

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

<i>In the Matter of</i>)	
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules)	WT Docket No. 06-169
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010)	WT Docket No. 06-86
)	

**Comments of the Computer & Communications Industry Association (CCIA)
On the FNPRM in the 700 MHz Auction Proceeding**

CCIA has long been an advocate of spectrum policy reform that will promote more efficient use of the public airwaves for advanced telecommunications and information services. Five years ago when many countries around the world were already moving ahead with 3G wireless broadband licensing, CCIA was urging U.S. policymakers to do likewise. Germany, the United Kingdom and Japan had already

reserved amounts of spectrum ranging from 50% more to double that made available for commercial mobile wireless services in the U.S. CCIA endorsed the use of spectrum auctions so that commercial users would compensate the public for their exclusive licenses.

Both the Bush Administration and bipartisan Congressional Leadership now agree that deployment of high-speed broadband networks for Internet access by all Americans is a national priority.¹ The need for greater competition in this high-tech sector is also generally recognized. The above-referenced proceedings represent one of the many ways the FCC can facilitate broadband deployment, though licensing of broadband wireless networks, while also promoting competition in broadband Internet access markets.

The 700MHz auction has the potential to yield new wireless broadband licenses by the end of this year that may be used to create a wireless nationwide broadband network. This new wireless network could compete with cable TV and telephone DSL/fiber broadband access services by 2009.² One or more nationwide or regional competitor(s) to fixed broadband service would almost certainly reduce prices while forcing quality improvements.

CCIA directs its comments specifically to: the alternative band plan advocated by the Coalition for 4G in America;³ wireless broadband network build-out and performance requirements; incumbent licensee bidder eligibility; and the merits of the Frontline Wireless proposal.⁴

¹ *House Innovation Agenda*, 110th Congress, at <http://speaker.gov/issues?id=0016> & Senate Republican High Tech Task Force, 110th Congress, at <http://www.republican.senate.gov/http/>

² Wireless broadband services, however might be limited to a maximum throughput of 2 Mbps in each direction.

³ Coalition for 4G in America *Ex Parte* in WT Docket Nos. 96-86, 06-150 and 06-169, April 23, 2007.

⁴ Comments of Frontline Wireless in WT Docket No. 06-150, FCC, March 6, 2007, ¶ 268.

I. Proposal 3 (Alternative to the Broadband Optimization Plan)

CCIA supports the band plan developed by the Coalition for 4G in America (hereinafter “the 4G Coalition”),⁵ designated “proposal # 3” by the Commission, because this approach will best promote next-generation technologies and networks. The coalition proposal includes an alternative proposal for the Guard Bands in the Upper 700 MHz Commercial Services Band which would permit the auction of 32 MHz of commercial broadband spectrum, but leave the size of the public safety allocation unchanged. This plan specifically provides for an 11MHz paired block of spectrum to be licensed by Regional Economic Areas (REAGs), with package bidding opportunities.

These criteria will greatly improve the chances of creating a new nationwide wireless broadband network, that can take advantage of economies of scale. It will take relatively large, well-financed bidders to invest in and construct such a wireless broadband network. Licenses will need some flexibility, such as the ability to use dynamic auction techniques, including real time airwaves auctions and wireless device registration fees.⁶

The Coalition recognizes the legitimate relocation cost concerns of public safety agencies and has pledged to cover those costs if proposal 3 is adopted. The Coalition is also engaged in proactive negotiations to resolve spectrum overlap issues with current Guard Band B Block license holders.

⁵ Coalition for 4G in America *Ex Parte* in WT Docket Nos. 96-86, 06-150 and 06-169, April 23, 2007.

⁶ Google *Ex Parte* Filing; Service Rules for the 690-746, 747-762; MHz Bands (WC Docket No. 06-150; WC Docket No. 06-129; PS Docket No. 06-229; WT Docket No. 96-86), May 21, 2007.

II. Build-out Requirements

Even if the upcoming 700 MHz auction is well-run and new entrants win licenses for a nationwide wireless broadband footprint, it will take many years and huge investments to build out these networks.

Existing FCC performance requirements were designed merely to prevent warehousing of spectrum, and so required licensees to provide “substantial service” within 10 years. This standard is woefully inadequate to any serious effort to ensure deployment of wireless high speed broadband access to a majority of Americans. Therefore, CCIA urges the Commission to adopt a “keep what you use” policy requiring that winners deliver quickly on their promise for the largest geographic license areas, if not all spectrum blocks. The urgency of this matter for the U.S. economy and Americans’ competitiveness is at least as great now as deployment of cellular telephone service was in the 1980s, if not greater. CCIA supports the FNPRM’s proposal to require each licensee to provide coverage of at least 25 percent of the geographic area of the license within 3 years of license grant, 50 percent of this area within 5 years and 75 percent within 8 years.⁷

However, the Commission should recognize that even these build-out performance requirements are quite modest relative to reasonable goals of achieving 95% or greater broadband penetration in the U.S. by 2015. Likewise, these requirements will not ensure competitive broadband options for even a majority of Americans 5 years from now. Much more will need to be accomplished through other private industry, and state

⁷ Further Notice of Proposed Rulemaking, FCC, (WT Docket No. 06-150; WT Docket No. 06-169; PS Docket No. 06-229; WT Docket No. 06-86), p.70, ¶ 212.

and federal government initiatives, including Universal Service Reform, Rural Utility Service loan improvements and municipal broadband partnerships.

III. Incumbent Eligibility

While CCIA strongly supports entry by new competitors into the highly concentrated broadband network access market, we do not endorse blanket exclusion of any class of incumbent license holders from this spectrum auction. We do however support basing in-region wireline incumbents' eligibility on the use of structurally separate affiliates or subsidiaries.⁸ This industry model would make it possible to detect more favorable or discriminatory interconnection arrangements that might be provided by a dominant incumbent to an affiliate.

The largest wireline incumbent local exchange carriers (ILECs) face far lower risk than new entrants. These ILECs could have built out wireline broadband access to more unserved users before the 700 MHz frequencies became available, but failed to do so. Instead they are investing only in the most lucrative markets, sometimes disposing of network assets in unserved rural areas where profitability is not assured, as it was under traditional common carrier rate of return regulation.⁹

IV. Frontline Wireless Proposal

CCIA agrees with Frontline Wireless that the Commission should promote the development and construction of a National Public Safety Broadband Network.¹⁰

⁸ See *Ex Parte* Comments of the Ad Hoc Public Interest Spectrum Coalition, PS Docket No. 06-229 and WT Docket Nos. 06-150, 05-211, 96-86 at 9-10 (filed Apr. 3, 2007).

⁹ "Verizon Hones Wireless Aim", January 16, 2007, Wall Street Journal Online, at <http://blogs.wsj.com/onlinetoday/2007/01/16/>

¹⁰ Comments of Frontline Wireless in WT Docket No. 06-150, March 6, 2007, 97, ¶ 268.

This enlightened proposal demonstrates that investors will back a wholesale commercial model like the one that has resulted in better and cheaper broadband access from ISPs that use British Telecom facilities in the U.K.¹¹ Frontline properly advocates maximum equipment choice for end users on the E Block wireless network, open access policies and nationwide interoperability.

Nearly all domestic wireless operators control end user equipment options today, thus limiting consumer choice and hobbling the handset market in the United States. Indeed, our own limited market for wireless devices seems deficient when compared to the remarkable array of options available to Asian and European consumers and businesses alike. We therefore recommend that the Commission prohibit 700 MHz carriers from limiting which devices their customers may use over their networks as long as those devices follow the existing Carterfone doctrine.¹² Such an approach would give commercial and public safety users alike the flexibility they need to sure the best and highest uses of the spectrum deployed. A national wholesale wireless broadband network that is committed to providing the same open access to all IP services and content, would promote innovations and prevent discrimination among retail service providers. We do not make such assertions lightly. The Internet has exploded over the past 12 years because innovators at the edge of the network were allowed to innovate. Such *independent* innovation simply cannot happen as long as a handful of carriers determine what will and will not be permitted to operate over the public airwaves.

¹¹ *Digital Future of the United States: Part IV, Broadband Lessons from Abroad*, U.S. House of Representatives Subcommittee on Telecommunications and the Internet, 110th Congress, (April 24, 2007).

¹² *Hush-A-Phone v. United States*, 238 F.2d 266, 1956, See “Use of the Carterfone Device in Message Toll Tel. Serv.,” 12 F.C.C.2d 420.

The Frontline proposal would benefit the public interest in another important way by offering nearly nationwide roaming service at reasonable rates to all E Block license customers, particular small and rural carriers. Such a service improvement could greatly improve the economics of rural wireless service in many areas, while simultaneously facilitating access to remote video feeds and advanced IP services by small health clinics and mobile medical technicians.

This 700 MHz Auction proceeding presents a unique opportunity to facilitate creation of a new wireless broadband network that could bring improved Internet access to millions of American homes and businesses. The importance of getting it right cannot be overstated.

Respectfully submitted,

A handwritten signature in black ink that reads "E J Black". The signature is written in a cursive style with a large, stylized "E" and "B".

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A handwritten signature in black ink that reads "Catherine R. Sloan". The signature is written in a cursive style with a large, stylized "C" and "S".

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