regulatory processes used to devise auction rules and procedures, training personnel on how to comply with those rules and procedures, and otherwise preparing for the commencement of an auction. Each time the Commission delays an auction, the momentum for the auction is drained from potential bidders, while the bidders' frustration level with the FCC grows.

6. CTIA has offered no compelling reason why the Commission should delay the auctions at this late date. The Commission already has postponed the Upper 700 MHz band

⁴ See Application for Review, pages 4-6.

auction five times. To once again delay Auction No. 31 or to delay the Lower 700 MHz band auction harms everyone involved in the auction process. The Commission must assure potential bidders that it says what it means and stand by its own auction dates. Absent passage of appropriate legislation requiring the postponement of the auctions, under no circumstances should the Commission delay the auctions beyond their June 19, 2002 start date. Norwell Television, therefore, respectfully requests that the Commission deny CTIA's Application for Review.

Respectfully submitted,

NORWELL TELEVISION, LLC

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