



**Assessment of
FCC's Preparatory Process for the
2003 World Radiocommunication Conference**

February 13, 2004

**Federal Communications Commission
International Bureau**

Introduction

Unprecedented progress in the development of radiocommunication services has resulted in an increased demand for radio-frequency spectrum. Radio-frequency spectrum, however, is a limited natural resource that has to be shared among nations on regional and global bases. For that reason, under the auspices of the International Telecommunication Union, (a specialized United Nations agency), World Radiocommunication Conferences (WRCs) periodically are convened to consider the regulatory framework to manage the international use of radio-frequency spectrum in an equitable and efficient manner.

The last World Radiocommunication Conference took place in June/July of 2003 (WRC-03) in Geneva, Switzerland. WRC-03 considered 48 conference agenda items concerning the deployment, growth and evolving use of a broad range of spectrum-based services. The U.S. delegation, led by Ambassador Janice Obuchowski, returned from the WRC-03 with a long list of accomplishments that will make spectrum available for the introduction of emerging technologies, protect incumbent radiocommunication services from interference, enable new commercial ventures, create jobs and increase global competition. The FCC's contribution to the overall success of the U.S. delegation at the WRC-03 was significant. In fact, the FCC staff served as U.S. spokespersons on nearly half of the items addressed by WRC-03.

In light of the U.S. accomplishments at WRC-03, and as a prelude to the preparations for the next WRC, the FCC conducted both an internal and a public review of the agency's WRC preparations. This report presents a summary of those reviews. It will be used to facilitate and improve FCC's preparations for future WRCs. Although not related to the WRC preparations, this report also briefly addresses the FCC's domestic implementation of WRC-03 decisions.

Scope

The Department of State is ultimately responsible for leading the U.S. efforts at WRCs. The FCC's role is to advise and support the Department of State. The FCC provides the Department of State with policy and technical expertise on issues related to commercial radiocommunication services as well as amateur, broadcasting and state/local government radiocommunication services. Accordingly, this assessment focuses on the efficacy of the FCC's activities in preparation for the WRC-03, and not on the overall U.S. preparation for and participation in the WRC-03.

The FCC started its preparations for the WRC-03 shortly after the previous WRC (WRC-2000). Recognizing the wide-reaching implications of WRC decisions on U.S. consumers and the communications industry, the FCC focused its efforts from the beginning of the preparatory cycle on three critical areas:

- (1) advocacy of the public interest consistent with U.S. policies, rules and regulations;
- (2) coordination with the Executive Branch agencies; and
- (3) international outreach.

This report considers FCC activities in each of these areas and addresses questions and

issues that were identified for each area. It takes into account the comments received during the internal and public reviews of the FCC's WRC-03 preparations.

Advocacy of the Public Interest Consistent with U.S. Policies, Rules and Regulations

In the WRC-03 preparatory effort, the FCC advocated for the public interest consistent with U.S. policies, rules and regulations. To identify the public interest for various items to be addressed by WRC-03, the FCC established a public forum in which the public could provide its views and recommendations to the agency. The FCC, in accordance with the requirements of the Federal Advisory Committee Act (FACA), organized the WRC-03 Advisory Committee (WAC). The WAC was chaired by private sector representatives and had an open membership structure. Its meetings featured broad participation by members of the public. The meetings also included regular attendance by representatives of Executive Branch agencies. The WAC held thirteen meetings in preparation for the WRC-03 and played an integral role in the U.S. domestic preparatory activities. The WAC provided the FCC with recommendations on almost every WRC-03 agenda item. To further promote public participation in the WRC-03 preparatory process, the FCC, through a Public Notice process, solicited comments from the public on all recommendations received from the WAC. The FCC also created a public website that provided information on WRC-03 preparatory activities.

Questions/Issues:

Did the open membership structure (members floating in and out) impede reaching a consensus within the WAC?

Comments/Conclusion: No. The open nature of the WAC meetings ensured transparency and confidence in the decisions reached by the WAC. Closed meetings would have opened the WAC to criticism that its decisions were not based on the consensus of interested parties. Some concerns were expressed, however, regarding the participation of non-U.S. citizens in the WAC. It was determined that it would not be practical to restrict participation only to U.S. citizens, especially in light of the importance placed on the openness and accessibility of the WAC. Questions were also raised about the participation by NTIA and other federal agencies, which have their own closed advisory committee process for WRC preparations. It was the general view, however, that federal government participation in the WAC, especially at the working group level, was productive because it provided the U.S. government with the perspective of the public and industry and facilitated issue resolution earlier in the process.

Was there ever a need for a closed meeting?

Comments/Conclusion: No. The need for a closed meeting of the WAC did not arise during the preparations for the WRC-03. Even if a benefit could be found to holding a closed WAC meeting, it would be negated by the fact that the WAC's leadership had no legal basis over the individual WAC members to prevent them from discussing controversial issues publicly.

Did the WAC organization and membership structure ensure that discussions were fairly balanced in terms of the points of view represented?

Comments/Conclusion: Yes. In formulating its recommendations, the WAC was able to consider and account for varied views. The FCC benefited by receiving advice from the WAC that reflected the consensus of the group. Furthermore, by soliciting comments on

the WAC's recommendations through the Public Notice process and on its website, the FCC was able to increase public participation by extending the opportunity for those members of the public who could not participate in the WAC to give the agency their views.

The WAC meetings in preparation for WRC-03 were held about every two months. Was this schedule appropriate?

Comments/Conclusion: Yes. Three factors played an important role in the timing of the WAC meetings. First, the WAC was organized and administered in accordance with the requirements of the FACA. Under FACA rules, there is a requirement to issue a Public Notice announcing each WAC meeting. By statute, the Public Notices generally must provide at least a three-week lead time. Thus, holding more than one WAC meeting a month was not practicable. Second, the WAC had to allow sufficient time for the working groups to develop recommendations for approval by the WAC. Third, the WAC needed to account for the upcoming regional and international meetings (e.g., CITELE) so that its recommendations could be provided in a timely manner to be used in the formulation of U.S. positions and proposals. Overall, the scheduling of the WAC meetings was appropriate.

Coordination with Executive Branch Agencies

The development of FCC positions, and subsequently the U.S. positions, for WRC-03 was a multi-step process that required close coordination with the Executive Branch agencies. Whenever possible, the FCC sought to increase the transparency of this process by making information publicly available and inviting private sector representatives to participate in the deliberation of the issues.

As in the past, the FCC along with the NTIA participated in the WRC-03 preparatory process as an official advisor to the Department of State. In that role, the FCC formulated its position on WRC-03 agenda items only after taking into account the recommendations received from the WAC, the positions developed by the Executive Branch through the Interdepartment Radio Advisory Committee (IRAC), FCC rulemakings and decisions, and comments received in response to its Public Notices. At times, the positions negotiated among competing commercial interests within the WAC did not concur with the positions of the federal government spectrum users. The FCC worked closely with the NTIA, other Executive Branch agencies and interested members of the private sector to reconcile any differences and to develop unified recommendations on U.S. positions for the WRC-03. Once finalized, the draft proposals were jointly transmitted by the FCC and the NTIA to the Department of State.

Questions/Issues:

Were the WAC and the Executive Branch agencies adequately informed of the developments of the corresponding preparatory efforts?

Comments/Conclusion: Yes. During the WRC-03 preparatory cycle, the FCC sought to increase coordination with the Executive Branch agencies. The FCC participated, as an observer, in the proceedings of the Radio Conference Subcommittee (RCS) of the IRAC. In that role, the FCC worked to ensure that IRAC was provided with the recommendations received from the WAC, so that these recommendations could be considered in the formulation of Executive Branch positions on WRC-03 issues. NTIA's comments and

proposals, in turn, were provided to the WAC for consideration. They were also placed on Public Notice for comment.

In the coordination between the FCC and the NTIA, was the public interest adequately represented?

Comments/Conclusion: Yes. NTIA and FCC worked together to develop draft WRC-03 proposals based on the priorities and objectives that emerged during the U.S. preparatory process. When the FCC and NTIA positions were not aligned, the agencies sought to reconcile and to develop a mutually acceptable compromise. The interested private sector parties were given a chance to discuss their views with the NTIA and other government agencies. This approach increased the opportunity for information exchange, and was a benefit to all parties involved. A few WRC-03 agenda items, however, related to classified or sensitive U.S. government spectrum requirements. In these instances, it was up to the FCC to advise other government agencies of the public sector's priorities. The FCC worked with other government agencies to develop proposals and strategy to safeguard national security while at the same time ensuring that other priorities, such as spectrum availability for new and innovative technologies, was taken into account.

International Outreach

Based on the experience of past WRCs, the FCC recognized that regional support is becoming increasingly important in driving a successful WRC outcome. At the ITU, each of the 189 member countries has a single vote. Regional organizations are critical to building blocs that can advocate positions and deliver votes. The FCC actively participated on the U.S. delegation at meetings of the Inter-American Telecommunication Commission Committee (CITEL PCC II), which was responsible for regional WRC preparations in the Americas. Additionally, the FCC made personnel and resource commitments to follow European, Asian-Pacific, African and Caribbean regional preparations for the WRC-03. As part of that effort, the FCC participated in 12 European meetings, four Asian-Pacific meetings, one African meeting and one Caribbean meeting on WRC-03 preparations. The FCC worked to ensure that the results from the regional meetings were readily available for consideration by the WAC and the Federal agencies. Additionally, the FCC supported Ambassador Obuchowski on a seven-trip, fifteen-country, four-month pre-WRC-03 bilateral and multilateral meeting schedule. The group met with foreign administrations to exchange views and establish rapport in advance of the WRC-03. The FCC also committed significant resources to the work of the ITU-R Study Groups and the Conference Preparatory Meeting (CPM) to advocate internationally the priorities of the United States.

Questions/Issues:

Were the FCC's international outreach efforts effective? How can they be improved?

Comments/Conclusion: Yes. The FCC's international outreach efforts in preparation for the WRC-03 were highly effective. The FCC staff's technical expertise, knowledge of the issues and inter-personal working relationships developed over the years contributed a great deal to the overall success of the U.S. delegation. The FCC's timely reporting of the regional preparatory efforts proved to be essential to the U.S. ability to account for foreign objectives in the formulation of its proposals and positions for the WRC-03. There is always room for improvement in international outreach to ensure that the U.S. has an opportunity to explain its positions and learn about priorities (sometimes competing) of other countries. In preparation for the next WRC, the FCC should continue to foster close

working relationships with other administrations and regional organizations. The FCC also should work with the Department of State and other government agencies in expanding U.S. participation in the WRC preparatory efforts in the developing countries (*e.g.*, Arab Spectrum Management Group, African Telecommunication Union, etc.).

Domestic Implementation of WRC-03 Decisions

Shortly after the end of the Conference, the FCC took decisive steps to implement the decisions of the WRC-03. Within a month of the conclusion of WRC-03, the FCC and NTIA committed to a detailed plan for domestic implementation of the Final Acts of the WRC-03. This plan included a timeline for domestic regulatory actions. The aim was to ensure that commercial, state, local as well as federal government spectrum users would derive maximum benefits from the WRC-03 results. To date, the FCC has fully met its commitment under the plan and the response from the public and other agencies to this swift action has been overwhelmingly positive. Although not related to the FCC's WRC preparatory activities, the FCC has received significant positive feedback from inside and outside the agency about the implementation plan. As a result, this report recommends that the FCC adopt similar unambiguous, transparent and timely implementation approaches to address the outcomes of future WRCs.

Conclusion

Overall, there was considerable improvement in the FCC's preparations for the WRC-03. Starting WRC-03 preparations early and focusing the efforts on critical areas allowed the FCC to leverage its limited resources to the most important activities. Relying on an open and balanced preparatory process ensured the credibility and integrity of the process. Specifically, the WAC proved to be a valuable resource, providing a public forum for constructive deliberation of WRC-03 objectives. Its recommendations served as the basis for many of the U.S. proposals to WRC-03. It is important to note, that in addition to identifying the public interest priorities for the WRC-03, the WAC also allowed the FCC to bring together and benefit from the world-class spectrum management expertise of the U.S. private sector. In the area of coordination with the Executive Branch agencies, the FCC and the other government agencies made a commendable effort over the three-year preparatory cycle to maintain a constructive dialog focused on the resolution of technical issues. This working relationship was important not only in the resolution of contentious issues prior to WRC-03, but also during the conference itself. Finally, the FCC's international outreach activities were an essential component to U.S. preparations for WRC-03. The in-depth understanding of foreign and regional positions acquired by the FCC representatives through their contacts with other countries provided a significant advantage in the complex negotiations on WRC-03 issues.

This report highlights the FCC's experience in preparing for WRC-03. The examination of the numerous questions and issues that arose in reviewing the agency's preparatory process should serve to provide context and guidance to the FCC as it prepares for future conferences. The report also recommends that the FCC continue to follow the WRC-03 example of adopting a detailed domestic implementation plan for future WRCs.