

review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted below in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution. Should comment be provided at the meeting and not in advance of the meeting, they should be in-hand to the DFO up to and immediately following the meeting.

Dated: March 12, 2003.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

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FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-03-52-A (Auction No. 52); FCC 03-40]

Auction of Direct Broadcast Satellite Service Licenses Scheduled for August 6, 2003; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the auction of licenses to use the Direct Broadcast Satellite ("DBS") service allocation and seeks comment on reserve prices or minimum opening bids and other auction procedures.

DATES: Comments are due on or before March 17, 2003, and reply comments are due on or before March 24, 2003.

ADDRESSES: Comments and reply comments must be sent by electronic mail to the following address: auction52@fcc.gov.

FOR FURTHER INFORMATION CONTACT:

Auctions and Industry Analysis Division, WTB: *For legal questions:* Brian Carter at (202) 418-0660. *For general auction questions:* Jeff Crooks at (202) 418-0660 or Lisa Stover at (717) 338-2888. Satellite Division, IB: *For service rule questions:* Selina Khan at (202) 418-7282 or Rockie Patterson at (202) 418-1183.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 52 Comment Public Notice* released on

March 3, 2003. The complete text of the *Auction No. 52 Comment Public Notice*, including the attachment, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The *Auction No. 52 Comment Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com.

I. General Information

1. By the *Auction No. 52 Comment Public Notice*, the Commission announces the auction of licenses to use the Direct Broadcast Satellite ("DBS") service allocation scheduled to commence on August 6, 2003 (Auction No. 52). This auction will include 4 licenses for unassigned channels at orbital locations of 175° W.L., 166° W.L., 157° W.L., and 61.5° W.L. These licenses would be subject to the Commission's DBS service rules, including the geographic service rules at 47 CFR 25.148(c). Specifically, DBS licensees must provide DBS service to Alaska and Hawaii where such service is technically feasible from the authorized location. A complete list and description of the licenses available for Auction No. 52 is included as Attachment A of the *Auction No. 52 Comment Public Notice*.

2. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *." Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission seeks comment on a variety of auction-specific procedures relating to Auction No. 52. We note that the authority to establish specific procedures for Auction No. 52 has already been delegated to the Wireless Telecommunications Bureau (the "Bureau" or "WTB").

3. In addition to the enactment of the Balanced Budget Act of 1997, there have been legal developments relevant to satellite services since the Commission last conducted DBS auctions. Specifically, in 1996 the Commission

adopted a *Report and Order*, 61 FR 9946 (March 12, 1996) ("*Disco I*"), that removed FCC regulatory prohibitions on the provision of various satellite services beyond the borders of the United States. In addition, in the year 2000 Congress enacted section 647 of the ORBIT Act, Public Law 106-180, 114 Stat. 48, which prohibits the Commission from using competitive bidding to assign orbital locations or spectrum used "for the provision of international or global satellite communications services." In light of these regulatory and statutory actions, we believe it is appropriate to state herein our conclusion that they have not altered the Commission's authority to auction the DBS licenses included in Auction No. 52.

4. The DBS licenses that will be included in Auction No. 52 are not subject to the auction prohibition of the ORBIT Act because they are not authorizations to use spectrum "for the provision of international or global satellite communications services." These licenses are for the use of DBS channels that, under the Region 2 Band Plan for Ku-band DBS satellites initially adopted in the International Telecommunication Union ("ITU") 1983 Regional Administrative Radio Conference, have coverage patterns that are designed to—and do in fact—serve the United States almost exclusively. Thus, the technical parameters of the ITU Region 2 Band Plan provide for coverage areas for national service to the United States with incidental service to neighboring territories.

5. Moreover, neither the national coverage patterns nor the incidental international coverage patterns of the U.S. DBS satellite assignments may be expanded without further international agreement. A U.S.-licensed satellite operator at one of the orbital locations assigned to the United States cannot change, without the agreement of affected countries, any of the satellite's operations if that change will increase the interference potential to other countries' DBS satellite assignments above those levels permitted by international regulation. A change in the footprint to provide increased coverage of another country will potentially cause the modified assignment to exceed these levels. For a licensee to operate with such modified parameters, the United States, on behalf of the satellite operator, must request and obtain a modification to the Region 2 Band Plan pursuant to ITU procedures. The United States has not requested modifications for international service purposes to the Region 2 Band Plan for any of the orbital channel assignments