



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, D.C. 20230

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Re: First Report and Order, Revision of Part 15 of the Commission's Rules Regarding
Ultra-Wideband Transmission Systems, ET Docket 98-153

Dear Chairman Powell:

I write to personally thank you and your staff for your leadership and dedication to the safe and effective authorization of ultrawideband (UWB) technology. The process was long, the arguments were highly technical, and the record was voluminous. But, together, the Commission and NTIA were able to meet the challenge.

However, recent staff communications regarding paragraphs 1 and 273 of the Report and Order, which address the Government's use of UWB technology, require some clarification. Section 305 of the Communications Act of 1934, as amended, preserves the President's authority to authorize use of the radio spectrum for U.S. Government owned and operated stations. In addition, Section 305 states that Government operations of radio communications devices are not subject to the Commission's authority. 47 U.S.C. § 305. On the President's behalf, NTIA exercises spectrum management authority for Government owned and operated stations. See e.g., 47 U.S.C. § 902(b)(2)(A).

Consistent with its authority, NTIA has authorized U.S. Government users to procure and operate "off-the-shelf" non-licensed devices that conform to Part 15 of the Commission's Rules without requiring Federal agencies to obtain special NTIA authorization. Section 7.9 of the NTIA Manual specifically provides that "Federal Government telecommunication operations do not require an FCC license or authorization. . . . Agencies may develop and operate devices that conform to the technical criteria of Annex K [of the NTIA Manual] without further authority from the Assistant Secretary [NTIA's Administrator]." We intend to update the applicable sections of the Manual to make clear that NTIA rules with respect to Part 15 devices will apply to Government users procuring and operating "off-the-shelf" UWB devices that conform to the Commission's new Part 15 rules implemented in ET Docket 98-153.

Consistent with our longstanding practice, NTIA will continue to authorize new systems, including new UWB devices that do not conform to either Annex K or Part 15 standards, pursuant to the system review procedures of Chapter 10 of the NTIA Manual. Those procedures provide ample opportunity for agency representatives, including an FCC liaison representative, to review, comment upon and advise the developer and NTIA of necessary changes and operating constraints. Clearly, authorizations for nonconforming UWB systems would be strictly limited to

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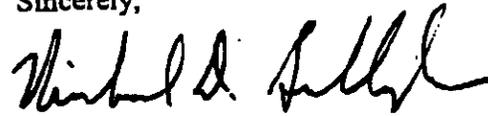
The Honorable Michael K. Powell

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UWB systems required for critical U.S. missions, including national security. It is not our intention to allow the Chapter 10 procedures to undermine the development of commercial UWB devices envisioned by the Report and Order or to lead to a proliferation of non-conforming UWB devices.

Again thank you for your skillful management of this issue. I look forward to continuing our work on UWB and other innovative approaches to spectrum use and management.

Sincerely,



Michael D. Gallagher
Deputy Assistant Secretary for
Communications and Information

cc: The Honorable Norman Y. Mineta
The Honorable Paul Wolfowitz
The Honorable Sean O'Keefe
The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin