



# PUBLIC NOTICE

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## INTERNATIONAL BUREAU ANNOUNCES TEMPORARY FILING FREEZE ON NEW FIXED-SATELLITE SERVICE SPACE STATION APPLICATIONS IN THE 3.7-4.2 GHz BAND

*GN Docket Nos. 17-183, 18-122*

By this Public Notice, the International Bureau (Bureau) announces a temporary freeze, effective on **June 21, 2018**, on the filing of new space station license applications<sup>1</sup> and new requests for U.S. market access through non-U.S.-licensed space stations to provide Fixed-Satellite Service (FSS) in the 3.7-4.2 GHz band.<sup>2</sup> The purpose of this freeze is to preserve the current landscape of authorized operations in the 3.7-4.2 GHz band pending Commission action as part of its ongoing inquiry into the possibility of permitting flexible use and more intensive fixed use of the band.<sup>3</sup>

### **Background**

On August 3, 2017, the Commission released a Notice of Inquiry titled *Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz (NOI)*.<sup>4</sup> In that NOI, the Commission sought detailed comment on frequency bands that had garnered interest to potentially support increased flexible broadband uses, including the 3.7-4.2 GHz band.<sup>5</sup> The Commission stated that “with this Notice of Inquiry, we hope to obtain relevant data and information . . . so that we can make more informed and specific proposals in any future proceedings.”<sup>6</sup> While recognizing the existing FSS and Fixed Service

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<sup>1</sup> 47 CFR § 25.114.

<sup>2</sup> 47 CFR § 25.137.

<sup>3</sup> *Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*, Notice of Inquiry, 32 FCC Rcd 6373 (2017) (*NOI*). We note that as part of the MOBILE NOW Act Congress has required the Commission to assess the feasibility of Federal and non-Federal sharing the 3.7-4.2 GHz band and submit a report to the Secretary of Commerce and to Congress within 18 months. See Consolidated Appropriations Act, 2018, P.L. 115-141, which includes the Repack Airwaves Yielding Better Access for Users of Modern Services (RAY BAUM’S) Act. Title VI of the RAY BAUM’S Act enacted provisions from the Senate-approved MOBILE NOW Act, which directly addresses the 3 GHz band and multiple other spectrum related policies. See MOBILE NOW Act, Sec. 603 (Identifying 255 Megahertz), Sec. 605 (3 Gigahertz Spectrum).

<sup>4</sup> *NOI*, 32 FCC Rcd at 6373. The Commission noted that this inquiry could also help it address international activities and statutory obligations in collaboration with the State Department, NTIA, and other federal agencies. See *id.* at 6374-75, para. 4.

<sup>5</sup> *NOI*, 32 FCC Rcd at 6374, 6378, paras. 2, 12.

<sup>6</sup> *NOI*, 32 FCC Rcd at 6376, para. 7.

(FS) uses of the 3.7-4.2 GHz band, the Commission sought comment on the potential for more intensive use of that band for wireless broadband, including asking how current service rules governing geostationary satellite orbit FSS and FS could be modified to promote flexible use, stimulate investment, and encourage more intensive deployment.<sup>7</sup>

On April 19, 2018, the International, Public Safety and Homeland Security, and Wireless Telecommunications Bureaus announced a temporary freeze effective on April 19, 2018, on the filing of new or modification applications for FSS earth station licenses,<sup>8</sup> FSS receive-only earth station registrations,<sup>9</sup> and fixed microwave licenses<sup>10</sup> in the 3.7-4.2 GHz frequency band.<sup>11</sup> The earth station freeze also announced a 90-day filing window during which operators of existing, but unregistered or unlicensed, earth stations operating in the 3.7-4.2 GHz band could continue to file applications.<sup>12</sup> The Bureau extended this filing window for an additional 90-days on June 20, 2018.<sup>13</sup> The purpose of this freeze is to preserve the current landscape of authorized operations in the 3.7-4.2 GHz band pending Commission action as part of its ongoing inquiry into the possibility of permitting terrestrial broadband use and more intensive fixed use of the band (*Mid-band Proceeding*).<sup>14</sup>

### **Space Station Filing Freeze**

To further preserve the landscape of authorized operations in the 3.7-4.2 GHz band pending Commission action as part of its ongoing inquiry in the *Mid-band Proceeding*, the Bureau announces a temporary freeze, effective as of **June 21, 2018**, on the filing of new space station license applications and new requests for U.S. market access through non-U.S.-licensed space stations in the 3.7-4.2 GHz band. The decision to impose this freeze is procedural in nature, and therefore the freeze is exempt from the notice and comment and effective date requirements of the Administrative Procedure Act.<sup>15</sup> Moreover, we find that there is good cause for not delaying the effect of the freeze, as such a delay would be impractical, unnecessary, and contrary to the public interest because it would undermine the purposes of the freeze.<sup>16</sup> The Bureau finds that the freeze will help preserve the options available to the

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<sup>7</sup> See *NOI*, 32 FCC Rcd at 6379-6381, paras. 16-23.

<sup>8</sup> 47 CFR § 25.115(a), (b), (c)(2).

<sup>9</sup> 47 CFR § 25.115(b).

<sup>10</sup> 47 CFR Part 101, subparts H and I.

<sup>11</sup> See *Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band; 90-Day Window to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, GN Docket Nos. 17-183, 18-122, Public Notice, DA 18-398 at 1, 3 (IB, PSHSB, WTB Apr. 19, 2018), 2018 WL 1898716 (*Freeze PN*).

<sup>12</sup> *Id.*

<sup>13</sup> See *International Bureau Announces 90-Day Extension of Filing Window, to October 17, 2018, to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band; Filing Options for Operators with Multiple Earth Station Antennas*, Public Notice, DA 18-639 (IB June 21, 2018).

<sup>14</sup> See *NOI*, 32 FCC Rcd at 6374, para 2, 6378, para. 12.

<sup>15</sup> See 5 U.S.C. § 553(b)(A) and (d); see also *Neighborhood TV Co. v. FCC*, 742 F.2d 629, 637-38 (D.C. Cir. 1984) (holding that the Commission's filing freeze is a procedural rule not subject to the notice and comment requirements of the Administrative Procedure Act); *Buckeye Cablevision, Inc. v. United States*, 438 F.2d 948, 952-53 (6th Cir. 1971); *Kessler v. FCC*, 326 F.2d 673, 680-82 (D.C. Cir. 1963).

<sup>16</sup> See 5 U.S.C. § 553(b)(B), (d)(3).

Commission for consideration of additional uses of the band while limiting the potential for speculative applications that might be filed in anticipation of potential future actions by the Commission.

For the duration of the freeze, the International Bureau will dismiss any new space station license applications and new requests for access to the U.S. market through non-U.S.-licensed space stations, or those parts of any such applications and requests, that seek to operate in the 3.7-4.2 GHz band.<sup>17</sup> The freeze does not apply to applications for modification of existing authorizations,<sup>18</sup> relocations of existing space stations pursuant to the Commission's fleet management policy,<sup>19</sup> or to applications for replacement space stations.<sup>20</sup> The International Bureau will consider requests for waiver of this freeze on a case-by-case basis and upon a demonstration that waiver will serve the public interest and not undermine the objectives of the freeze.

Action by the Chief, International Bureau.

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<sup>17</sup> Amendments, or those portions of amendments, to pending space station license applications or requests for U.S. market access that seek to operate in the 3.7-4.2 GHz band where that band was not requested in the initial application as filed before **June 21, 2018** will also be dismissed.

<sup>18</sup> 47 CFR § 25.117.

<sup>19</sup> 47 CFR § 25.118(e) (permitting the relocation of a GSO space station without prior authorization, but upon 30 days prior notice to the Commission and any potentially affected licensed spectrum user, provided that the operator meets specific requirements, including a requirement that the space station will be relocated to a position within  $\pm 0.15^\circ$  of an orbital location assigned to the same licensee).

<sup>20</sup> 47 CFR §§ 25.158(a)(2) and 25.165(e)(1),(2).