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January 18, 2001

Mr. Thomas J. Sugrue  
Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 – 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Auction of Licenses in the 747-762 and 777-792 MHz Bands  
Scheduled for March 6, 2001  
WT Docket No. 99-168 – Ex Parte Filing

Dear Mr. Sugrue:

Verizon Wireless respectfully requests that the above-referenced auction of licenses in the 700 MHz band be postponed. Because interested bidders are required to file their short-form applications with the FCC by February 2, we respectfully ask for expedited consideration of this request.

On July 20, 2000, Verizon Wireless joined CTIA and other telecommunications companies in requesting a delay of the 700 MHz auction until June 2001. In response to this request, the Commission postponed the auction from September 6, 2000 to its currently scheduled date of March 6, 2001. Among other reasons, the Commission determined that this delay was warranted to ensure that the auction for licenses in the 700 MHz band followed the close of the C and F block PCS reaction. This was an important consideration, because it allows prospective bidders to properly assess their spectrum needs before bidding on additional spectrum.

As of today, the PCS reaction has not yet ended. Consequently, even if the reaction were to close shortly, it still would not allow companies enough time to accurately assess their interest in acquiring additional spectrum in the 700 MHz band. It is not unusual for the Commission to delay the start of an auction if it follows too closely the close of another auction of spectrum for related services. It should take the same action here.

The Commission should reschedule the date for filing short form applications to participate in the 700 MHz auction and ensure that this auction begins at a reasonable interval after the close of the PCS reaction. When it set the current schedule for the 700 MHz auction, the Commission clearly intended to give bidders ample time after the close of the PCS reaction to assess its results and prepare to bid on additional spectrum. However, a delayed start and a lengthier than expected reaction have reduced the time between these auctions. If the 700 MHz auction begins on the current schedule, there would be no time for companies that are bidding in the PCS reaction to reassess their business plans and develop bidding strategies for 700 MHz. There would also be no time for companies to discuss possible partnering and other business arrangements with other participants in the 700 MHz auction.

A delay will also allow bidders more time to prepare to participate in the Commission's first auction employing combinatorial bidding. As the Commission is well aware this type of bidding requires an entirely new approach to bidding procedures and software for both auctioneer and bidder. The Commission has used the six month delay of the 700 MHz auction to refine its own bidding procedures and software, modifying the auction procedures as recently as two weeks ago,<sup>1</sup> but bidders have not yet had the opportunity to participate in a practical test of these new auction procedures and software. While the Commission has scheduled such an industry test for next week,<sup>2</sup> it cannot be sure that all interested bidders will be able to participate, since the C and F block PCS reaction may not have ended. Moreover, the schedule leaves less than 6 weeks for bidders to develop and refine their own procedures and software tracking tools to participate in this highly complex auction based on what they learn in the test.

While a short two-month postponement of the auction would be prudent for the practical reasons described above, a longer delay is required. When the Commission previously delayed the auction, it determined that a postponement was not only warranted, but was the best means for satisfying its responsibilities under the Communications Act to manage the radio spectrum in the public interest. It noted that "the factors surrounding the 700 MHz spectrum, including the incumbency of the UHF television broadcasters, make bidder planning for this auction unusually complex." As a result, the Commission determined that a delay was, in fact, necessary to satisfy its obligation under Section 309(j)(3)(E)(ii) of the Communications Act to provide bidders with sufficient time to develop business plans and assess market conditions.

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<sup>1</sup> See "Auction of Licenses in the 747-762 and 777-792 MHz Bands Scheduled for March 6, 2001, Modifications to the Calculation for Determining Minimum Acceptable Bids and the Provisions Concerning 'Last And Best Bids' and Other Procedural Issues," *Report No. Auc-00-31-J(Auction 31)*, DA 01-12 (rel. January 5, 2001).

<sup>2</sup> *Id.*

The Commission considered a number of factors in reaching its previous decision. This same analysis, if applied to today's circumstances, would support additional delay.

First, while the Commission initiated a Further Notice of Proposed Rulemaking to consider mechanisms for clearing the band of incumbent TV broadcasters, this matter is still pending. Consequently, no new band-clearing mechanisms have been established and there is no greater certainty today about the prospects for clearing the 700 MHz band than there was last summer. Even if the Commission were to conclude its rulemaking in advance of the March 6 auction date, bidders would not have time to employ these mechanisms or at least to incorporate them into their bidding strategies. This outcome would effectively undermine the Commission's efforts in that rulemaking to promote clearing of the 700 MHz band.

Second, there are other events that have occurred since last summer that significantly affect the ability of prospective bidders to adequately assess the market opportunity for 700 MHz, and thus, require a further delay of the auction under Section 309 of the Act. On October 13, 2000, President Clinton directed the Department of Commerce, in cooperation with the FCC, to identify by July 2001 spectrum that will support the development of Third Generation (3G) wireless services. The industry has been working diligently with the U.S. Government on this important objective. On January 5, 2001, the Commission initiated a rulemaking proceeding that explores the potential implementation of 3G wireless services in several frequency bands. This includes spectrum identified at the 2000 World Radiocommunication Conference that might be aligned with spectrum allocations in other countries. The Commission is expected to complete its proceeding in June to satisfy President Clinton's directive.

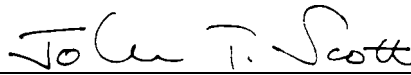
Third, while the 700 MHz band was not identified at WRC-2000 for 3G use worldwide, the Commission believes it is a viable candidate for implementing 3G services in the United States.<sup>3</sup> However, the availability of additional 3G spectrum, particularly in bands that are harmonized globally, will have a significant effect on a company's 3G business plans. As currently scheduled, the 700 MHz auction will have ended well before the 3G rulemaking is complete. The FCC should not auction the 700 MHz band until the broader proceeding on 3G spectrum is concluded.

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<sup>3</sup> See "Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules", **Memorandum Opinion and Order and Further Notice of Proposed Rulemaking**, WT Docket No. 99-168, rel. June 30, 2000. See **also** "Spectrum Study of the 2500-2690 MHz Band, The Potential for Accommodating Third Generation Mobile Services", **Interim Report**, November 15, 2000. See **also** "Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems", **Notice of Proposed Rulemaking**, ET Docket No. 00-258, rel. January 5, 2001.

Fourth, the Commission determined, based on an analysis of the Communications Act and relevant court cases, that postponing the auction does not contravene the Congressional intent behind Section 213 of the Consolidated Appropriations Act of 2000, which requires that the auction proceeds be deposited into the U.S. Treasury by September 30, 2000.<sup>4</sup> As the Commission notes, the underlying purpose of that provision was strictly budgetary and not related to the Commission's spectrum management responsibilities. Importantly, the budgetary results that Congress was seeking to achieve were met without regard to the scheduling of the 700 MHz auction. That same correct legal analysis still applies.

As described above, the 700 MHz auction should be postponed. There remains considerable uncertainty about the process for the auction, the availability of the 700 MHz band itself, and the availability of alternate spectrum. As a matter of sound spectrum management policy, this spectrum should not be auctioned until these issues are resolved. The purpose of spectrum auctions is to promote efficient and intensive use of spectrum by awarding licenses to those who value them most highly. Conducting the auction before prospective bidders are able to make the necessary assessments about spectrum use will jeopardize the efficient assignment of this spectrum and ultimately disserve the public interest. Greater certainty will enable the 700 MHz band to realize its full economic and public benefit. In view of the imminent deadline for submitting short-form applications, we request expedited consideration of this request, and urge the FCC to postpone the 700 MHz auction until September 2001.



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<sup>4</sup> See "In the Matter of Cellular Telecommunications Industry Association et al.'s Request for Delay of the Auction of Licenses in the 747-762 and 777-792 MHz Bands Scheduled for September 6, 2000 (Auction No. 31)", *Memorandum Opinion*, rel. September 12, 2000, paragraphs 7-9.

Mr. Thomas J. Sugrue, Chief  
January 18, 2001  
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cc: Chairman William E. Kennard  
Commissioner Michael Powell  
Commissioner Susan Ness  
Commissioner Harold Furchtgott-Roth  
Commissioner Gloria Tristani  
Clint Odom  
Peter Tenhula

Mark Schneider  
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