

consideration of the record, we conclude that, on balance, the benefits to the public of providing additional spectrum for Fixed and Mobile services that overlaps the international 2 GHz MSS band outweigh the impact on MSS. Our decision is to reallocate MSS spectrum in a way that will allow new entrants to take advantage of economies of scale in developing and deploying new services while maintaining sufficient international MSS spectrum.

5. In the 1990–2025 MHz band, we have reallocated from the current MSS allocation a 10 megahertz block at 1990–2000 MHz, which is contiguous with the existing Broadband PCS allocation at 1930–1990 MHz, and a 5 megahertz block at 2020–2025 MHz. Because the 10 megahertz block is contiguous with the Broadband PCS band, this spectrum could provide needed growth spectrum for PCS providers, as well as facilitate new AWS equipment development and deployment. This reallocation will reduce by 10 megahertz the current 20 megahertz available for the international MSS uplink allocation. While we recognize that globally harmonized spectrum is an important resource, we share Cellular Telecommunications and Internet Association's concerns regarding potential interference to existing PCS operations at 1930–1990 MHz. We believe that in this instance, these interference concerns outweigh the benefits of increased global harmonized spectrum. We find that we can accommodate the international needs of 2 GHz MSS licensees in the remaining 10 megahertz (uplink) + 20 megahertz (downlink) of overlapping international spectrum. Not all of the eight authorized MSS networks will be deployed, not all of the proposed MSS networks will be providing global service, and most MSS licensees propose to operate throughout the currently allocated band (2000–2020 MHz). The remaining MSS entities will be able to adapt their frequency use within the U.S. to the remaining allocated spectrum (2000–2020 MHz), and use any spectrum within the international allocation (1980–2010 MHz) outside the U.S. Any newly authorized MSS networks could be built to accommodate the revised MSS allocation, assuming that sharing with incumbent MSS licensees is possible. We conclude that our decision to reduce the amount of globally harmonized MSS spectrum that will be available in the United States is appropriate at this time and consistent with the current spectrum requirements for the global portion of the 2 GHz MSS industry. Despite this action, we remain cognizant

and supportive of the benefits of global spectrum harmonization, when appropriate.

6. In the 2165–2200 MHz band, we balanced the MSS and terrestrial services needs by reallocating a 15 megahertz block at 2165–2180 MHz. This reallocation will minimize the impact on MSS, as all of the remaining 20 megahertz domestic allocation will overlap with the current international MSS downlink allocation—and, thus, 30 of the 40 megahertz of remaining MSS spectrum will overlap with the global allocation. We believe that MSS licensees should not be significantly impaired in providing satellite services in this band. We note that, as a result of our previous decision in this docket, 45 megahertz of contiguous spectrum, from 2110–2155 MHz, will be available for AWS. We also have proposed to make the adjacent bands at 2155–2160 and 2160–2165 MHz available for AWS. We note that our decision here to reallocate the adjacent MSS spectrum at 2165–2180 MHz is consistent with the majority of the AWS proponents who favor reallocating MSS spectrum adjacent to the 2110–2165 MHz band. Contiguous spectrum would make it easier to accommodate multiple licensees using larger spectrum blocks throughout this band. Further, a flexible allocation at 2110–2165 MHz would overlap to a large extent the international allocation for a terrestrial component of advanced services at 2110–2170 MHz and thus will promote the timely introduction of new equipment and services in this spectrum.

7. As a consequence of our decision to reallocate the 1990–2000/2020–2025/2165–2180 MHz bands, we note that coordination of satellite and terrestrial use with Canada and Mexico will be necessary. Finally, we are not reaching decisions here on several other issues raised in the *Further Notice*, 66 FR 47618, September 13, 2001, such as the consolidation of MSS assignments and BAS and FS relocation issues. We will address those issues in further proceedings. We note, for example, that relocating incumbent BAS operations in the 1990–2025 MHz band will be further complicated by our decision here. As we stated in the *Further Notice* when discussing possible reallocation of spectrum in the 1990–2025 MHz band, the relocation of BAS from any portion of the band would be shared between new MSS entrants and other new entrants in the band. Although we conclude that this principle would apply as a consequence of our reallocation decision, we will address fully BAS relocation issues in a future

separate proceeding. We intend to address the relocation issues well in advance of the September 6, 2003, expiration of the initial two-year mandatory negotiation period for Phase 1 of the relocation plan between MSS and BAS.

8. This *Second Memorandum Opinion and Order* addresses a petition for rule making filed by CTIA on May 18, 2001, requesting that the 2 GHz MSS bands be reallocated for other uses (such as terrestrial wireless services) and also asking that the Commission withhold grant of 2 GHz MSS licenses. In the *Further Notice*, we granted the petition insofar as we proposed to reallocate 10–14 megahertz of spectrum for AWS, and denied it insofar as it requested reallocation of the entire 2 GHz MSS band and delaying of the licensing of MSS systems in the band. We stated that our actions in the *Further Notice* would better serve the public with respect to these issues and was consistent with the International Bureau's granting of the MSS licenses on July 17, 2001. In its petition for reconsideration, CTIA claims we made an error by acting on its petition without first placing it on public notice, and asks that we vacate our decision to reject its petition for rulemaking, place the petition on public notice, and consider it *ab initio*. CTIA also claims that we failed to articulate a reasoned decision for rejecting its request and, further, that we could not reasonably rely on the grant of the MSS licenses because that action prejudged our consideration of CTIA's petition.

9. Although we did not place CTIA's petition on public notice, our decision in that regard did not prejudice CTIA. We note that various parties filed responsive comments addressing reallocation of the entire 2 MSS GHz band in IB Docket No. 99–81, which demonstrates that the public was provided the opportunity to submit comment on the reallocation question raised by CTIA's petition, and did so. Moreover, the Commission has already raised and duly considered this reallocation question. The same day the Commission adopted the *Further Notice* that considered the reallocation of some MSS spectrum, it initiated a separate proceeding to explore whether MSS licensees should be afforded additional flexibility. Together, these proceedings explored the larger issue of MSS use that is also reflected in CTIA's petition. The *Third R&O* we adopted concludes that a portion of the MSS spectrum should be reallocated to support AWS, but rejects a complete reallocation of the band. Accordingly, CTIA's original petition for rule making is now moot,