

Communications and Information Technology Alert

Akin Gump

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NTIA Gives Green Light to FCC to Expand Commercial Use of Federal Mid-Band Spectrum

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Key Points

- NTIA presents framework to accommodate commercial use of the 3.45-3.55 GHz band, including reduced federal use and limited exclusion zones around military installations.
- NTIA states that unlicensed operations and C-V2X technology can coexist with federal users in the 5.9 GHz band, provided the FCC crafts appropriate technical rules and coordination requirements.

Last week, the National Telecommunications and Information Administration (NTIA) took two important steps toward making more mid-band spectrum available for 5G commercial use. In two separate letters, concerning the **3450-3550 MHz band** ("3.45 GHz Band") and the **5850-5925 MHz band** ("5.9 GHz Band"), NTIA outlined steps by which the Federal Communications Commission (FCC) could expand commercial use of these frequency bands, while accommodating reduced federal use.

With regard to the 3.45 GHz Band, NTIA strongly encouraged the FCC to initiate a rulemaking proceeding to enable full-power commercial operations in the band. NTIA stated that it had developed a spectrum sharing solution that would allow commercial 5G operations, without interfering with existing federal operations, which largely consists of use by military radars. Through the spectrum sharing plan, the Department of Defense (DoD) would minimize use of the 3.45 GHz Band, but would require permanent access to the spectrum in certain areas, primarily military bases, testing ranges and shipyards, as well as additional limited itinerant use in similar areas. NTIA has requested that affected federal agencies provide their plans to transition away from the 3.45 GHz Band by April 16, 2021. This action by NTIA follows on the heels of an **announcement** by President Trump in August that the administration would be making these frequencies available for 5G. In what appears to be a coordinated effort, the FCC also released a **Draft Further Notice of Proposed Rulemaking** (FNPRM) that would make the 3.45 GHz Band available for 5G and other commercial wireless services. As proposed, the FCC would allocate the band for both fixed and mobile (except aeronautical mobile) commercial services and auction exclusive licenses to

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commercial users. The FCC seeks to commence the auction in December 2021. The FCC will vote on the FNPRM at its September 30 Open Meeting.

In another move to increase use of mid-band spectrum, NTIA sent a letter to the FCC outlining how the FCC might accomplish its plan to make a portion of the 5.9 GHz Band available for unlicensed use, and update the rules regarding Intelligent Transportation Services to accommodate newer cellular technology. As background, in December 2019, the FCC adopted a [Notice of Proposed Rulemaking](#) (NPRM) proposing to split the 5.9 GHz Band between unlicensed and intelligent transportation-related use. The FCC reasoned that the 5.9 GHz Band, which is currently limited to a specific intelligent transportation technology, Digital Short Range Communications (DSRC), has been underused since the band was first allocated for this purpose in 1999.

In the letter, NTIA explains that the FCC's proposal to permit unlicensed device operations in the 5.850-5.895 GHz can be accommodated through technical solutions, including appropriate power limits and geofencing technology to enforce exclusion zones surrounding certain federal sites. NTIA also states that the FCC must require service providers to be able to remotely block devices from operation on certain channels if interference with federal users occurs. With regard to intelligent transportation technology in the upper portion of the 5.9 GHz Band, NTIA states that a newer standard, Cellular Vehicle-to-Everything ("C-V2X") can be deployed without harming federal users so long as operations within 75 km of certain federal sites are coordinated with NTIA.

Since the release of the 2019 5.9 GHz NPRM, transportation interests, including the Department of Transportation, have staunchly opposed this proposal, arguing that the 5.9 GHz Band should be reserved strictly for intelligent transportation services, which are on the cusp of being widely deployed and will save lives. NTIA's recent letter outlining how the FCC's proposal can accommodate other federal users, again largely radar-based operations, in the band may represent a softening of this intra-governmental opposition.

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