**Before the**

**DEPARTMENT OF COMMERCE**

**NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

**Washington, D.C.**

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| In the Matter of  Relocation of Federal Systems in the 1710-1755 MHz Frequency Band: Review of the Initial Implementation of the Commercial Spectrum Enhancement Act | **)**  **)**  **)**  **)**  **)**  **)**  **)** | Docket No. 0906231085-91085-01 |

**COMMENTS OF**

**THE CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Electronics Association (“CEA”)[[1]](#footnote-1) respectfully submits these comments in response to the National Telecommunications and Information Administration (“NTIA”)’s Notice of Inquiry seeking comment on the initial implementation of the Commercial Spectrum Enhancement Act (“CSEA”).[[2]](#footnote-2) Broadband access is a national priority. Early this year, Congress authorized $7.2 billion for the expansion of broadband to unserved and underserved areas of the nation.[[3]](#footnote-3) Broadband, including wireless broadband access, is a priority of this Administration. President Obama believes that America should lead the world in broadband penetration and Internet access. To improve broadband access, then-candidate Barack Obama committed to a review of our nation’s spectrum policies:

Obama will demand a review of existing uses of our wireless spectrum. He will create incentives for smarter, more efficient and more imaginative use of government spectrum and new standards for commercial spectrum to bring affordable broadband to rural communities that previously lacked it.[[4]](#footnote-4)

Spectrum is the lifeblood for wireless broadband technologies and services. More than any other country on earth, Americans rely on their mobile devices and laptops for broadband connectivity at work, at home and on the go. In the marketplace, CEA member companies offer products and services that depend heavily on the availability of spectrum. As CEA has emphasized before, the future of our nation’s leadership in innovation and technology depends in large part on broadband, and an increasingly larger share of broadband access is taking place over wireless platforms.[[5]](#footnote-5)

Wireless broadband is key. Rapid growth in the use of video applications is straining present capabilities and we are heading towards a broadband crisis. Urgent action is required now. If the United States is to remain the global leader in broadband and innovation, much needs to be done to ensure that demand for spectrum-based services can be met. For example, we cannot afford to repeat the experience of the AWS-1 relocation process. NTIA identified the 1710-1755 MHz spectrum band for reallocation for commercial use in 1995. The FCC concluded the auction of this spectrum in September 2006. Nearly 15 years after this band was identified for reallocation, and three years after bidders paid almost $7 billion for this spectrum, federal government users continue to encumber significant portions of the band. Consequently, consumer access to new resources for competitively priced wireless broadband services is unnecessarily stunted. As a nation, we cannot afford to wait another 15 years before more spectrum is freed up for commercial wireless broadband services.

In response to the NTIA’s request for comment, CEA makes the following two recommendations. First, a mix of obligations, incentives and penalties should be put in place to reform federal agency spectrum usage. Second, one agency should be vested with overall management, oversight and accountability to ensure that federal users rigorously analyze their spectrum requirements, indentify spectrum for reallocation to the commercial sector and carry out their relocation efforts as expeditiously as possible.

1. **SPECTRUM REFORM REQUIRES MIX OF OBLIGATIONS, INCENTIVES AND PENALTIES**

As noted by the Commerce Spectrum Management Advisory Committee, federal users lack any incentive to identify spectrum for reallocation. They only engage in such an exercise in response to a Congressional directive and under close monitoring by NTIA.[[6]](#footnote-6) In addition, under the CSEA, federal users were not given a deadline by which they were required to vacate the 1710-1755 MHz band. Not surprisingly, federal incumbents offered a range of estimates for relocation of their systems from one year to six years. They had no incentives to relocate in under one year and faced no penalties for taking as long as eight years. It is therefore not surprising that nearly 15 years have passed since NTIA identified the 1710-1755 MHz band for reallocation and yet federal agency users still occupy significant portions of this spectrum.

To free up more spectrum for commercial use and to ensure that reallocated spectrum is available in a reasonable time frame, CEA respectfully recommends the adoption and application of a mix of obligations, incentives and penalties. For starters, federal agencies should be required to undergo a thorough analysis of their spectrum usage that, among other things, considers whether they are using their assignments efficiently; whether their needs could be met either with less spectrum and/or wire-based systems; the market value of their spectrum were it to be reallocated for commercial use; and whether increased efficiencies could be gained by sharing their spectrum with other federal or non-federal users. To encourage federal users to rigorously examine their spectrum needs, incentives in the form of increased agency funding or other forms of support should be made available to those federal users that identify spectrum for reallocation. They should also be provided with adequate resources to conduct the spectrum analysis. Finally, federal agencies should be subject to firm deadlines by which they must conclude their analyses.

Once additional spectrum is identified for reallocation, federal agency relocation efforts should be guided by a similar mix of obligations, incentives and penalties. First, as a general rule, a federal user must be required to relocate its systems in no more than one year. Second, if an agency succeeds in relocating in less than one year, it should be awarded with additional compensation beyond their actual relocation costs. Finally, in the event that an agency fails to complete the relocation of its systems within one year, it should be subject to penalties such as reductions in the amount of relocation compensation it receives. To ensure that agencies do not fall behind due to lack of resources, they must be provided with adequate, dedicated personnel and funding to plan and execute the relocation.

1. **CENTRALIZATION OF MANAGEMENT, OVERSIGHT AND ACCOUNTABILITY FOR FEDERAL SPECTRUM REFORM**

As noted in the CSMAC *Recommendations*, commercial entities expressed frustration over the amount of time and number of contacts required to move the relocation process forward. They “generally expressed frustration over the lack of uniformity within the Federal Government regarding the relocation process. Individual Federal entities had their own distinct approaches and particular knowledge levels regarding the relocation process.”[[7]](#footnote-7) To ensure consistency across agencies in the identification of spectrum for reallocation and in the relocation of agency systems, one agency must be vested with sole oversight authority. As noted in the NOI, NTIA plays multiple roles in the 1710 – 1755 MHz band relocation process:

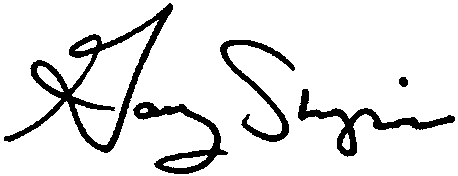
Often, NTIA acts as a liaison for licensees seeking additional information or accelerated clearance from agencies. NTIA also coordinates with OMB and the FCC regarding appropriate policies and procedures. NTIA provides guidance to the Federal agencies based on its own expertise, and the advice of OMB and the FCC.[[8]](#footnote-8)

CEA welcomes the leadership that a single agency can provide in ensuring that federal agencies’ review of their spectrum holdings is sufficiently rigorous. Centralization of authority and oversight for these activities in a single agency (e.g., NTIA) would improve efficiency and reduce the potential for delays. CEA supports the proposal of the CSMAC to centralize oversight of the relocation of Federal Government systems and to extend this oversight role to include overall responsibility for the identification and reallocation of Federal Government spectrum to the commercial sector.

1. **CONCLUSION**

If the United States is to remain the global leader in broadband and innovation, at least 200 MHz of new spectrum must be reallocated for commercial wireless broadband services, with half that amount (or 100 MHz) coming from Federal users.[[9]](#footnote-9) In order for the Federal contribution to have an impact on the availability of broadband in the United States, CEA respectfully recommends the adoption of the improvements to the identification and relocation processes outlined above. This nation cannot again afford to squander 15, 10 or even five years before new spectrum is available to American businesses and consumers. Urgent action is required now. The improvements outlined above would go a long way in ensuring the expeditious availability of much needed resources for wireless broadband services.

Respectfully submitted,

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1. CEA is the principal U.S. trade association of the consumer electronics and information technologies industries. CEA’s more than 2,200 member companies include the world’s leading consumer electronics manufacturers. CEA’s members design, manufacture, distribute, and sell a wide range of consumer products including television receivers and monitors, computers, computer television tuner cards, digital video recorders (“DVRs”), game devices, navigation devices, music players, telephones, radios, and products that combine a variety of these features and pair them with services – all as chosen by consumers in an open marketplace. [↑](#footnote-ref-1)
2. Notice of Inquiry, *Relocation of Federal Systems in the 1710-1755 MHz Frequency Band: Review of the Initial Implementation of the Commercial Spectrum Enhancement Act*, Docket No. 0906231085-91085-01, 74 Fed. Reg. 32131-32138 (rel. July 7, 2009) (“NOI”). [↑](#footnote-ref-2)
3. “American Recovery and Reinvestment Act of 2009,” Pub. L. 111-05. [↑](#footnote-ref-3)
4. Obama Fact Sheet: Innovation and Technology, <http://www.barackobama.com/pdf/issues/technology/Fact_Sheet_Innovation_and_Technology.pdf> at pp 5-6. [↑](#footnote-ref-4)
5. CEA Comments, *A National Broadband Plan for Our Future,* FCC GN Docket No. 09-45 (June 8, 2009). [↑](#footnote-ref-5)
6. *See Recommendations for Improving the Process for Identifying Spectrum for Future Reallocation or Sharing,* Commerce Spectrum Management Advisory Committee (“CSMAC”), (August 22, 2008) (“*CSMAC Recommendations”*) at 2, 16. [↑](#footnote-ref-6)
7. *CSMAC Recommendations* at 19 -20. [↑](#footnote-ref-7)
8. *NOI* at 32137. [↑](#footnote-ref-8)
9. *See* CEA Comments, *A National Broadband Plan for Our Future* at 7. [↑](#footnote-ref-9)