



NEWS

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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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FCC SEEKS COMMENT ON POSSIBLE MODIFICATIONS TO RULES GOVERNING THE 700 MHz GUARD BAND LICENSEES

Washington, D.C. – Today, the Federal Communications Commission (FCC) released a Notice of Proposed Rule Making (Notice) that seeks comment on possible changes to the rules governing the licensees in the Guard Band portions of the 700 MHz spectrum band. The Notice also seeks comment on possible changes to the surrounding upper portions of the 700 MHz band plan allocation.

The Guard Band licensees are governed by a unique set of service rules that stem from their role in protecting adjacent public safety licensees. Although the main purpose of the Guard Bands is to protect public safety from adjacent commercial operations, the FCC has also permitted operations in the Guard Bands in order to allow for effective and valuable use of the spectrum. The Guard Band licensees, or Guard Band Managers, make the 700 MHz Guard Bands spectrum available either to system operators or directly to end users in varying degrees of quantity, geographic areas, and duration through private, written contracts known as “spectrum user agreements.” Guard Band Managers retain ultimate control of the spectrum within the scope of their licenses, and are responsible for coordinating the use of their frequencies with other Guard Band Managers and with frequency coordinators in the adjacent public safety bands.

In 2000 and 2001, the FCC completed two auctions of Guard Band licenses. According to existing Guard Band licensees, only a handful of systems have been deployed since the completion of the auctions. The FCC is seeking to promote more efficient and effective use of this spectrum. In addition, two other developments make this an appropriate time to seek comment on possible rule changes for this spectrum. First, as part of the 800 MHz band reconfiguration proceeding (WT Docket No. 02-55), the FCC reclaimed all of Nextel Communications, Inc.’s (Nextel) Guard Bands licenses in 2004, which covered 42 of the 52 B Block markets. Second, Congress recently established a “hard date” of February 17, 2009 for the completion of the digital television (DTV) transition. Incumbent analog television broadcasters must vacate the entire 700 MHz band by this date, thereby making the spectrum available for commercial wireless, public safety, and Guard Bands licensees.

Today’s Notice seeks comment on several service rule changes that may provide greater flexibility to 700 MHz Guard Bands licensees, while maintaining adequate interference protection for public safety licensees. These include:

- Whether to extend the FCC's spectrum leasing rules, established in its secondary markets proceeding, to the Guard Bands, or whether to continue to maintain the existing band manager rules.
- Whether to increase band manager flexibility for incumbents and prospective licensees by, for example, eliminating or revising restrictions on leasing to affiliates or on using the spectrum for internal purposes.
- Whether to eliminate the prohibition on deploying cellular architectures within the Guard Bands.
- Whether to change the current Adjacent Channel Power limits in the Guard Bands.

The Notice adopted today also seeks comment on proposals for re-licensing the Guard Bands licenses returned from Nextel. These proposals include: (1) reallocating the spectrum for exclusive public safety use; or (2) reallocating the spectrum for narrowband channels for critical infrastructure industries in support of interoperability with public safety entities.

Finally, the Notice seeks comment on modifying the existing Upper 700 MHz band plan with respect to the Guard Bands, asking commenters to consider band plan proposals made by existing Guard Band Managers and other interested parties. The FCC tentatively concludes, however, that the adoption of any proposal that would entail shifting the narrowband channels of the public safety band would require an expeditious resolution of issues related to the costs of reprogramming public safety radios, as well as international coordination for the use of any shifted narrowband channels in border areas.

Action by the Commission on September 6, 2006, by Notice of Proposed Rule Making (FCC 06-133). Chairman Martin with Commissioners Copps, Adelstein, Tate, and McDowell. Separate statements issued by Chairman Martin and Commissioners Copps and Adelstein.

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WT Docket Nos. 06-169, 96-86

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