

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
Amendment of Part 2 of the Commission's	)	
Rules to Allocate Spectrum Below 3 GHz for	)	ET Docket No. 00-258
Mobile and Fixed Services to Support the	)	
Introduction of New Advanced Wireless	)	
Services, including Third Generation Wireless	)	
Systems	)	
The Establishment of Policies and Service	)	
Rules for the Mobile-Satellite Service in the 2	)	IB Docket No. 99-81
GHz Band	)	
Amendment of the U.S. Table of Frequency	)	
Allocations to Designate the 2500-2520/2670-	)	RM-9911
2690 MHz Frequency Bands for the Mobile-	)	
Satellite Service	)	
Petition for Rule Making of the Wireless	)	
Information Networks Forum Concerning the	)	RM-9498
Unlicensed Personal Communications Service	)	
Petition for Rule Making of UTStarcom, Inc.,	)	
Concerning the Unlicensed Personal	)	RM-10024
Communications Service	)	

To: The Commission

**REPLY COMMENTS OF  
THE SATELLITE INDUSTRY ASSOCIATION**

The Satellite Industry Association ("SIA"), pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, hereby replies to oppositions that were filed addressing the Petition for Reconsideration that was submitted by SIA in the above referenced proceeding.<sup>1</sup>

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<sup>1</sup>SIA is a U.S.-based trade association representing the leading U.S. and international satellite manufacturers, service providers, and launch service companies. The SIA serves as an advocate for the commercial satellite industry on regulatory and policy issues common to its members. With its member companies providing a broad range of manufactured products and services, SIA represents the unified voice of the commercial satellite industry. SIA Executive Members include: The Boeing Company; Globalstar, L.P.; Hughes Network Systems, Inc.; ICO Global Communications; Intelsat; Lockheed Martin Corp.; Loral Space & Communications Ltd.; Mobile Satellite Ventures; Northrop Grumman Corporation; PanAmSat Corporation; SES Americom, Inc. and Associate Members include Inmarsat, and New Skies Satellites Inc.

**I. THE COMMISSION SHOULD REFRAIN FROM ERODING FURTHER THE SPECTRUM AVAILABLE FOR RECENTLY LICENSED 2 GHz MSS NETWORKS**

In their oppositions, terrestrial wireless interests continued their anticompetitive campaign against the mobile-satellite service (“MSS”) industry, labeling the Commission’s decision to reallocate nearly half of the domestic 2 GHz MSS spectrum band as “overly generous” to recently authorized 2GHz MSS licensees.<sup>2</sup> Wireless interests also continued their efforts to hobble the development of 2 GHz MSS systems, repeating their argument that each MSS licensee should be limited to no more than 3.5 MHz of paired spectrum.<sup>3</sup>

CTIA erroneously claims in its opposition that the Commission made a “determination that 7 megahertz would be sufficient to sustain a viable offering” and also claims that this erroneous determination “has never been refuted.”<sup>4</sup> In reality, the Commission has repeatedly acknowledged that MSS licensees will need access to expansion spectrum in order to be successful.<sup>5</sup> One of the Commission’s goals in the 2 GHz MSS proceeding was creating “a mechanism for systems to increase their amount of authorized spectrum when needed.”<sup>6</sup> AT&T Wireless and other carriers acknowledge in their opposition the Commission’s findings regarding the need for expansion

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<sup>2</sup> *Opposition to Petitions for Reconsideration of the Cellular Telecommunications & Internet Association*, ET Docket No. 00-258, at 10 (May 14, 2003) (“*CTIA Opposition*”); *Comments in Response to Petitions for Reconsideration of AT&T Wireless Services, Inc. et al.*, ET Docket No. 00-258, at 7 (May 14, 2003) (“*AT&T Wireless Comments*”).

<sup>3</sup> See *CTIA Opposition* at 4.

<sup>4</sup> *Id.*

<sup>5</sup> See, e.g., *Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, Report and Order*, FCC 00-302, 15 FCC Rcd 16127, ¶¶ 13, 35 (2000).

<sup>6</sup> *Id.*

spectrum.<sup>7</sup> Therefore, no basis exists for CTIA's claim that 2 GHz MSS licensees "had no reason to believe then or now that they would be given additional spectrum" over and above their initial 3.5 MHz paired assignments.<sup>8</sup>

The Commission should reject the wireless industry's attempts to further undermine the development of 2 GHz MSS systems. The Commission should also refrain from disrupting further the spectrum allocation for the 2 GHz MSS service. Instead, the Commission should continue to monitor the growth and development of the MSS industry in order to facilitate the potential of MSS networks to make universally available wireless telecommunications services to remote and underserved populations.

## **II. THE COMMISSION SHOULD REQUIRE TECHNICAL STUDIES ON WHETHER IT WAS NECESSARY AND APPROPRIATE TO REALLOCATE GLOBALLY ALLOCATED 2 GHz MSS SPECTRUM**

SIA filed a Petition for Reconsideration in this proceeding urging the Commission to reexamine its decision to reallocate globally allocated 2 GHz MSS spectrum, while leaving in place non-globally allocated spectrum. Specifically, in reallocating 30 MHz of 2 GHz MSS spectrum, the Commission eliminated 10 MHz of globally allocated uplink spectrum at 1990-2000 MHz, while leaving in place 10 MHz of non-globally allocated uplink spectrum at 2010-2020 MHz.

In opposing SIA's petition, the terrestrial wireless interests continue to suggest that they have "demonstrated" the need to separate by 10 MHz the 1930-1990 MHz PCS band from the

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<sup>7</sup> See *AT&T Wireless Comments* at 4 & 4 n.10 (stating that "the Commission recognized the potential future MSS spectrum needs" and acknowledging the Commission's set aside of 2 GHz expansion spectrum) (*emphasis omitted*).

<sup>8</sup> *Id.*

lower edge of the 2 GHz MSS downlink band.<sup>9</sup> In fact, CTIA boldly claims that “no one seriously disputes[] out-of-band emissions (“OOBE”) from MSS/ATC transmissions in spectrum close to 1990 MHz will cause harmful interference to PCS receivers.”<sup>10</sup>

In reality, the record is replete with unresolved questions regarding the potential for adjacent operations between PCS and MSS networks. Commissioner Michael Copps highlighted these uncertainties when he observed that “claims of potential interference were raised extremely late in this proceeding and the effect on interference of our decision is poorly understood, at best.”<sup>11</sup>

The need for technical study is bolstered by the important public interest benefits that potentially will be lost by the reallocation of globally harmonized 2 GHz MSS spectrum. The Commission has long recognized the need for global harmonization of satellite spectrum in order to enable international roaming of consumer terminals and the universal availability of MSS services. Despite this fact, the wireless interests make the astonishing statement that

Strangely, the MSS community never raised [globally harmonized spectrum] as a problem before, and one has to suspect that the current recitation of the “global harmonization” mantra is more about recapturing spectrum than global harmonization.<sup>12</sup>

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<sup>9</sup> *CTIA Opposition* at 6.

<sup>10</sup> *Id.*

<sup>11</sup> *Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, et. al*, Third Report and Order, Third Notice of Proposed Rulemaking and Second Memorandum Opinion and Order, FCC 02-47 (Feb. 10, 2003), Separate Statement of Commissioner Michael J. Copps at 1.

<sup>12</sup> *Opposition to Petitions for Reconsideration of the Wireless Communications Association International, Inc.*, ET Docket 00-258, at 8 (May 14, 2003).

Efforts to create global harmonization of 2 GHz MSS spectrum has, of course, been a central focus of the 2 GHz proceeding since it was first initiated before the Commission more than a decade ago. That some wireless interests appear unaware of this fact underscores their failure to participate earlier in this proceeding.

Furthermore, the wireless interests argue that the loss of 10 MHz of globally allocated 2 GHz MSS spectrum will not be a problem for 2 GHz licensees because the remaining 10 MHz of globally allocated spectrum will be adequate to fulfill their needs.<sup>13</sup> This suggestion disregards the fact that 2 GHz MSS licensees will need to coordinate their operations with satellite and terrestrial services that use portions of the 2 GHz MSS band in other regions of the world. The preexisting disjunction between the U.S. and international 2 GHz MSS band plans had already made this coordination complex. Cutting the remaining global allocation in half will likely make the difficulties in coordination far worse.

As SIA explained in its Petition for Reconsideration, in order for the Commission to disregard its long-standing policy of support for globally harmonized spectrum, the Commission must conclude that conflicting concerns or benefits outweigh the substantial and demonstrated benefits that would result from adherence to the Commission's harmonized spectrum policy. The undocumented and speculative concerns about potential interference to PCS receivers fail to satisfy the requirements of this test. As a result, the Commission should reverse its decision to reallocate globally allocated 2 GHz MSS spectrum. At the very least, the Commission should require the completion of technical studies on the potential for adjacent spectrum sharing before any new services are allocated to the 1990-2000 MHz band.

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<sup>13</sup> See *CTIA Opposition* at 6.

### III. CONCLUSION

For the reasons stated herein, the SIA urges the Commission to reconsider its decision to reallocate globally allocated satellite spectrum instead of non-globally allocated satellite spectrum. The Commission should also refrain from eroding further the spectrum allocation and assignments of 2 GHz MSS licensees and should instead permit the open market to determine which MSS networks will succeed in providing attractive services to consumers.

Respectfully submitted,

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