

CMS intends to modify the authority that currently requires denial or revocation of providers or suppliers who fail to submit fingerprints, to instead specify that a waiver application will be rejected if the provider or supplier fails to submit the required fingerprints within 30 days.

- Waiver of 1866(j)(3)(B) of the Act, which requires program instruction or regulatory interpretation in order to implement section 1866(j)(3) of the Act, Provisional Period of Enhanced Oversight for New Providers of Services and Suppliers. CMS intends to implement the requirements of section 1866(j)(3) of the Act for purposes of this Demonstration and in the absence of regulation or other instruction in order to allow for a 1-year period of enhanced oversight of newly enrolling providers and suppliers under this Demonstration.

- Waiver of section 1866(j)(8) of the Act and the regulations at 42 CFR 424.545, 42 CFR part 498, subparts D and E, and 42 CFR 405.803(b), which allow a provider or supplier the right to request a hearing with an administrative law judge and the Department Appeals Board in the case of denial. Under this Demonstration, denials of applications for a waiver may be appealed at a CMS level only, and any applicant to the Demonstration will waive their right to further appeal.

- Waiver of 1866(j)(7) of the Act and the regulations at 42 CFR 424.570 and 455.470, which specify that the moratoria must be implemented at a provider or supplier type level, in order to allow a case-by-case waiver process to moratoria.

Dated: August 6, 2018.

**Seema Verma,**

*Administrator, Centers for Medicare & Medicaid Services.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[GN Docket Nos. 18-122, 17-183, RM-11791, RM-11778; FCC 18-91]

### Expanding Flexible Use of the 3.7 to 4.2 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final action.

**SUMMARY:** In this document, the Federal Communications Commission (Commission or FCC) adopts certification and information collection

requirements for 3.7–4.2 GHz band spectrum that will be available for new wireless uses while balancing desired speed to the market, efficiency of use, and effectively accommodating incumbent Fixed Satellite Service (FSS) and Fixed Service (FS) operations in the band.

**DATES:** The certification requirements are adopted effective August 20, 2018; except for *Earth Station and Space Station Information Collections* in paragraphs 7–12, which contain information collection requirements that have not been approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those requirements.

**FOR FURTHER INFORMATION CONTACT:**

Christopher Bair of the International Bureau, Satellite Division, at 202-418-0945 or [christopher.bair@fcc.gov](mailto:christopher.bair@fcc.gov). For information regarding the Paperwork Reduction Act contact Cathy Williams, Office of Managing Director, at (202) 418-2918 or [cathy.williams@fcc.gov](mailto:cathy.williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order*, GN Docket No. 18-122, FCC 18-91, adopted on July 12, 2018, and released on July 13, 2018. The complete text of this document is available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY-A257, Washington, DC 20554. The complete text is available on the Commission's website at <http://wireless.fcc.gov>, or by using the search function on the ECF's web page at <http://www.fcc.gov/cgb/ecfs/>. Alternative formats are available to persons with disabilities by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

### Paperwork Reduction Act

The Commission, as part of its continuing effort to reduce paperwork burdens, intends to invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission will also seek specific comment on how we might further reduce the information collection

burden for small business concerns with fewer than 25 employees.

### Congressional Review Act

The Commission will send a copy of this *Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), see 5 U.S.C. 801(a)(1)(A).

### I. Introduction

1. In this proceeding, the Commission is pursuing the joint goals of making spectrum available for new wireless uses while balancing desired speed to the market, efficiency of use, and effectively accommodating incumbent Fixed Satellite Service (FSS) and Fixed Service (FS) operations in the band. To gain a clearer understanding of the operations of current users in the 3.7–4.2 GHz band, the Commission is requiring certifications and collecting information on current FSS uses.

### II. Background

2. In the 2017 Mid-Band Notice of Inquiry (*Mid-Band NOI*), the Commission began an evaluation of whether spectrum in-between 3.7 GHz and 24 GHz can be made available for flexible use—particularly for wireless broadband services.<sup>1</sup>

### III. Order: Collecting Information on Satellite Usage of the Band

3. The record in response to the *Mid-Band NOI* reflects that the Commission's information regarding current use of the band is inaccurate and/or incomplete. Therefore, the Commission is collecting additional information to make an informed decision about the proposals discussed herein—including the scope of future FSS, FS, and potential mobile use of the band and the appropriate transition methodology. It is important that the Commission obtain a clear understanding of the operations of current users in the band. This user data will be vital to our consideration of how much spectrum could be made available, how incumbent operators could be protected, accommodated, or relocated, and the overall structure of the band going forward.

4. In furtherance of the Commission's goals of fostering more efficient and intensive use of the 3.7–4.2 GHz band as expeditiously as possible while protecting existing operations in the band from harmful interference, by this *Order* the Commission adopts the

<sup>1</sup> *Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*, GN Docket No. 17-183, Notice of Inquiry, 32 FCC Rcd 6373 (2017) (*Mid-Band NOI*).

certification and information collection requirements described in paragraphs 5–12 below. The Commission and the public will use the information collected to evaluate future use of the 3.7–4.2 GHz band. The information may also be used in defining incumbent earth stations to be protected from harmful interference consistent with parameters that may be developed in this proceeding. FSS operators may request confidential treatment of some or all of the information that they submit, consistent with the Commission's rules.<sup>2</sup>

5. *Earth Station Data.*— In order to evaluate the potential for a flexible use allocation in the 3.7–4.2 GHz band and determine how much spectrum could be made available, the Commission must evaluate the existing earth station usage of C-band satellites—including location and technical data that may be necessary to mitigate harmful interference. This information will assist the Commission in determining whether earth stations will need to be protected as well as how they may need to be protected depending on how the Commission moves forward with increasing the intensity of terrestrial use of the band. It will also allow the Commission to evaluate the feasibility of the various transition proposals.

6. The Commission directs operators of FSS earth stations, including temporary fixed or transportable earth stations, in the 3.7–4.2 GHz band that are licensed or registered (authorized) in International Bureau Filing System (IBFS) to certify the accuracy of all information reflected on their license or registration in IBFS. Given that they recently will have filed for new or modified licenses or registrations in IBFS, the Commission exempts from this *Order* those operators that file between April 19, 2018, and October 17, 2018, using the processes outlined in the *Earth Station Filing Window Public Notices*, including those that filed without coordination.<sup>3</sup> This certification

<sup>2</sup> Although the Broadband Access Coalition argues that all of the information required to be submitted by earth stations is “is no different from the detailed technical information provided, and made publicly available, for wireless providers in other services,” and thus should not be afforded confidential treatment, Broadband Access Coalition June 29, 2018 *Ex Parte* Letter, GN Docket No. 18–122, at 4, the Commission will review and assess requests for confidential treatment for the information submitted in response to this information collection according to the procedures set forth in the Commission's rules. See 47 CFR 0.459.

<sup>3</sup> See *Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7–4.2 GHz Band; 90-Day Window to File Applications for Earth Stations Currently Operating in 3.7–4.2 GHz Band*,

is necessary to inform the Commission's decisions in this proceeding. Although the Commission does not require FSS earth station operators to provide additional information on their existing operations at this time, the Commission intends to seek comment on protecting only those earth stations licensed or registered in IBFS for which the licensee/registrant timely files the certification required in this *Order* (to the extent they registered before April 19, 2018). The Commission also intends to seek comment on whether further earth station information should be collected in the future to facilitate more efficient use of the 3.7–4.2 GHz band.<sup>4</sup>

7. Further, to account for the variable nature of temporary fixed or transportable earth stations,<sup>5</sup> the Commission orders all such operations to submit additional information about their operations regardless of when they were licensed or registered. This information shall include:

- Earth station call sign (or IBFS file number if a registration filed between April 19, 2018 and October 17, 2018, is pending);
- geographic location where the equipment is typically stored;
- the area within which the equipment is typically used;

GN Docket No. 17–183, WTB Docket No. 18–122, Public Notice, DA 18–398 at 1 (IB/PSHSB/WTB Apr. 19, 2018), 83 FR 21746 (May 10, 2018); *International Bureau Announces 90-Day Extension of Filing Window, to October 17, 2018, to File Applications for Earth Stations Currently Operating in 3.7–4.2 GHz Band, Filing Options for Operators with Multiple Earth Station Antennas*, Public Notice, DA 18–639 (IB Jun. 21, 2018), 83 FR 35454 (July 26, 2018) (collectively, the *Earth Station Filing Window Public Notices*).

<sup>4</sup> NCTA—The Internet & Television Association filed an *ex parte* suggesting that this information collection order was not properly noticed under the Administrative Procedure Act (APA). Letter from Danielle Piñeres, NCTA, to Marlene Dortch, FCC, GN Docket No. 18–122 at 1–3 (filed July 2, 2018). While the Commission has discretion to seek comment before undertaking an information collection, it has never taken the position that such comment is a necessary prerequisite. Because the information collection adopted here is designed solely to obtain the information necessary to evaluate whether to adopt future Commission rules, it has no direct “future effect” and as such is not a rule requiring notice under the APA. See 5 U.S.C. 551(4); see also 44 U.S.C. 3507(c) (providing for PRA approval of an information collection not contained in a proposed rule). After adoption of the present *Order*, the Commission will comply with the PRA's requirements, including by seeking public comment on, and Office of Management and Budget approval of, the final information collection before it becomes effective. As is permitted by the PRA, 44 U.S.C. 3506(c)(1)(B)(iii), this information collection is mandatory, but this *Order* does not specify any penalty for failure to respond.

<sup>5</sup> A temporary fixed or transportable earth station is a fixed earth station that remains at a location for less than six months. See 47 CFR 25.277. Operations from these fixed stations are on a temporary basis and therefore variable in nature. A satellite news gathering truck is a common example of a temporary fixed or transportable earth station.

- how often the equipment is used and the duration of such use (*i.e.*, please provide examples of typical deployments, *e.g.*, operation x days a week at sports arenas within a radius of y miles of its home base);

- number of transponders typically used in the 3.7–4.2 GHz band and extent of use on both the uplink and downlink; and
- licensee/registrant and point of contact information.

8. These data are needed to better understand the use of the band by temporary fixed or transportable operations. IBFS does not reflect the variations in the locations or intermittent use of such operations. This presents unique challenges for establishing a means of protecting temporary fixed or transportable operations against harmful interference.

9. The Commission directs the Wireless Telecommunications Bureau, International Bureau, and Office of Engineering and Technology (the Bureaus) to issue a Public Notice that will: (1) Provide detailed instructions for earth station licensees or registrants to file certifications regarding existing information in IBFS; (2) establish a window for initial filings of certifications; and (3) outline the details for temporary fixed or transportable earth stations to submit the information requested above. Because the Commission may use these data to inform its deliberations regarding the future use of the 3.7–4.2 GHz band, including possible interference avoidance coordination or relocation of facilities, the Commission encourages FSS earth station operators to update their information in the event of a change in any of the operational parameters.

10. *Space Station Data.*—In order to evaluate the potential for a flexible use allocation in the 3.7–4.2 GHz band and to determine how much spectrum could be made available, it is also necessary to evaluate the existing FSS downlink capacity of C-band satellites. This information will assist the Commission in determining whether there is sufficient capacity in the upper portion of the C-band to accommodate customers vacating transponders from the lower portion of the C-band. It will also allow the Commission to evaluate the feasibility of various transition proposals.

11. Accordingly, operators with existing FSS space station licenses or grants of United States market access in the 3.7–4.2 GHz band shall provide the following information:

- Satellite call sign, name, and orbital location;

- expected end-of-life for satellite;
- the approximate dates that any additional C-band satellites with a currently pending application in IBFS are planned for launch to serve the United States market (note whether this satellite is a replacement);
  - whether any additional C-band satellites that do not have a currently pending application in IBFS are planned for launch to serve the United States market and the approximate date of such launch (note whether this satellite is a replacement);
  - for each transponder operating in the 3.7–4.2 GHz range that is operational and legally authorized to serve customers in the United States, for the most recent month,<sup>6</sup> provide the following:
    - the frequency range of transponder and transponder number;<sup>7</sup>
    - the capacity in terms of the number of megahertz on each transponder that are currently under contract (also provide this data for one month in 2016);<sup>8</sup>
    - For each day in the most recent month, please provide the percentage of each transponder's capacity (megahertz) utilized and the maximum capacity utilized on that day. (Parties should use the most recent month of data and provide the date range at which the data was collected; they may also supplement the data with historical trend data over recent months up to three years if they feel it displays utilization variances);
    - the center frequency and bandwidth of the Telemetry Tracking and Command beam(s); and
    - the call sign and geographic location (using NAD83 coordinates) of each TT&C receive site.

12. The Commission will seek approval from the Office of Management and Budget (OMB) before the information collection becomes effective, and following OMB approval, the Commission will publish notice of the effective date of the information collection and filing deadline in the

<sup>6</sup> The "most recent month" will be defined in the Bureaus' forthcoming public notice and will be a month following release of this *Order*.

<sup>7</sup> For purposes of this information collection, "transponder number" refers to a standard 36 megahertz wide transponder and that transponder numbering (1–24) is based on the former center-frequency requirement for C-band space stations. See 47 CFR 25.211(a) (2014). While this rule is no longer in effect, most satellites providing service to the United States in the 3.7–4.2 GHz band are configured in accordance with the transponder plan described in the rule.

<sup>8</sup> The information collected will provide comparative data of transponder usage over time and allow the Commission and the public to evaluate options for the future use of the 3.7–4.2 GHz band.

**Federal Register.** The Commission also directs the Bureaus to consider whether additional information should be collected from either FSS earth station operators or satellite licensees and to seek notice and comment regarding the need to initiate a second information collection if such additional information is necessary to supplement the information submitted in this proceeding.

#### IV. Ordering Clauses

13. *It is further ordered* that pursuant to section 4(i) of the Communications Act of 1934, as amended, that this *Order is adopted* effective upon publication in the **Federal Register**. This *Order* contains information collection requirements subject to the Paperwork Reduction Act of 1995 that are not effective until approved by the Office of Management and Budget.

14. *It is further ordered* that the *notice of inquiry*, GN Docket No. 17–183, *Expanding Flexible Use in the Mid-Band Spectrum Between 3.7–24 GHz*, adopted on August 3, 2017, is terminated as to the 3.7–4.2 GHz band.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2018–17296 Filed 8–17–18; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 51 and 52

[**WC Docket Nos. 17–244, 13–97; FCC 18–95**]

### Nationwide Number Portability; Numbering Policies for Modern Communications

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) adopts final rules based on public comments to promote nationwide number portability. These rules eliminate unnecessary toll interexchange dialing parity requirements and database query requirements that may result in obstacles and inefficiencies in an eventual nationwide number portability regime.

**DATES:** Effective September 19, 2018.

**FOR FURTHER INFORMATION CONTACT:** For further information about this proceeding, please contact Sherwin Siy, FCC Wireline Competition Bureau,

Competition Policy Division, Room 5–C225, 445 12th St. SW, Washington, DC 20554, (202) 418–2783, [sherwin.siy@fcc.gov](mailto:sherwin.siy@fcc.gov). For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to [PRA@fcc.gov](mailto:PRA@fcc.gov) or contact Nicole Ongele at (202) 418–2991.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order in WC Docket Nos. 17–244 and 13–97; FCC 18–95, adopted July 12, 2018 and released July 13, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington DC 20554. It is available on the Commission's website at <https://docs.fcc.gov/public/attachments/FCC-18-95A1.pdf>.

## Synopsis

### I. Introduction

1. The systems we use to make and route telephone calls are changing. With this Report and Order (Order), we set the stage for more efficient use of the telecommunications network and pave the way for nationwide number portability (NNP). We eliminate rules that were intended for a market that was divided along more static, segmented categories of telecommunications providers. Those rules are far less applicable to today's more integrated providers and pricing plans, and the North American Numbering Council has identified them as barriers to the achievement of NNP.

2. We forbear from the interexchange dialing parity requirements for competitive local exchange carriers (LECs), creating a more level playing field with the incumbent LECs who received forbearance from the interexchange dialing parity obligations in 2015, and ensuring that both categories of LECs will be able to route calls more efficiently in a future NNP environment. We also ease the requirement that the second-to-last carrier handling a call request query the local number portability database, allowing any carriers earlier in the chain to make the query if they so choose. This greater flexibility allows carriers in the call path to determine who is best placed to bear the costs of performing the query, and also ensures that *any* carrier—including originating carriers—can perform the query, a necessary step in certain NNP solutions.

3. These changes will help set the stage for further progress towards implementation of number portability