

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC**

In the matter of)
)
Amendment of Part 2 of the Commission's) ET Docket No. 00-258
Rules to Allocate Spectrum Below 3 GHz for)
Mobile and Fixed Services to Support the)
Introduction of New Advanced Services,)
including Third Generation Wireless Systems)

To: The Commission, *en banc*

COMMENTS OF AD HOC MDS ALLIANCE SUPPORTING THE NTIA REPORT

AD HOC MDS ALLIANCE (Ad Hoc), by and through two of its undersigned members and in response to the Commission's Public Notice DA 02-1780, released July 24, 2002, respectfully submits its comments in the captioned proceeding to the Federal Communications Commission in support of the *NTIA Report*.¹ In pertinent part, NTIA concluded that the entire 2110-2170 MHz band can be made available for 3G wireless systems in an acceptable timeframe, which is consistent with the compromise proposal set forth by BellSouth Corporation, Nucentrix Broadband Networks, Inc., Sprint Corporation, WorldCom, Inc. and The Wireless Communications Association International, Inc. in their *MDS White Paper*² filed in this proceeding on July 11, 2002. Ad Hoc supports the conclusions advocated in both documents and strongly urges the Commission to expeditiously establish rules and policies for relocating MDS licensees from the

¹ "An Assessment of the Viability of Accommodating Advanced Mobile Wireless (3G) Systems in the 1710-1770 and 2110-2170 MHz Bands," released by the National Telecommunications and Information Administration on July 23, 2002.

² "A Compromise Solution for Relocating MDS from 2150-2162 MHz," ET Docket No. 00-258, *et al.*, July 11, 2002.

2150-2162 MHz band to the 1910-1916/1990-1996 MHz band, as proposed in the *MDS White Paper*.

Ad Hoc represents MDS Channel 1³ and MDS Channel 2⁴ licensees in 17 major markets⁵ covering a population of approximately 80 million persons throughout the United States. It has been an active participant and commenting party throughout these proceedings, encouraging the Commission to adopt policies which mitigate the harm to licensees of MDS Channel 1 and MDS Channel 2 in the event it concludes that the public interest requires reallocating the 2150-2162 MHz band for advanced wireless services.⁶

Ad Hoc believes that the conclusions reached by NTIA in the *NTIA Report* concerning the viability of using the entire 2110-2170 MHz band for 3G wireless systems are entirely consistent with and fully supported by the compromise proposal advanced by the MDS industry in its *MDS White Paper*. Accordingly, Ad Hoc supports both reports and requests the Commission to act in an expedited manner to remove the crippling uncertainty that has anaesthetized both the MDS industry and the wireless telecommunications industry as a whole.

Absent a prompt decision at this critical junction, it will be virtually impossible for the lessees of Ad Hoc's various licensed stations to deploy the next generation of equipment necessary to provide economical and reliable high speed internet access the public is demanding.

Thus, the current uncertainty places an undue hardship on members of Ad Hoc as small busi-

³ 2150-2156 MHz.

⁴ 2156-2162 MHz.

⁵ Atlanta, GA; Chicago, IL; Columbus, OH; Detroit, MI; Houston, TX; Indianapolis, IN; Los Angeles, CA; Milwaukee, WI; Minneapolis, MN; New York, NY; Oklahoma City, OK; Phoenix, AZ; Sacramento, CA; San Diego, CA; San Francisco, CA; St. Louis, MO; and Washington, DC.

⁶ See, e.g., Comments of the Ad Hoc MDS Alliance on the Further Notice of Proposed Rule Making, ET Docket No. 00-258, *et al.*, October 22, 2001 (the "Ad Hoc Comments"); Reply Comments of the Ad Hoc MDS Alliance on the Further Notice of Proposed Rule Making, ET Docket No. 00-258, *et al.*, November 8, 2001 (the "Ad Hoc Reply Comments").

nesses, causes loss of substantial manufacturing opportunities for vendors, reduces gainful employment in our society and, equally importantly, denies the public, particularly in rural areas, a critical service and a viable alternative to existing DSL, cable modem and satellite high speed internet services.

Ad Hoc points out that it has proposed in its previous filings actions to facilitate the auctioning of spectrum for 3G wireless systems that are entirely in accordance with the *NTIA Report* and the *MDS White Paper*.⁷ Ad Hoc has consistently supported establishing a new spectrum band for MDS Channel 1 and MDS Channel 2 licensees that meets the following criteria: (1) spectrum which is technically comparable to existing spectrum; (2) spectrum which involves the least amount of impact or disruption to other licensees affected by a relocation process of this magnitude; and (3) spectrum which enables relocation with the greatest speed. As Ad Hoc has pointed out in its filings, the 1910 and 1990 MHz bands are reasonably comparable to the 2150 MHz band, require the least amount of overall relocation, and provide for the fastest deployment of new, advanced wireless services utilizing next generation of high speed wireless equipment.

Furthermore, Ad Hoc respectfully submits that the addition of the *NTIA Report* and the *MDS White Paper* to the substantial comments already of record provides an ample legal basis for a final decision herein, without the necessity of issuing a Further Notice of Proposed Rule Making. Ad Hoc is comprised of small, independent enterprises and minority-owned businesses that can ill afford the additional delays and uncertainties that have long plagued the wireless industry in its quest for financial viability. Moreover, further technical proceedings are unnecessary, since the *MDS White Paper* already incorporates reduced power levels to avoid interference to adjacent PCS bands, as well as an agreement to abide by other existing technical rules governing the adjacent PCS licensees. In addition, implementing the proposal in the *MDS White Paper*

⁷ See Ad Hoc Comments and Ad Hoc Reply Comments, *supra*, note 6, at pp. 5-22 & 5-15, respectively.

should help alleviate the investment community's present antipathy toward the wireless telecommunications sector. Accordingly, Ad Hoc urgently requests the Commission to proceed directly to a *Report and Order* in this proceeding, adopting and implementing the compromise proposal set forth in the *MDS White Paper*.

In urging the Commission to proceed directly to a decision herein, Ad Hoc also reiterates its request that the Commission grant a period of dual illumination to facilitate the migration of tens of thousands of existing customers to a new and upgraded service.⁸ Doing so is clearly in the public interest because it would help jump start large scale manufacturing of second generation digital MDS equipment and expedite deployment of wireless high speed internet access service that would compete directly with DSL, cable modems and satellite internet providers.

In conclusion, Ad Hoc concurs with the conclusions set forth in the *NTIA Report* and in the *MDS White Paper*, and accordingly requests the Commission to act expeditiously to reallocate MDS Channel 1 and MDS Channel 2 licensees to the 1910-1916/1990-1996 MHz band. Further, Ad Hoc requests that the new licenses be issued promptly and that the Commission afford a reasonable period of dual illumination in order to best facilitate the transfer of existing customers to the new spectrum band with the least amount of disruption to existing services.

Respectfully submitted,

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⁸ See Ad Hoc Comments and Ad Hoc Reply Comments, *supra*, note 6, at pp. 10-11 & 5-8, respectively.

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