Before the Federal Communications Commission, Washington DC 20554

In the Matter of..

Wireless Operations in the 3650-3700 MHz Band	**ET Docket No. 04-151**
Rules for Wireless Broadband Services in the 3650-3700 MHz Band	**WT Docket No. 05-96**
Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band	**ET Docket No. 02-380**
Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band	**ET Docket No. 98-237**

Introduction

As per the Commission's Rules under Section 1.1206, 47 C.F.R. § 1.1206, WISPA respectfully submits the following Ex Parte comments regarding any requests for reconsideration or partial reconsideration that the Commission has received in the matter above.

WISPA has submitted these Ex Parte comments to the Commission to convey information surrounding the use of the 3650 band that we feel needs to be part of the public record—especially in light of recent activities that have occurred in the Standards community, the Marketplace, and the US Regulatory environment.

Executive Summary

1. US Spectrum Policy Reform: In policy documents, some directly from the Executive Office, it can be inferred that FCC should facilitate decisive movement towards the use and development of cognitive radio technologies in the market place in order to make better use of spectrum resources in the US. The 3650 band embodies this imperative.

2. Position Statements: WISPA wishes to state its opposition to any reconsideration of the Commission's prior ruling in these matters. WISPA also wishes to state its strong opposition to exclusive licensing of the 3650 band. WISPA therefore urges the Commission to deny any reconsideration of its prior rulings in these matters and also urges the Commission to carefully evaluate the use of exclusive licensing in this band for reasons outlined below. WISPA believes that the encumbrances created by exclusive licensing in the 3650 band will send the wrong message about the viability of innovative cognitive radio technologies . The use of non-exclusive licensing on the other hand might drive a policy that creates more efficient use of spectrum—as has been demonstrated to some extent in the license-exempted bands.

3. The 3rd Pipe: WISPA believes strongly that having wireless as a "3rd Pipe" to the Internet is both viable and in the best interest of Broadband marketplace as well as the citizens of the United States. Besides keeping possible future anti-trust issues at bay, a wireless 3rd pipe will facilitate faster market penetration of Broadband Internet services in this Country--especially in a rural context. It is offered that such a Wireless 3rd pipe could be the means to a measurable reduction of USF spending in these same rural markets.

4. Other Drivers: Finally, WISPA wishes to focus the attention of the Commission on the fact that there are other drivers at work here besides economic ones associated with the capital and equity markets—specifically facilitating wider deployment of Broadband Internet access in the US will assure our nation's competitiveness in the world markets of the future.

1. US Spectrum Policy Reform

WISPA wishes to cite for the Commission, a quote from the President that can be found in a Department of Commerce document titled "Spectrum Management for the 21th Century" which outlines a plan to implement the recommendations of the President's Spectrum Policy Initiative. In a memo attached to this document the President states:

"We must unlock the economic value and entrepreneurial potential of U.S. spectrum assets while ensuring that sufficient spectrum is available to support critical Government functions."

WISPA believes that the use of cognitive radio technology, as described in the Report and Order FCC 05-56 which rules on the use of the non-exclusively licensed 3650 band, can be easily interpreted to be the embodiment of the intent behind these words. It is WISPA's opinion that an exclusively licensed approach for the 3650 band is also in opposition to these words as it seems to maintain the "spectrum as property" status quo.

The Commission needs to carefully determine how to characterize and administer 3650 band licenses—for the sake of future lightly licensed spectrum initiatives as well as the cognitive radio technologies needed to use such bands. Done correctly, WISPA feels such licensing can have the potential to benefit both Broadband up-take & more efficient Spectrum use in both rural and urban areas alike.

WISPA believes that, with well engineered radio technology, the 3650 band will allow entrepreneurial organizations of all sizes the opportunity to put FCC's spectrum sharing policies to work utilizing this under-used non-exclusive resource to its best effect.

2. Position Statements

1. WISPA wishes to state its strong opposition to any reconsideration of the Commission's prior ruling in this matter. Any such reconsideration would be a set back for innovation and the adoption of cognitive radio technology which WISPA believes can be the path to more efficient spectrum sharing & usage.

2. WISPA urges the Commission to stay the course by continuing in its leadership role of assuring that the promise of cognitive radio technology comes to fruition so it can be applied to solve the spectrum use issues associated with other under-utilized bands like 3650.

3. WISPA wishes to also state its strong opposition to exclusive licensing of the 3650 band.

WISPA asserts that taking a so-called “lightly licensed” or non-exclusive licensing approach in 3650 band will enable a fast “time to market” for such licenses. Conversely, exclusive licensing could cause stagnation in the use of such licenses as entities have, in the past, aggregated such licenses and "camped" on them for later use--or to wait for market appreciation. WISPA further believes that encumbrances created by exclusive licensing in the 3650 band will also send the wrong message about the viability of cognitive radio technology. It would also give the appearance that the Commission is sticking to the old regulatory status quo of spectrum being treated as property when it should be fueling spectrum policy innovation by providing a regulatory framework that holds spectrum as shared resource in appropriate bands.

4. Should the Commission chooses to implement some form of exclusive licensing in the 3650 band, WISPA urges the Commission to act in the public interest by specifying that such exclusive licenses must be put to significant and demonstrable use within a short period of time by their purchasers to speed the process of providing Broadband Internet access to the public. Specifying this requirement also prevent entities from “camping” on these licenses for extended periods. WISPA would be glad to offer guidance to the Commission in this regard about such metrics.

5. WISPA urges the Commission to keep a lid on the costs of any such exclusive 3650 band licenses. The goal should be delivering the best time to market for Broadband Internet services and WISPA feels that level playing field will enable this. High-priced licenses would create a barrier to entry for the entrepreneurial independent operators who would likely be significant users of this band. WISPA also observe that an exclusively licensed approach to the 3650 band seems to be in direct opposition to the spirit of the quote presented in the section referenced above. WISPA would argue that a relatively lower price point on licenses (and equipment needed to use them) will mean a wider adoption and use.

6. WISPA wishes to point out to the Commission that under-served areas that lay just outside of major market BTAs could also be hurt by BTA-based exclusive licensing in the band. The reasoning here is if WISPs--who traditionally serve under-served areas--are not allowed by law to use the 3650 band to provide Broadband Internet services because of exclusive licensing and exclusion zones near by, those who live in these fringe areas would have few or no choices for Broadband Internet access—especially in areas that are usually is only “built out” by phone companies with USF backing. Note that with non-exclusive licensing, the Commission could become a facilitator of the needed "principal to principal” interactions between operator and adjacent incumbent—or other operators. This face to face harmonization process, facilitated by some FCC “lightly licensed” database of non-exclusive Licensees, would become a key component to operating wireless facilities and services.

7. WISPA wishes to acknowledge that, adjacent to the 3650 band, there are mission critical business requirements that the broadcast industry has in the C-band in some urban markets that are not grand-fathered into the exclusion zones outlined under the law. As an industry group of wireless operators, and other industry professionals, we understand and use radio spectrum and are aware of the need to proceed carefully with the licensing and use of the 3650 band to assure that adjacent band primary users remain unaffected.

8. WISPA also wishes to affirm its strong conviction that good use can be made of this band without impact to, or from, the traditional adjacent incumbents near 3650. Quite simply, these are engineering and regulatory challenges that can, and will, be resolved using the correct silicon, standards, and licensing approach.

9. Lastly, WISPA urges the Commission to facilitate the development of properly executed Standard-based cognitive radio gear from multiple vendors with multiple price points. A vibrant cognitive radio “eco-system” is called for--not just those based on a single standard radio chip set and price point.

3. The 3rd Pipe

WISPA wishes to state its strong conviction that a wireless “3rd pipe” in the Broadband Internet market place is viable and necessary part of the long term health and growth of the Internet industry. As many historical anti-trust cases have shown, having more than 2 main “actors” in a marketplace are better for all concerned.

Further, WISPA believes that employing lower-cost robust license-exempt radio technologies to provide broadband Internet access in rural areas can have the added benefit of lowering spending of Universal Service Funds in those same rural areas. Such USF spending might otherwise go towards costly retrofits of old teleco infrastructure which might not have the long term viability when it comes to delivering the so-called "triple-play" services of voice, video and data over a copper transport medium.

It is also widely acknowledged that, from an International perspective, many 3rd world counties--who have no wireline infrastructure to worry about upgrading--are in a better position to focus on wireless broadband efforts than the US. Having this focus gives non-US counties an actual spending advantage over the US owing to the significant spending burden imposed on the USF fund by its focus on upgrading larger and somewhat dated telecom infrastructure. Which leads to our final comment.

4. Other Drivers

WISPA wishes to state that there are other drivers at work surrounding the 3560 band adoption besides economic ones having to do with the capital or equity markets—specifically, the facilitation of broader adoption & deployment of Broadband Internet access within the US.

From a global perspective, besides the need to have the Broadband Internet industry garner investment from the capital or private equity markets, it is easy to observe that, in a world where national economies have much tighter linkages to the world economy than ever before, the availability of Internet access for a country's work force can be said to have direct impact on future competitiveness, the ability to provide Broadband Internet access to the US should be an imperative.

In that context, the finite resource of spectrum that can be used to deploy Broadband Internet services will become increasingly more valuable. Further, if the Commission continues to allow the exclusive licensing of spectrum that is clearly under-utilized, spectrum policy rulings before the Commission will come under increasingly heavy pressure to put such spectrum to more productive use such as making it available for delivery of broadband Internet. So, instead of waiting for political pressures to increase, the Commission needs to proactively address the issue of exclusively licensed spectrum today--not tomorrow--after it becomes clear that past Spectrum policy may have affected the competitiveness of our work force.

About WISPA

WISPA in a 501 c6 organization that is focused on providing our membership and partner organizations with a unified voice in the regulatory and policy arena's that are associated with providers of wireless Internet services to businesses, consumers, and municipalities. For more information, please visit our website at http://www.wispa.org/

Please contact WISPA or the author of this document with any questions in connected with this filed comment.

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