

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Broadband PCS Spectrum Auction Scheduled for)	DA 04-1639
January 12, 2005)	Report No. AUC-03-58-A, Auction 58

COMMENTS OF CTIA — THE WIRELESS ASSOCIATION™

CTIA — The Wireless Association™ (“CTIA”)¹ submits these comments in response to the *Auction 58 Public Notice*.² The Commission’s upcoming Auction 58, scheduled to commence on January 12, 2005, marks the first time in the four years since Auction 35 that the public will have an opportunity to acquire prime Personal Communications Service (“PCS”) spectrum through a public auction. CTIA’s members are intensely interested in this opportunity to acquire greatly needed spectrum, and CTIA commends the Commission for the steps it has taken to make this auction possible.

The Commission, however, should establish fair and reasonable auction rules that will allow the broadest possible group of bidders to participate in Auction 58. In order to do this, the Commission should re-examine and consider removing or waiving the entrepreneur eligibility

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. CTIA membership covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² See *Broadband PCS Spectrum Auction Scheduled for January 12, 2005*, Public Notice, DA 04-1639 (June 18, 2004) (“*Auction 58 Public Notice*”).

restrictions under Section 24.709³ of its rules so as to permit open bidding for all C block licenses that will be made available in Auction 58. CTIA concurrently is filing a petition requesting the Commission to conduct a rulemaking proceeding to consider removing these restrictions. The petition alternatively seeks a waiver of the application of the entrepreneur eligibility restrictions to Auction 58.

As CTIA demonstrates in its petition, significant market changes have occurred during the four years since the Commission last modified the entrepreneur eligibility rules. Increased consumer demand for national and regional broadband services has driven the growing need for additional spectrum. Substantial blocks of premium C block spectrum have remained unused, and the shortage of suitable CMRS spectrum is even more severe today than four years ago. The capital market has changed significantly, as the wireless industry has continued to mature. Moreover, bidding credits and other regulatory measures have proven to be more effective in enabling small businesses to acquire licenses and construct systems. Furthermore, unlike prior auctions, Auction 58 will make available substantial blocks of returned NextWave spectrum that have languished for nearly eight years. Thus, Auction 58 presents unique circumstances warranting the Commission's long overdue re-assessment of the entrepreneur eligibility restrictions.

³ 47 C.F.R. § 24.709.

As CTIA's petition further demonstrates, allowing open bidding for all C block licenses available in Auction 58 will serve the public interest and achieve the statutory objectives underlying the Commission's auction authority. Auction 58 will provide an eagerly awaited opportunity for carriers to obtain additional spectrum. Accordingly, the Commission should establish auction rules that will ensure that this opportunity will be fully available to small and large carriers alike.

Respectfully submitted,

Diane Cornell /s/

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CERTIFICATE OF SERVICE

I, Phuong N. Pham, hereby certify that, on this 8th day of July 2004, the foregoing Comments were filed by courier with the Secretary's office, and copies were served by electronic mail on the following, unless otherwise indicated:

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