

**PROSPECTS FOR U.S. SPECTRUM MANAGEMENT: UPDATE****NTIA Identifies Spectrum for Third-Generation Wireless Services**

On July 23, 2002, the National Telecommunications and Information Administration ("NTIA") released a Report concluding that 90 MHz of spectrum can be reallocated and cleared for new 3G wireless services. The focus now shifts to the FCC to go forward with its 3G rulemaking proceeding to establish service rules and to iron out the details of the incumbent relocation process. Early estimates for a 3G auction date are in the 2004-2005 time frame.

Even though the 90 MHz identified for 3G services falls short of what wireless operators originally hoped for, they are likely to be pleased that some spectrum has been identified and that the 3G allocation process will go forward. A resolution at the World Radio Conference 2000 stated that 160 MHz of spectrum would be necessary for 3G. However, after September 11th, the atmosphere became far less favorable for transferring U.S. military and public safety spectrum over to commercial use. In this environment, finding 90 MHz for new services is a significant accomplishment.

The spectrum addressed in the report lies in the 1710-1770 MHz and 2110-2170 MHz bands. The 90 MHz identified for reallocation includes 45 MHz from 1710-1755 MHz and an additional 45 MHz from the 2110-2170 MHz band (2110-2150 MHz and 2160-2165 MHz), which had already been identified by the FCC as being viable for 3G. This result was expected, as indicated by our assessment in Covington & Burling's June 2002 White Paper, *Prospects for U.S. Spectrum Management*.

The NTIA report focused on the 1710-1770 MHz band, analyzing whether military and other federal government systems that currently occupied the band could be reallocated. The NTIA concluded that the 1710-1755 MHz band could be cleared of incumbent military and federal users and could be reallocated for 3G services. (A few military ground systems would remain in the band on a secondary, coordinated basis, while systems at Cherry Point, NC and Yuma, AZ would remain in the band on a primary basis.) The incumbent military and federal users would relocate or modify their operations no later than December 2008. The NTIA also concluded that the nature of the military systems in one 15 MHz block (1755-1770 MHz) made it unviable for use by 3G for the foreseeable future.

The costs for relocating the incumbent users would be borne by the private sector entities that ultimately receive the reallocated spectrum. Under existing law, winning auction bidders would have to negotiate directly with federal entities and pay them directly for their relocation costs. However, the NTIA also proposed draft legislation yesterday that would create from auction receipts a central fund that would be used to reimburse federal entities for their relocation costs.

As for the 2110-2170 MHz band, the FCC had already concluded that 45 MHz (2110-2150 and 2160-2165 MHz) could be reallocated for 3G. These bands are currently occupied by

non-federal Multipoint Distribution Service (“MDS”) and Instructional Television Fixed Service (“ITFS”) users. These incumbent users are entitled to compensation for relocation to other bands under the FCC’s Emerging Technologies proceeding.

***The FCC has sought public comment on the NTIA 3G Report;  
comments are due by August 8 and may be filed in ET Docket No. 00-258.***

*For questions on these or other spectrum-related issues, please contact:*

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