

United States Senate

WASHINGTON, DC 20510-4705

December 21, 2012

The Honorable Julius Genachowski
Chairman
Federal Communication Commission
445 12th Street, S.W.
Washington, D.C. 20554

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Dear Chairman Genachowski:

We request that when the Commission considers the joint testing reports filed by Progeny and the Wireless Internet Service Providers Association (WISPA), Itron, and the Landis+Gyr Company in WT Docket 11-49 to determine whether Progeny's Multilateration Location and Monitoring Service (M-LMS) service causes unacceptable interference to unlicensed (Part 15) devices operating in the 902-928 Megahertz (MHz) spectrum band, it defines unacceptable interference from the perspective of what would be an unacceptable consumer experience for the tens of millions of Part 15 device users. Accordingly, the only conclusion the Commission can reach at this time is that Progeny has not yet met the conditions to begin commercial operation.

When the Commission issued its Report and Order (R&O) in April 1995 that created M-LMS, it conditioned the grant of the license on the licensee's ability to demonstrate through actual field tests in the proposed area of operation that their systems do not cause unacceptable levels of interference to Part 15 devices operating in the required licensees to demonstrate that its systems would not cause unacceptable levels of interference to the Part 15 devices that operate in the 902-928 MHz spectrum band. As you know, Part 15 devices cannot cause harmful interference to licensed devices and ordinarily must accept interference from all other users of the band. The 902-928 MHz spectrum band is unique, however, in that the Commission provided interference protection to "avoid any significant increase in interference to unlicensed users" from M-LMS licensees. While the Commission defined harmful interference, it did not define unacceptable interference in this proceeding. Nevertheless, the Commission's intent with respect to the then installed base of millions of Part 15 device users was clear -- that the rules "afford(s) users in these services a greater degree of protection to their operations."

Millions of Americans depend on devices supported by unlicensed spectrum in the 902-928 MHz band. These devices include signaling systems used by railroads, pipelines, and smart grid automatic meter reading devices, as well as Internet connections, medical devices, remote controls, baby monitors, personal emergency service devices that connect to 911, and home alarm systems. The quality of communications and signals over these devices is crucial to businesses as well as to consumers.

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Innovation is an important part of our country's competitive agenda and the 902-928 MHz spectrum block is used by many new technologies utilizing unlicensed spectrum due to the relatively low barriers to entry. We must continue to support innovation to build our economy and compete in an increasingly high-tech global market and urge you to continue to keep this in mind as you consider your decision.

Progeny's M-LMS petition is one of several potential approaches to providing precise location of individuals holding devices outdoors in so-called urban canyons, indoors, and at elevation. We don't want to minimize the technology's potential in providing E-911 services as well as Location Based Services. Experience has taught us, though, that just because a company has demonstrated a potentially useful technology, it does not automatically mean that there is a viable business model. Given that M-LMS licenses have lay fallow for over a decade for any number of technical and business reasons, it should give the Commission pause in making its decision.

If the FCC agrees with Progeny's position, the company would move forward with its technology and business plan that may or may not be successful in the near term; while an untold number of successful companies that have integrated unlicensed devices into their operations will experience business disruptions, reduced productivity, and increased costs; and consumers will experience millions of devices that are no longer useful due to unacceptable interference.

Primary, secondary, and unlicensed device users share the 902-928 MHz band. Even as congested as the band has become, different Part 15 users have figured out how to co-exist and work with licensees to come up with technical workarounds.

If its petition is approved, Progeny will have absolutely no incentive to try and work with the various Part 15 users to see if they can find a technical remedy for mitigating the impact of unacceptable interference. We hope you will continue to work with all of the stakeholders involved so that the band can continued to be shared effectively. But until such time Progeny's unacceptable interference to Part 15 users is addressed, we believe that the Commission should deny Progeny's petition claiming that it has met all the conditions to commence commercial operations.

Sincerely,



Maria Cantwell
United States Senator

cc: Commissioner McDowell
Commissioner Clyburn
Commissioner Rosenworcel
Commissioner Pai