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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20054**

In the Matter of

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| Spectrum Policy Task Force Seeks Public Comment on Issues Related to Commission's Spectrum Policies | ) ) ) | ET Docket No. 02-135 |

To: The Commission

**REPLY COMMENTS OF THE**
**FIXED WIRELESS COMMUNICATIONS COALITION**

The Fixed Wireless Communications Coalition ("FWCC") hereby submits the following reply comments to the Commission's Public Notice in the above-captioned proceeding, seeking comment on a variety of issues under review by the Commission's Spectrum Policy Task Force.[1]

## A. Introduction and Summary

The FWCC is a coalition of equipment manufacturers and users interested in terrestrial microwave communications. Its membership includes manufacturers of microwave equipment, licensees of terrestrial fixed microwave systems and their associations, and communication service providers and their associations. FWCC's membership also includes railroads, public utilities, petroleum and pipeline entities, public safety agencies, the broadcast industry, telecommunications carriers and others. Because it comprises a broad variety of spectrum users, using many different frequency bands, the FWCC has a direct interest in the outcome of the Spectrum Policy Task Force Study.

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[1] *Spectrum Policy Task Force Seeks Public Comment on Issues Related to Commission's Spectrum Policies*, ET Docket No. 02-135, Public Notice, DA 02-1311 (released June 6, 2002).

The FWCC respectfully proposes that the Commission adopt a policy of requiring a Spectrum Impact Study as part of all applications and proposals for new spectrum use. Such a study, done at the beginning of the spectrum licensing or allocation process, would facilitate the coordination of spectrum sharing among compatible users; predict, and possibly avoid, unnecessary and disruptive interference; promote more efficient use of available spectrum; protect vital public safety communications; and integrate international decisions into U.S. policy more smoothly. The proponent of a new spectrum application would have to consider its impact in a comprehensive manner, in advance, instead of addressing pinpoint criticisms in a patchwork fashion over an extended period of time. Most important, it would shift the burden of trouble-shooting a proposal for new spectrum use from the incumbents to the proponent.

The Spectrum Impact Study proposed by the FWCC would:

- document a proponent's demonstrations of non-interference;
- identify obstacles to efficient sharing early in the allocation and licensing process;
- identify costs of integration and reallocation for both new users and incumbents; and
- provide a proposed comprehensive transition plan.

### B. Market-Oriented Allocation and Assignment Policies, and Spectral Efficiency

The Commission seeks comment on how to facilitate the efficient restructuring of spectrum held by new licensees and incumbents.[2] Our proposed requirement for a Spectrum Impact Study is an excellent tool for predicting and resolving possible problems in spectrum restructuring. Under the proposal, an applicant seeking a novel use of the spectrum would be

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[2] Public Notice at 2 and 5, *generally*.

required to report to the Commission in detail on how its plan would affect incumbents, and resolve interference issues. The Spectrum Impact Study would include an explanation of how the new user can share the spectrum and provide a plan for an efficient and cost effective transition into the band. It should also present any feasible methods of restructuring of spectrum and potential costs to both the new user and the incumbents prior to licensing the new user. In short, the study should provide all the information the Commission would need to reach a reasoned decision on whether the new use of spectrum is in the public interest, and whether it justifies any need to disrupt incumbents.

This type of study would have been useful in the recent reallocation of the 18GHz band.[3] What began as a proposal by Teledesic to share the 18GHz band resulted instead in the reallocation of 720 MHz of that spectrum from Fixed Service to satellite use. The change from sharing to splitting came late in the proceeding, when it finally became clear that Teledesic's system could not effectively share spectrum with the Fixed Service incumbents in the band, and required a reservation of spectrum instead. This mid-course re-evaluation greatly delayed a resolution. A thorough Spectrum Impact Study at the outset would have accelerated the discovery and saved time and resources.

### C. Interference Protection and Public Safety Communications

The Commission seeks comment on adoption of new policies to address interference to critical communications.[4] Spectrum Impact Studies would be a useful tool in evaluating such interference. This is especially important in bands used by public safety and public service

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[3] *See generally*, IB Docket No. 98-172, *Redesignation of the 17.7-19.7 GHz Frequency Band.*

[4] Public Notice at 3 and 6, *generally*.

agencies. Requiring new, non-safety users to demonstrate their lack of interference to incumbents -- not merely assert it -- will decrease the risks to existing critical safety infrastructure. It would also increase the likelihood that potential problems are addressed by the new user as part of a cohesive plan, and not in response to isolated criticisms by various incumbents. This is analogous to the Commission's existing policy requiring frequency coordination prior to the grant of certain licenses -- the spectrum equivalent of the Hippocratic dictum, "First, do no harm."

A Spectrum Impact Study prior to temporary authorization of C-band "Earth Station Vessels" would have been helpful in predicting and preventing interference to critical Fixed Service infrastructure on the coastal mainland. The goal is to remove the primary burden of interference prevention from the incumbent, who often must lodge objections despite limited information about the interfering user; and place it where it belongs, on the proponent of new spectrum use.

### D. International Considerations

Often, companies seeking global use of spectrum -- most often satellite applicants -- go to other administrations or the ITU for allocations prior to approaching the Commission. By the time the company files applications here, it may have already obtained a grant of the same spectrum in other parts of the world. The Commission should nonetheless require a showing of the impact in this country, even if the outcomes might provide the company with a more limited grant here than elsewhere.

## CONCLUSION

Where spectrum sharing is involved, details matter. Current procedures tend to defer concerns over interference, ease of transition, and cost until they are raised by incumbent users of

the band, often deep in the proceeding. This puts the incumbents in the position of constantly protecting themselves and the licenses they already hold. These issues should, instead, be taken up in depth by the new user and presented as a cohesive plan at the beginning of the process, not raised late as disjointed responses to other people's pleadings.

The FWCC urges the Commission to ensure that new users of spectrum fully contemplate and communicate the effects of their proposals from the beginning by requiring them to provide a Spectrum Impact Study as a part of their petitions. The public interest can best be served when potential problems are identified and addressed early as part of a cohesive plan.

The FWCC appreciates the opportunity to participate in this proceeding, and remains available to assist the Commission in any way possible.

Respectfully submitted,

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July 23, 2002

## CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the *Reply Comments of Fixed Wireless Communications Coalition* was sent this 23rd day of July, 2002 by hand where indicated and via United States First Class Mail, postage prepaid, to the following:

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