

**Before the
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE
Washington, D.C. 20230**

In the Matter of) Docket No. 130809701-3701-01
) RIN 0660-XC006
Common Format for)
Federal Entity Transition Plans)
)

COMMENTS OF MOBILE FUTURE

Mobile Future, an association of wireless technology and communications companies and non-profit organizations, respectfully submits these comments in response to the National Telecommunications and Information Administration’s (“NTIA’s” or “Administration’s”) Notice of Inquiry¹ seeking input on a common format for transition plans to be developed by federal agencies in connection with the reallocation of spectrum from federal to non-federal use so it may be redeployed to serve consumers.

I. Introduction

The transition plan template will be a critical tool for agencies to develop transition plans that provide meaningful information that enables commercial operators to understand when, where, and on what terms federal spectrum will become available. This first template for the transition plans required by the Middle Class Tax Relief and Job Creation Act of 2012² will be a model for future spectrum repurposing efforts. Useful agency transition plans are a condition precedent to the effective and efficient reallocation of federal spectrum resources to commercial use, and to successful spectrum arrangements during the transition. Transition plans that clearly

¹ *Notice of Inquiry*, Docket No. 130809701-3701-01, 78 Fed. Reg. 50396 (Aug. 19, 2013).

² *See* Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012) (“Tax Relief Act”).

delineate the timing and terms of spectrum access will encourage participation in FCC spectrum auctions to license reallocated spectrum, and will impact spectrum revenues.

NTIA's transition plan template should promote transparency regarding federal spectrum allocations and use, consistent with the June 2013 Presidential Memorandum.³ The template should require agencies to provide data that is sufficiently detailed and granular to enable operators to accurately assess incumbencies in particular markets, the likely duration of transition periods, and the feasibility of shared access to spectrum during the transition. NTIA also should facilitate the sharing of sensitive, classified and proprietary information through the broader implementation of its trusted agent program. NTIA's efforts should proceed in tandem with and be complementary to those of the Spectrum Policy Team, the FCC, and other agencies and departments of the government to facilitate access to such information.⁴

Information provided in agency transition plans, and the review of those plans, also should be consistent with applicable statutes and Presidential directives. Specifically, NTIA should require that agency transition plans be consistent with the decisions made regarding whether a particular spectrum band should be cleared and reallocated for exclusive non-federal use, or shared use in certain protection zone areas. The Technical Panel established by the Tax Relief Act⁵ should carefully and meaningfully review transition plans for consistency with those decisions, as well as all agency estimates of relocation feasibility, timeframes and costs, as required by that statute.⁶ Finally, transition plans should reflect consideration by the agencies of

³ *Presidential Memorandum – Expanding America's Leadership in Wireless Innovation*, 78 Fed. Reg. 37431, 37432-33 § 3 (June 20, 2013) ("June 2013 Presidential Memorandum"), available at <http://www.gpo.gov/fdsys/-pkg/FR-2013-06-20/pdf/2013-14971.pdf>.

⁴ *Id.* at 37432 § 2(c).

⁵ Tax Relief Act, § 6701(a)(3) (amending Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923) by adding subsection (h)(3)).

⁶ *Id.* § 6701(a)(3) (amending Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923) by adding subsections (h)(1) and (4)).

the market prioritization data provided by the Commerce Spectrum Management Advisory Committee (“CSMAC”).

II. NTIA Should Require Transition Plans to Contain Sufficient Data to Enable Commercial Operators to Meaningfully Evaluate Incumbencies and the Duration of the Transition Period

Transparency is crucial to the effort to make federal spectrum available for commercial broadband use. The June 2013 Presidential Memorandum includes multiple provisions designed to promote transparency: it directs NTIA to continue to facilitate discussions and data sharing between agencies and industry to expedite commercial entry into federal spectrum bands; requires the Spectrum Policy Team and other agencies to implement policies for sharing sensitive and classified information on agency spectrum use; and requires agencies to provide quantitative assessments of their spectrum use, a summary of which must be released by NTIA.⁷

NTIA can facilitate transparency by requiring agency transition plans to provide data regarding existing spectrum use and relocation plans in sufficient detail to enable commercial operators to assess that information. For example, while NTIA proposes to require agencies to provide information on an Economic Area (“EA”) basis consistent with the FCC’s proposed license areas for AWS-3 spectrum,⁸ NTIA should require data to be reported on a smaller geographic area basis in order to better enable commercial operators to identify incumbencies within different portions of an EA, and to assess whether they can secure access to spectrum in part of an EA prior to completion of the agency’s transition. In addition, if the FCC adopts a licensing scheme that is based on, or includes, geographic areas other than EAs, then EA-based transition plans would be far less useful. In light of the foregoing, NTIA should require that data

⁷ June 2013 Presidential Memorandum at 37432-33 §§ 2-3.

⁸ AWS-3 spectrum refers to the spectrum at 1695-1710 MHz, 1755-1780 MHz, 2020-2025 MHz, and 2155-2180 MHz. See *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands*, Notice of Proposed Rulemaking and Order on Reconsideration, FCC 13-102, (Jul. 23, 2013).

be reported on a smaller geographic scale – such as on a county basis. Counties are standard components of many geographic market-based licensing schemes, and therefore are adaptable to whatever geographic area the FCC uses to auction the spectrum.

NTIA also should require agency transition plans to contain more meaningful data regarding risks and obstacles to agency transition efforts. Specifically, NTIA should require agencies to identify potential risk factors that could delay implementation of transition plans, and also to provide an estimate of the likely duration of the delay associated with each such identified risk, and the agency’s plans to minimize the risk and address it in the event it delays transition. Further, transition plans should indicate whether transition efforts in one geographic area are tied to or based upon progress made in other geographic areas.

III. NTIA Must Continue to Make Progress on the Trusted Agent Program

NTIA also should promote transparency and foster data sharing between government and industry by fully implementing a trusted agent program. One of the most important lessons learned from the AWS-1 relocation process is that open communications between federal users and commercial operators improves understanding of the other’s networks and the potential for interference from those networks, which can then facilitate a more efficient and less costly transition process.⁹ NTIA should be guided by the experience gained from the AWS-1

⁹ Testimony of Steve B. Sharkey, Director, Chief Engineering and Technology Policy, T-Mobile USA, Inc. on Creating Opportunities Through Improved Government Spectrum Efficiency before the Subcommittee on Communications and Technology, House Committee on Energy and Commerce, at 5-6 (Sept. 13, 2012) (“Our own experience in relocating Federal users from the 1710-1755 MHz, or AWS-1 band, showed that, while relocation is challenging by nature, it is feasible when all of the parties involved act cooperatively. In relocating Federal users from the AWS-1 band, we found that fundamental misunderstandings of how our respective systems operate led to unnecessarily pessimistic predictions of potential interference. As a result of more detailed technical discussions between T-Mobile and Federal users that took place as part of the relocation process, we were able to build a deeper understanding of how the systems would interact. These discussions resulted in T-Mobile being able to deploy services years earlier than originally anticipated, allowing consumers to benefit from early access to broadband services prior to completing the full transition of the band from Federal to commercial use...[This experience] points to the importance of a cooperative dialogue that takes into consideration the realistic operations of both the government and commercial operations.”).

relocation process, and facilitate discussions and information sharing early in the process to enable more accurate and efficient planning for and implementation of agency transition plans.

Recent progress on the trusted agent program is a very positive development, but the program must become more accessible and widely implemented. Presently, nondisclosure agreements have been executed between the Department of Defense and at least twelve people who were nominated through the CSMAC Working Group process, to enable them to enter into “more detailed discussions where sensitive information would be passed back and forth, both government sensitive and potentially proprietary type sensitive information.”¹⁰ However, many aspects of the program are still being debated – including whether there will be a single “trusted agent” acting on behalf of industry generally.¹¹ Industry representatives on the CSMAC have indicated that “it would be more beneficial for us to have our people who are directly knowledgeable of our systems and technologies to be engaged in this discussion as opposed to turning it over to somebody we would kind of consider a neutral body.”¹²

NTIA should act soon to develop a clear and efficient process for industry representatives to become trusted agents to facilitate discussions between their companies and federal agencies presently using AWS-3 spectrum. Those agents should have access to information withheld from the publicly-available transition plans sufficiently in advance of the auction to enable them to ascertain current spectrum use within a particular market, the likely transition period, and the viability of sharing during the transition period with agencies that seek recovery of pre-auction planning costs. NTIA’s efforts on this front should proceed in tandem with those of the FCC and with efforts undertaken pursuant to the June 2013 Presidential Memorandum requiring the

¹⁰ Transcript of U.S. Department of Commerce CSMAC Meeting at 69 (July 24, 2013).

¹¹ *Id.* at 70-71.

¹² *Id.* at 71.

development of policies for sharing classified, sensitive or proprietary information regarding federal spectrum assignments and use.

IV. Transition Plans Should Reflect Decisions Made Regarding the Reallocation of Federal Spectrum

NTIA should require that agency transition plans be consistent with decisions made pursuant to the Tax Relief Act, the June 2013 Presidential Memorandum, and the June 2010 Presidential Memorandum as to whether federal spectrum will be reallocated and made available to commercial operators exclusively, or shared between commercial and federal operations within limited protection zones.¹³ For example, where agencies are required by the template to indicate whether spectrum will be available on a shared basis temporarily (*i.e.*, during the transition period), or indefinitely, those responses should be consistent with the decisions made for the applicable spectrum band pursuant to statute and Presidential Memoranda. The Technical Panel should review agency transition plans for this purpose, and should reject as deficient any plan that is not consistent with these requirements. To the extent agency transition plans are submitted prior to a determination of whether Federal users will be relocated from the relevant spectrum, NTIA should require agencies to update their plans following such determination.

The Technical Panel also should review agency transition plans to ensure that the proposed timeframes for, and costs of, relocation are reasonable and consistent with the Tax Relief Act and the 2013 Presidential Memorandum, which encourages NTIA to expedite

¹³ Tax Relief Act, § 6701(a)(3) (amending Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923) by adding subsections (h)(1) and (4)); June 2013 Presidential Memorandum at 38388 § 3; *Presidential Memorandum: Unleashing the Wireless Broadband Revolution*, 75 Fed. Reg. 38387, 38388 §§ 1, 4 (July 1, 2010) (“June 2010 Presidential Memorandum”), available at <http://www.gpo.gov/fdsys/pkg/FR-2010-07-01/pdf/2010-16271.pdf>. Those decisions have not yet been made regarding the 1755-1780 MHz band. Certain CSMAC working group reports are in the final stages of completion and, if adopted by CSMAC, will be forwarded as recommendations to NTIA.

spectrum repurposing to enable innovative flexible commercial uses of spectrum.¹⁴ The Technical Panel should reject as inadequate transition plans that do not reflect reasonable cost estimates, or transition proposals and potential interference analyses that do not accurately reflect the nature of the existing federal and potential commercial systems.

V. Transition Plans Should Reflect EA Prioritization

NTIA should revise the proposed template to reflect consideration of the EAs identified by the CSMAC as the highest priority in terms of spectrum demand and capacity constraint. For example, the template should identify those priority EAs by a separate field in each tab of the template in which a box could be checked to reflect that the EA at issue is on the priority list. Also, a separate field should be added to the template for agencies to indicate whether their proposed transition plans proceed in the order of the prioritized EAs and, if not, what factors prevent the agency from following that prioritized list.

VI. Conclusion

NTIA is taking an important step in the effort to reallocate federal spectrum for commercial use in response to “hockey-stick” growth in broadband demand. The template for agency transition plans should require data that is sufficiently specific to enable commercial operators to ascertain when and where spectrum is being used, and the likely timeframe in which that spectrum will be available for commercial use to serve the public. An essential complement to meaningful transition plans is a clear and effective trusted agent program that allows the government and industry to work together to understand their respective networks and develop efficient transition strategies that protect important underlying federal missions. Finally,

¹⁴ Tax Relief Act, §6701(a)(1) (amending Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923) by amending paragraph 3 thereof); June 2013 Presidential Memorandum at 37434-35 § 7.

transition plans must be consistent with statutory requirements and Presidential orders directing additional spectrum resources to the capacity-constrained commercial broadband industry.

Respectfully submitted,

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