

**STATEMENT OF COMMISSIONER AJIT PAI  
APPROVING IN PART AND CONCURRING IN PART**

**Re: *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz Bands, GN Docket No. 13-185***

When it comes to spectrum, supply is short, and demand is long. One reason is that the federal government is the sole occupant of 588.5 MHz of spectrum ideally suited for mobile broadband and controls another 885.5 MHz of spectrum that’s shared by federal users and the private sector.<sup>1</sup> In other words, 61.4 percent of the spectrum between 600 MHz and 3 GHz is insulated from market forces and can’t be used to meet consumers’ ever-increasing demand for data.

Fortunately, Congress foresaw this situation and gave the Commission two powerful tools to solve the problem. The first is the Commercial Spectrum Enhancement Act of 2004,<sup>2</sup> which allows the proceeds of a spectrum auction to pay for the relocation of incumbent federal users. That authority was used to great success seven years ago, when we cleared federal users out of the 1710–1755 MHz band and created the AWS-1 band, which has been used by carriers to deploy 4G LTE services throughout the United States. And that auction was a boon to the Treasury to boot; the National Broadband Plan estimated that net revenues from clearing and auctioning the band were “nearly \$6 billion.”<sup>3</sup>

The second is the Spectrum Act of 2012, which directed the FCC to allocate and license 65 MHz of spectrum for commercial use by February 2015.<sup>4</sup> The Spectrum Act built on the Commercial Spectrum Enhancement Act, and while it allowed more flexibility for sharing spectrum between federal and commercial users, it codified Congress’s strong preference for clearing and reallocating spectrum. Indeed, the National Telecommunications and Information Administration must “give priority” to clearing and reallocation and may pursue a sharing strategy only if, in consultation with the Office of Management and Budget, it determines that “relocation of a Federal entity from the band is not feasible because of technical or cost constraints.”<sup>5</sup>

Today we follow through on our responsibilities under these statutes by proposing service rules for several bands, including the critically important 1755–1780 MHz band. I say critically important because this band, when paired with the 2155–2180 MHz band that the Spectrum Act requires us to auction by February 2015, will be crucial to making 4G LTE services available to millions of Americans and making the promise of the National Broadband Plan a reality. It’s already internationally harmonized for commercial use, so deployment will be quicker than any other band, and its adjacency to the existing AWS-1 band allows for more efficient spectrum usage.

Although I cannot support every proposal in today’s Notice, I am especially pleased that my colleagues were willing to incorporate my proposals to ensure that if clearing the 1755–1780 MHz band is

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<sup>1</sup> National Telecommunications and Information Administration, United States Frequency Allocations: The Radio Spectrum (Aug. 2011) (denoting spectrum allocated for “government exclusive” use, “non-government exclusive” use, and “government/non-government shared” use).

<sup>2</sup> Commercial Spectrum Enhancement Act, Pub. L. No. 108-494, 118 Stat. 3986, Title II (2004).

<sup>3</sup> FCC, Connecting America: The National Broadband Plan at 82 (2010), *available at* <http://download.broadband.gov/plan/national-broadband-plan.pdf>.

<sup>4</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, Title VI (2012).

<sup>5</sup> Spectrum Act § 6701(a)(1)(B) (amending section 113(j) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 923)); *see also id.* (entitling such subsection “Relocation Prioritized Over Sharing”); Spectrum Act § 6401(a) (entitled “Clearing Certain Federal Spectrum”).

feasible, we can move forward with relocation and exclusive commercial use there. Not only is clearing the bipartisan legislative preference, it just makes sense. The fewer impairments, exclusion zones, and complicated sharing arrangements there are, the more valuable the spectrum will be, especially for regional carriers that are unlikely to have the wherewithal to coordinate their use with potentially hundreds of federal users.

A coda to today's Notice. When the Commission commenced the notice-and-auction process of the Commercial Spectrum Enhancement Act back in March,<sup>6</sup> I reiterated my belief that “we should aim to clear and reallocate the 1755–1780 MHz band rather than forcing federal users and commercial operators to undertake the complicated, untested task of spectrum sharing.”<sup>7</sup> Although some at the time suggested large-scale clearing was impossible, I was pleased to see recent correspondence from the Chief Information Officer of the Department of Defense putting reallocation and auction of the 1755–1780 MHz band “in the near-term” on the table.<sup>8</sup> This recognition—that relocating some operations and compressing most others into existing federal spectrum is feasible at a total cost of only \$3.5 billion—is a tremendous step in the right direction.<sup>9</sup> I commend the Department of Defense for working towards a solution that will serve federal and consumer interests alike.

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<sup>6</sup> Letter from Julius Genachowski, Chairman, FCC, to Lawrence E. Strickling, Assistant Secretary for Communications and Information, U.S. Department of Commerce, at 1 (Mar. 20, 2013), *available at* <http://go.usa.gov/2VR5>.

<sup>7</sup> Statement of Commissioner Ajit Pai on Commencement of the Process to Auction 1755–1780 MHz Band (Mar. 21, 2013), *available at* <http://go.usa.gov/jkT9>.

<sup>8</sup> Letter from Teresa M. Takai, Chief Information Officer, Department of Defense, to the Honorable Lawrence E. Strickling, Assistant Secretary for Communications and Information, National Telecommunications and Information Administration, at 1 (July 17, 2013), *available at* <http://apps.fcc.gov/ecfs/document/view?id=7520932630>.

<sup>9</sup> *Id.*