



November 17, 2009

Chairman Julius Genachowski  
Commissioner Michael J. Copps  
Commissioner Robert M. McDowell  
Commissioner Mignon Clyburn  
Commissioner Meredith Attwell Baker  
Federal Communications Commission  
445 12th Street, SW  
12th Street Lobby, TW-A325  
Washington, DC 20554

**RE: Written Ex Parte Communication, GN Docket No. 09-51**

Dear Chairman Genachowski and Commissioners Copps, McDowell, Clyburn and Baker:

CTIA – The Wireless Association® (“CTIA”), the Consumer Electronics Association (“CEA”) and other affected stakeholders (“Wireless Broadband Proponents”) have provided significant evidence that there is a national need for the identification and allocation of extensive amounts of additional spectrum for wireless broadband applications, devices and services. We urge the Commission to act expeditiously to avoid the “looming spectrum crisis” which may be the “biggest threat to the future of mobile in America.”<sup>1</sup> As CTIA, CEA and many of our member companies have stated to the Commission, there is an urgent need for a significant amount of new, licensed commercial wireless spectrum to enable the continued evolution and development of wireless broadband.<sup>2</sup> To respond adequately to the near-term shortage of available commercial wireless spectrum, the Wireless Broadband Proponents believe that the Commission should leave no stone unturned in its quest for identifying spectrum below 3 GHz for reallocation. As part of that effort, we respectfully request that, pursuant to Congress’s mandate in Section 336(g) of the Communications Act, the FCC immediately begin a proceeding to investigate potential reallocation of broadcast spectrum.

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<sup>1</sup> See Prepared Remarks of Chairman Julius Genachowski, Federal Communications Commission, “America’s Mobile Broadband Future”; International CTIA WIRELESS I.T. & Entertainment (Oct. 7, 2009) at 4, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-293891A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293891A1.doc).

<sup>2</sup> See, e.g., Ex Parte Presentation of CTIA – The Wireless Association®, GN Dkt. No. 09-51 (filed Sept. 29, 2009); Comments of the Consumer Electronics Association, *In the Matter of Spectrum for Broadband*, GN Dkt Nos. 09-47, 09-51, 09-137.

Specifically, Section 336(g) of the Communications Act states, in pertinent part:

(g) Evaluation. – Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;<sup>3</sup>

(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.<sup>4</sup>

The initial construction permits for advanced television services were issued in September 1997.<sup>5</sup> The initial licenses for advanced television services were issued in February 1999.<sup>6</sup> To our knowledge, the Commission has never conducted a detailed evaluation of advanced television services, nor has it made an assessment of alternative uses and the ability of the Commission to reduce the amount of spectrum assigned to broadcast television licensees. This spectrum is uniquely suited for mobile broadband applications, devices and services – it has highly favorable propagation characteristics and is directly adjacent to the 700 and 800 MHz spectrum utilized by the commercial wireless industry. We therefore urge the Commission to take immediate action to initiate the Congressionally-mandated evaluation of broadcast television spectrum usage.

The Commission is at a crucial junction as it deliberates the development of the National Broadband Plan. Mobile broadband services are widely anticipated to play a critical role in providing broadband services to the American public. Without swift Commission action to identify and clear significant portions of electromagnetic spectrum

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<sup>3</sup> While consumers have purchased more than 180 million DTV receivers capable of receiving broadcasts of advanced television services, fewer than ten percent of American households rely on over-the-air transmission to view broadcast content. *See* “DTV Transition Impact,” Consumer Electronics Association, August 2009, at 2.

<sup>4</sup> *See* 47 U.S.C. § 336(g).

<sup>5</sup> *See* Public Notice, “Additional Application Processing Guidelines for Digital Television (DTV),” (rel. Aug. 10, 1998) at 18, *available at* [http://www.fcc.gov/Bureaus/Mass\\_Media/Public\\_Notices/TV\\_Notices/pnmm8116.pdf](http://www.fcc.gov/Bureaus/Mass_Media/Public_Notices/TV_Notices/pnmm8116.pdf) (last visited Nov. 5, 2009).

<sup>6</sup> *See, e.g.*, [http://fjallfoss.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/app\\_det.pl?Application\\_id=263857](http://fjallfoss.fcc.gov/cgi-bin/ws.exe/prod/cdbs/pubacc/prod/app_det.pl?Application_id=263857) (license to cover granted Feb. 5, 1999 to call sign KHVO, last visited Nov. 5, 2009).

below 3 GHz, consumers and businesses in this country will be unable to access the Internet and information sources so necessary to be competitive internationally. We strongly recommend that the Commission, consistent with Congressional directives, immediately launch efforts to evaluate broadcast television spectrum usage as part of the National Broadband Plan.

Sincerely,



Steve Largent  
President and CEO  
CTIA – The Wireless Association®



Gary Shapiro  
President and CEO  
Consumer Electronics Association