

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

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

COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association® (“CTIA”) hereby submits these comments on the National Telecommunications and Information Association (“NTIA”) Notice of Inquiry (“NOI”) seeking public input on a common format for transition plans to be developed by federal entities in connection with the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”).¹ These transition plans will facilitate the relocation of – and spectrum sharing with – U.S. Government stations in spectrum bands reallocated from federal use to non-federal or shared use. These bands will ultimately be auctioned by the Federal Communications Commission (“FCC” or “Commission”) for commercial use in connection with the Spectrum Act.

CTIA commends NTIA for commencing this proceeding and taking the steps necessary to facilitate a smooth transition of spectrum to be auctioned under the Spectrum Act. CTIA has taken a leading role in the efforts to make available additional spectrum for mobile broadband, and CTIA’s member companies have devoted considerable resources to ongoing negotiations with federal incumbents. For any spectrum auction and reallocation of spectrum to be successful, transparency will be essential. Providing clear expectations both to commercial bidders and federal users will ensure that transition of incumbents and spectrum sharing efforts

¹ *Common Format for Federal Entity Transition Plans*, Notice of Inquiry, 78 Fed. Reg. 50396 (2013) (“NOI”); Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, 126 Stat. 156 (2012) (“Spectrum Act”).

are initiated as smoothly as possible. CTIA encourages NTIA to ensure that its rules for transition plans provide that:

- as much data as possible is available to potential bidders so that they may make determinations about bidding based on complete information;
- any restrictions on the use of the spectrum should be well known prior to the auction; and
- transition plans should be made available to the public no later than 120 days prior to the auction.

This effort will also facilitate open communications between interested parties.

CTIA believes that any transition plan format adopted should provide for flexibility in the event that plans need to change. The NOI contemplates that transition plans will be based at least in part on the recommendations of the Commerce Spectrum Management Advisory Committee (“CSMAC”). The majority of the CSMAC has expressed concern with the process followed and analysis conducted, and CTIA is hopeful that interested parties will be able to improve upon the work done so far. CTIA therefore believes it is critical to allow for modifications and updates to transition plans to take into account any changes that may occur due to ongoing work through the CSMAC process.

I. THIS PROCEEDING IS AN IMPORTANT STEP TOWARD MAKING CRUCIAL SPECTRUM AVAILABLE FOR MOBILE BROADBAND.

Since 2009, CTIA has been at the forefront of discussing the need for additional spectrum for mobile broadband. The rapidly increasing popularity of advanced mobile services, coupled with the introduction of innovative new devices, has resulted in incredible strain on U.S. wireless networks. In 2012, Congress enacted the Spectrum Act, legislation that focused on addressing the “spectrum crunch” currently faced by the wireless industry. One key step taken by Congress in adopting the Spectrum Act was the amendment of the Commercial Spectrum Enhancement

Act (“CSEA”).² In amending the CSEA to focus on thorough, substantive transition plans, Congress has made a commendable effort to effectuate the goal of rapidly transitioning spectrum to commercial use with minimal impact on critical federal systems.

In a previous proceeding, CTIA indicated that the transition plans contemplated by the Spectrum Act will play an important role in achieving needed transparency in the spectrum transition process.³ As a result of these transition plans, bidders will be able to make informed decisions regarding the spectrum to be auctioned and can tailor their auction bids accordingly. This information sharing will also enable an effective deployment of new commercial wireless spectrum for the benefit of the American public.

II. ANY COMMON TRANSITION PLAN FORMAT MUST MAXIMIZE TRANSPARENCY AND FACILITATE OPEN COMMUNICATION AMONG INTERESTED PARTIES.

In the NOI, NTIA outlines its plans to require agencies to prepare transition plans following a common format “that is substantially similar to the one set forth in the Appendix to Annex O of the NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual).”⁴ NTIA notes that it will provide the affected agencies standard spreadsheet templates for completing their transition plans, and that it may offer a tool for online upload of data and submission of plans.⁵ These transition plans will be made publicly available on NTIA’s website no later than 120 days before any applicable auction start date.⁶

² Spectrum Act, §§ 6701-6703.

³ Comments of CTIA – The Wireless Association®, NTIA Docket No. 110627357-2209-03 (August 1, 2012).

⁴ NOI at 50397-98.

⁵ *Id.* at 50398.

⁶ *Id.*

CTIA does not offer comment on the specifics of the transition plan format, but notes that any format adopted should maximize transparency for all interested parties. Transparency will be essential to a successful spectrum auction. As CTIA noted previously before to NTIA, “[t]he more bidders are educated about the existence and nature of incumbent operations, the more realistic they can be about valuing the spectrum and planning their build-out schedule.”⁷ Further, “the more information that is available, the less likely licenses are to be discounted, resulting in a greater recovery for the public of the value of the spectrum. It is also self-evident that the more educated bidders are about the existence and nature of incumbent operations, the more realistic they can be in crafting deployment plans.”⁸ CTIA believes that the adoption of a standard transition plan format will help enable this needed transparency and help facilitate open communications.

Notably, numerous parties have highlighted lack of information sharing as a detriment to past transition efforts. With respect to the AWS-1 transition, Cricket reported that it “had difficulty obtaining information necessary to identify challenges and propose solutions in order to facilitate commercial deployment,” adding that “more accurate information would reduce uncertainty, promote greater participation in future auctions, and ultimately yield better auction results.”⁹ T-Mobile, meanwhile, reported that the data provided to bidders “were insufficient to determine whether agencies could share AWS spectrum in particular geographic areas without

⁷ Comments of CTIA – The Wireless Association®, Docket No. 0906231085-91085-01, at 7 (Aug. 21, 2009) (“CTIA CSEA Comments”).

⁸ CTIA CSEA Comments at 7.

⁹ Comments of Cricket Communications, Inc., Docket No. 0906231085-91085-01, at 4 (Aug. 1, 2009).

causing harmful interference.”¹⁰ Conversely, “[w]hen federal agencies accurately forecasted costs, received sufficient relocation funding, and readily shared their technical specifications, T-Mobile was able to coordinate relocation and spectrum access with few difficulties.”¹¹

Any transition plan format adopted should provide as much data as possible to potential bidders so that they may make determinations about bidding based on complete information. Given the considerable investments that will be made by wireless companies in an auction of federal spectrum, it is essential that any restrictions on the use of this spectrum be well known prior to the auction. To this end, CTIA is supportive of the requirement that transition plans be made available to the public no later than 120 days prior to the auction. An effective transition plan will hopefully ensure that both commercial licensees and federal users have consistent, realistic expectations regarding sharing and/or relocation.

Further, transparency of information is critical in light of the Spectrum Act’s mandate that Federal spectrum be reallocated for exclusive use rather than sharing, unless the various options for use of the spectrum indicate that relocation of a government incumbent is not feasible due to technical or cost constraints.¹² Transparency regarding current uses of Federal spectrum is therefore the only way to ensure compliance with the requirement that all solutions for relocation be fully explored.

¹⁰ Comments of T-Mobile USA, Inc., Docket No. 0906231085-91085-01, at 9 (Aug. 1, 2009).

¹¹ *Id.* at 5.

¹² Spectrum Act, § 6701(j).

III. THE TRANSITION PLAN FORMAT SHOULD PROVIDE FOR FLEXIBILITY IN THE EVENT PLANS NEED TO CHANGE.

In the NOI, NTIA contemplates that transition plans will be based at least in part on the recommendations of the CSMAC.¹³ NTIA further notes that it expects to receive additional CSMAC recommendations in the future, and asks what modifications or additional instructions would be needed to accommodate these recommendations.¹⁴ CTIA submits that the CSMAC's analysis was conservative and could be improved upon, and that the transition plan format should be sufficiently flexible to incorporate these improvements.

CTIA does not fully support the "sharing" studies provided thus far in the CSMAC process and believes that additional work can and should be done to allow for more commercial usage of the federal spectrum bands examined. CTIA is not alone in its concerns about the nature of these sharing studies. Indeed a majority of the CSMAC's members included a statement to accompany the sharing studies that stressed that "the analysis performed in each of these working groups was both conservative and limited" and as such these engineering analyses do not provide an accurate picture of a potential sharing framework in the studied bands.¹⁵ Further, "because only limited technical data was shared about Federal systems with the working

¹³ NOI at 50398 ("With respect to the transition timelines called for in the above-referenced statutory provision, NTIA plans to instruct the affected agencies to follow the recommendations made by the [CSMAC] regarding the prioritization of EAs for the transition of federal systems in the eligible frequencies.").

¹⁴ *Id.* ("NTIA has received, and expects to receive, additional recommendations from the CSMAC in the near future regarding the content of agency transition plans for the eligible frequencies. Based on the nature of those forthcoming recommendations, NTIA seeks further input on what, if any, modifications or additional instructions would be necessary to reflect, for example, protection zones in which AWS-3 operations would be coordinated pursuant to applicable regulatory sharing criteria.").

¹⁵ Separate Statement Concerning Working Group Reports For the 1755-1780 MHz Band (August 29, 2013), *available at* <http://www.ntia.doc.gov/other-publication/2013/separate-statement-concerning-working-group-reports-1755-1850-mhz-band>.

groups, participants were not able to fully engage in the type of informed discussion of the analysis and underlying assumptions necessary to verify the accuracy of the information.”¹⁶

CSMAC members, however, are optimistic that the sharing studies can be improved upon. In particular, they “believe that the process recently initiated to allow the release of more Federal system technical characteristics to parties signing non-disclosure agreements will better involve the commercial parties to understand what can be done to better model an analysis of real-world effects.”¹⁷ CTIA, too, is hopeful that through continued efforts and increased information sharing, the CSMAC will be able to refine and revise its recommendations. Should this be the case, CTIA submits that the transition plan format should be sufficiently flexible to allow this new data to be taken into account.

IV. CONCLUSION

CTIA commends the efforts of the wireless industry and federal entities to enable the sharing and/or reallocation of federal spectrum. As this process moves forward, clear and open communication between stakeholders will be essential. By adopting a transition plan format that enables this needed transparency and contains the flexibility needed to move forward, NTIA will take an important step toward implementing the Spectrum Act and serving the public interest.

¹⁶ *Id.*

¹⁷ *Id.*

Respectfully submitted,

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