

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
FEDERAL COMMUNICATIONS COMMISSION  
AND THE**

**NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

This Memorandum of Understanding (MOU) relates to increased coordination between Federal spectrum management agencies to promote the efficient use of the radio spectrum in the public interest.

**I. Parties**

This MOU constitutes an agreement between the Federal Communications Commission (FCC) and the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

**II. Authorities**

The NTIA Act requires the Assistant Secretary for Communications and Information and the Chair of the FCC to meet, at least biannually, to conduct joint spectrum planning with respect to certain issues.<sup>1</sup> The MOU establishes a framework for compliance with this statutory requirement. FCC authority to enter into the MOU arises from the provision of the Communications Act of 1934, as amended, empowering the FCC to perform any and all acts necessary to execute its functions,<sup>2</sup> as well as provisions establishing the FCC's authority to regulate non-Federal Government use of spectrum.<sup>3</sup> NTIA authority to enter into the MOU arises from the provision of the NTIA Act empowering NTIA to develop, in cooperation with the FCC, plans for improved management of all electromagnetic spectrum resources,<sup>4</sup> as well as provisions of the NTIA Act and the Communications Act establishing NTIA's authority to regulate Federal Government use of spectrum,<sup>5</sup> advise the President on telecommunications

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<sup>1</sup> 47 U.S.C. § 922 ("The Assistant Secretary and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning . . .").

<sup>2</sup> 47 U.S.C. § 154(i) ("The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.").

<sup>3</sup> See 47 U.S.C. § 151 (creating the FCC for the purpose of regulating interstate and foreign commerce by wire and radio); 47 U.S.C. § 301 (stating the Act's purpose of maintaining Federal Government control of the radio spectrum and requiring that no person transmit radio signals except pursuant to a license granted under the Act); 47 U.S.C. § 302 (empowering the Commission to regulate the interference potential of radio transmitters); 47 U.S.C. § 303 (empowering the Commission to adopt such regulations as it deems necessary to prevent interference between radio stations and to encourage more effective use of radio spectrum in the public interest); 47 U.S.C. § 309(j)(10) (conditioning the Commission's initial auction authority on prior coordination with NTIA).

<sup>4</sup> 47 U.S.C. § 902(b)(2)(L)(i) (authorizing NTIA to "develop[ ] , in cooperation with the Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.").

<sup>5</sup> See 47 U.S.C. § 901(c) (directing NTIA to advance policies that "foster[ ] full and efficient use of telecommunications resources, including effective use of the radio spectrum by the Federal Government, in a manner which encourages the most beneficial uses thereof in the public interest."); 47 U.S.C. § 305 (providing that

policies,<sup>6</sup> present the Executive Branch's views on telecommunications policies to the FCC,<sup>7</sup> and promote efficient use of spectrum resources across the federal government.<sup>8</sup>

### **III. Purpose**

The FCC is an independent agency that is the exclusive regulator of non-Federal spectrum use. NTIA is the sole agency responsible for authorizing Federal spectrum use and is the President's principal advisor on telecommunications policies, coordinating and communicating the views of the Executive Branch. Together, the FCC and NTIA jointly manage the nation's radio spectrum resources in the public interest. The agencies have a long history of cooperation to ensure that spectrum policy decisions foster economic growth, ensure our national and homeland security, maintain U.S. global leadership, and advance other vital U.S. interests.

The FCC and NTIA must work together to ensure that spectrum policy decisions promote efficient use of the spectrum by all users. This MOU formalizes this cooperative relationship, in order to ensure improved and effective communications between the agencies, to emphasize the importance of evidence-based spectrum policy-making and reliance on data, analyses, and engineering best practices, and to promote effective, long-range planning by both agencies, taking into account the implications of spectrum policy and strategy.

### **IV. Agreement of the Parties**

Consistent with law and regulation, the Parties agree that:

- (1) The Chair of the FCC and the Assistant Secretary for Communications and Information will meet at least quarterly to conduct joint spectrum planning with respect to:
  - (a) the extent to which licenses for spectrum use can be issued pursuant to section 309(j) of the Communications Act of 1934;
  - (b) the future spectrum requirements for federal and non-federal uses, including State and local government public safety agencies;

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radio stations belonging to and operated by the United States shall use frequencies assigned to each or to each class by the President).

<sup>6</sup> 47 U.S.C. § 902(b)(2)(D) (authorizing NTIA "to serve as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.")

<sup>7</sup> 47 U.S.C. § 902(b)(2)(J) (stating that it is NTIA's "responsibility to ensure that the views of the executive branch on telecommunications matters are effectively presented to the Commission, and in coordination with the Director of the Office of Management and Budget, to the Congress.")

<sup>8</sup> 47 U.S.C. § 902(b)(2)(U) (stating that it is NTIA's "responsibility to promote the best possible and most efficient use of electromagnetic spectrum resources across the Federal Government, subject to and consistent with the needs and missions of Federal agencies.")

- (c) the spectrum allocation actions necessary to accommodate those uses;
  - (d) the actions necessary to promote the efficient and effective use of the spectrum, including spectrum management techniques to promote increased reallocation and/or shared uses of the spectrum that do not cause harmful interference, as a means of increasing commercial and federal access;
  - (e) where possible and appropriate, the identification of spectrum management policies or spectrum allocations to be examined in the next 12 months; and
  - (f) other spectrum related matters as appropriate.
- (2) The staffs of the FCC and the NTIA will meet at least monthly to exchange information of mutual interest concerning, but not limited to, the above-referenced issues. To the extent possible, such meetings will include the identification of, and tentative schedules for, upcoming proposed actions and activities and may include detailed subject-matter briefings as appropriate, including about current and anticipated future uses of spectrum.
- (3) The FCC will cooperate with the NTIA and endeavor to give notice of all proposed actions that could potentially cause interference to federal operations, including operations in adjacent spectrum allocations. Where possible, such notice will be given in time for the NTIA to comment prior to final action and a minimum of 20 business days prior to final action. The FCC will endeavor to give NTIA the same notice and opportunity to comment, in instances in which NTIA notifies the FCC that non-federal operations critical to federal agency missions, including those essential to national security or safety of life, could potentially experience harmful interference from a proposed action. A different review period may be agreed to by NTIA's Associate Administrator for Spectrum Management and the FCC's Chief of the Office of Engineering and Technology. Where applicable, FCC staff will endeavor to engage NTIA staff in discussions regarding NTIA's comments on the FCC action. Final action by the FCC, however, does not require approval of the NTIA.
- (4) The NTIA will cooperate with the FCC and endeavor to give notice of all proposed actions that could potentially cause interference to non-federal operations. Where possible, such notice will be given in time for the FCC to comment prior to final action and a minimum of 20 business days prior to final action. A different review period may be agreed to by NTIA's Associate Administrator for Spectrum Management and the FCC's Chief of the Office of Engineering and Technology. Where applicable, NTIA staff will endeavor to engage FCC staff in discussions regarding FCC's comments on the NTIA action. Final action by the NTIA, however, does not require approval of the FCC.

- (5) The FCC and the NTIA commit to improved and effective communication on matters that relate to the management of the nation's spectrum resource.
  - (a) The staffs of FCC and the NTIA will engage, on an ongoing basis, in engineering collaboration to, for example, identify best practices, develop metrics for effective spectrum analysis, and examine technologies to enhance spectrum use.
  - (b) To facilitate evidence-based spectrum policy-making, in particular when participating in each other's public proceedings, the FCC and the NTIA will endeavor to do so on a timely basis through contributions supported by relevant technical data and analysis based on sound engineering principles, including available test and receiver performance data, where appropriate. Such information will be of a quality that complies with best engineering practices and any mutually agreed standards or procedures.
  - (c) The FCC and the NTIA will endeavor to provide relevant and appropriate information, including, but not limited to, the nature of federal and non-federal operations and uses of spectrum in their spectrum coordination communications, ensuring appropriate treatment of any sensitive and classified information. The FCC and the NTIA will also identify, as early in the decision-making processes as possible, any technical issues that have a reasonable likelihood of generating disputes or disagreements, and will act in their capacities as the sole agencies responsible for managing spectrum use in the United States to further assess such issues.
- (6) The FCC and the NTIA will resolve technical, procedural, and policy differences by consensus whenever possible.
- (7) The staffs of the FCC and the NTIA will cooperate to develop and implement a process through which evidence-based concerns of either agency about harmful interference posed by a proposed final action by the FCC or the NTIA can be escalated. If such concerns cannot be resolved between NTIA's Associate Administrator for Spectrum Management and the FCC's Chief of the Office of Engineering and Technology, the matter may be referred to the Assistant Secretary of Commerce for Communications and Information and the FCC Chair for consideration before final action.
- (8) The FCC and the NTIA will maintain current lists of their authorized frequency assignments and will exchange such information as appropriate to coordinate spectrum use.

**V. Funding**

This MOU does not obligate funds for any particular expenditure nor does it authorize the transfer of funds and/or resources.

**VI. Effective Date and Modification/Termination**

This MOU will become effective when signed by both parties, and supersedes the MOU dated January 31, 2003. The MOU may be modified upon mutual agreement of the parties and may be terminated by either party after 60 days prior written notice. The parties agree to reassess the MOU not later than 4 years after the effective date and, at a minimum, every 4 years thereafter, to ensure its provisions adequately reflect changing technological, procedural, and policy circumstances.

FOR THE FEDERAL  
COMMUNICATIONS  
COMMISSION<sup>9</sup>:

FOR THE NATIONAL  
TELECOMMUNICATIONS AND  
INFORMATION ADMINISTRATION:



Jessica Rosenworcel  
Chairwoman  
Federal Communications Commission



Alan Davidson  
Assistant Secretary for Communications and  
and Information  
U.S. Department of Commerce

Date: 8.01.22

Date: 8/1/2022

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<sup>9</sup> The Chairwoman is assigned responsibility as Chief Executive Officer under Section 5 of the Communications Act of 1934, as amended (47 U.S.C. § 155) and represents the Commission in all matters requiring conferences or communications with other government officers, departments or agencies, and generally to coordinate and organize the work of the Commission in such manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission.