CCIR Study Group 8,

CONSIDERING

(a) that the ITU Plenipotentiary Conference, Nice 1989, by Resolution No. PL-B/1, has decided:

- that a World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum, shall be held in the first quarter of 1992;

- that the agenda for this Conference shall be established by the Administrative Council, taking into account the Resolutions and Recommendations of WARC HFBC-87, WARC MOB-87 and WARC ORB-88 relating to frequency allocations;

- that, in addition, this Conference may consider defining certain new space services and consider allocations to these services in frequency bands above 20 GHz;

(b) that WARC MOB-87 and WARC ORB-88 have invited CCIR to carry out studies concerning technical and operational matters relating to frequency requirements and the sharing of frequencies between services and systems, in preparation for the Conference;

(c) that the CCIR has already developed basic concepts and recommended technical criteria for frequency sharing which may facilitate the work of the Conference;

(d) that a CCIR report which will be prepared by JIWP [ ] should be submitted to administrations, [six] months in advance of the Conference;

(e) that the interim meeting of Study Group 8 for the study period 1990-1994 will be held after this date;
SPONSOR: Dingell (D-MI)


OFFICIAL TITLE: A bill to require the Secretary of Commerce to make additional frequencies available for commercial assignments in order to promote the development and use of new telecommunications technologies, and for other purposes.

INTRODUCED: 07/21/89

COSPONSORS: 15 (Dems: 13 Reps: 2)

COMMITTEES: Energy & Commerce

07/21/89 Referred to House Committee on Energy & Commerce.

9/01/89
*** COSPONOR REPORT – COMPLETE COSPONOR HISTORY ***

H.R. 2965

SPONSOR: Dingell (D-MI)


INTRODUCED: 07/21/89

COSPONSORS: 15 (Dems: 13 Reps: 2)

07/21/89 ORIGINAL COSPONSORS: 15

Bryant (D-TX)  Madigan (R-IL)  Slattery (D-KS)
Collins (D-IL)  Manton (D-NY)  Swift (D-WA)
Cooper (D-TN)  Markey (D-MA)  Synar (D-OK)
Hall R. (D-TX)  Moorhead (R-CA)  Tauszn (D-LA)
Leland (D-TX)  Richardson (D-NM)  Wyden (D-OR)

9/01/89
H. R. 2965

To require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1989

Mr. Dingell (for himself, Mr. Maskey, Mr. Madigan, Mr. Swift, Mr. Moorhead, Mr. Leland, Mrs. Collins, Mr. Synar, Mr. Tauzin, Mr. Hall of Texas, Mr. Richardson, Mr. Slattery, Mr. Bryant, Mr. Cooper, Mr. Manton, and Mr. Wyden) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Emerging Telecommu-
5 nications Technologies Act of 1989".

6 SEC. 2. FINDINGS.

7 The Congress finds that—
(1) the Government currently reserves for its own use approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

(2) many of the reserved frequencies are unused by Government licensees;

(3) the public interest requires that many of the reserved frequencies be utilized more efficiently by government or commercial operators;

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

(5) scarcity of assignable frequencies for commercial use can and will—

(A) impede the development and commercialization of new telecommunications products and services;

(B) reduce the capacity and efficiency of the United States' telecommunications systems; and

(C) thereby adversely affect the productive capacity and international competitiveness of the United States economy;

(6) a reassignment of these frequencies can produce significant economic returns; and
(7) the Secretary of Commerce, the President, and
the Federal Communications Commission should be di-
rected to take appropriate steps to correct these defi-
ciencies.

SEC 3. IDENTIFICATION OF REASSIGNABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall,
within 24 months after the date of the enactment of this Act,
prepare and submit to the President and the Congress a
report identifying, and recommending for reassignment, fre-
quencies that—

(1) are assigned to Government stations pursuant
to section 305(a) of the Act;
(2) are not required for the present or identifiable
future needs of the Government;
(3) it is or will be feasible to make available for
use under the Act (other than for Government stations
under such section 305); and
(4) are most likely to have the greatest potential
for commercial uses under the Act.

(b) MINIMUM AMOUNT OF SPECTRUM
RECOMMENDED.—

(1) IN GENERAL.—The report required by subsec-
tion (a) shall identify (and recommend for reassignment)
bands of frequencies that span a total of not less than
200 megahertz, that are located below 5 gigahertz,
and that offer frequencies meeting the criteria specified in paragraphs (1) through (3) of subsection (a). If the report identifies (as meeting such criteria) bands of frequencies spanning more than 200 megahertz, the report shall identify (and recommend for reassignment) those bands (spanning not less than 200 megahertz) that meet the criteria specified in paragraph (4) of such subsection.

(2) **Mixed uses permitted to be counted.**—
Frequencies which the Secretary’s report recommends be partially retained for use by a Government station within a geographically limited area, but which are also recommended to be reassigned to be made available under the Act outside that area (without interfering with the Government’s use of the frequency), may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

(A) the frequencies counted under this paragraph may not count toward more than 20 percent of the minimum required by paragraph (1) of this subsection; and

(B) a frequency may not be counted under this paragraph unless the geographically limited area for which it will be retained for Government
use includes not more than 20 percent of the population of the United States.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE GOVERNMENT.—In determining whether a frequency meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the frequency is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies in geographically separate areas (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable.

(2) FEASIBILITY OF USE.—In determining whether a frequency meets the criteria specified in subsection (a)(3), the Secretary shall—
(A) assume such frequencies will be assigned by the Commission under section 303 of the Act over the course of not less than 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reassignment will relieve actual or potential scarcity of frequencies available for commercial use; and

(D) seek to include frequencies which can be used to stimulate the development of new technologies.

(3) COMMERCIAL USE.—In determining whether a frequency meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the extent to which equipment is available that is capable of utilizing the frequency;

(B) the proximity of frequencies that are already assigned for commercial use; and

(C) the activities of foreign governments in making frequencies available for experimentation or commercial assignment in order to support their domestic manufacturers of equipment.

(d) PROCEDURE FOR IDENTIFICATION OF REASSIGNABLE FREQUENCIES.—
(1) Submission of preliminary identification to Congress.—Within 12 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reassignable frequencies which meet the criteria established by this section.

(2) Convening of private sector advisory committee.—Not later than the date the Secretary submits the report required by paragraph (1) of this subsection, the Secretary shall convene a private sector advisory committee (A) to review the frequencies identified in such report, (B) to advise the Secretary with respect to the frequencies which should be included in the final report required by subsection (a) of this section, and (C) to prepare and submit the report required by paragraph (4) of this subsection. The private sector advisory committee shall meet at least monthly until each of the actions required by section 4(a) have taken place.

(3) Composition of committee.—The private sector advisory committee shall be composed of representatives of—

(A) United States manufacturers of spectrum-dependent telecommunications equipment;

(B) commercial carriers;
(C) other users of the electromagnetic spectrum, including radio and television licensees;

(D) the Federal Communications Commission; and

(E) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than 36 months after the date of the enactment of this Act, submit to the Secretary, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, a report containing such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum for civilian and Government use.

SEC. 4. WITHDRAWAL OF ASSIGNMENT TO GOVERNMENT STATIONS.

(a) IN GENERAL.—Within 6 months after receipt of the Secretary’s report under section 3(a), the President shall—

(1) withdraw the assignment to a Government station of any frequency which the report recommends for reassignment;
(2) limit the assignment to a Government station of any frequency which the report recommends be made available for mixed use under section 3(b)(2);

(3) assign or reassign other frequencies to Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) notify the Commission and each House of Congress of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and other appropriate committees of the Congress.
(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national defense interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs; or

(C) the reassignment would seriously jeopardize public health or safety.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section 3(a) unless the substituted frequency also meets each of the criteria specified by section 3.

(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

SEC. 5. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) PLAN OF DISTRIBUTION.—Not later than one year after the President notifies the Commission pursuant to section 4(a)(4), the Commission shall prepare and submit to the
President and the Congress a plan for the distribution under
the Act of the frequencies reassigned pursuant to the require-
ments of this Act. Such plan shall—

(1) not propose the immediate distribution of all
such frequencies, but shall—

(A) reserve a significant portion of such fre-
quencies for distribution more than 10 years after
the date of enactment of this Act; and—

(B) gradually distribute the remainder over
the course of not less than 10 years; and

(2) contain appropriate provisions to ensure—

(A) the availability of frequencies for new
technologies and services in accordance with the
policies of section 7 of the Act; and

(B) the availability of frequencies to stimulate
the development of such technologies.

(b) Prohibition of Spectrum Auction.—

(1) Reassigned Frequencies.—No frequency
reassigned by the President under section 4 of this Act
shall be allocated or assigned by the Commission by
means of any system using any auction or comparable
device or practice.

(2) Other Frequencies.—Nothing in paragraph
(1) or any other provision of this Act or the Act shall
be construed to authorize the Commission to distribute
frequencies using any auction or comparable device or practice.

(3) LICENSE FEES NOT AFFECTED.—This subsection shall not affect the validity of any license fee imposed pursuant to section 8 of the Act.

SEC. 6. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Government stations pursuant to section 4, the President may reclaim reassigned frequencies for reassignment to Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 4(b) of this Act.

(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 4(b) of this Act, except that the notification required by section 4(b)(1)(A) shall include—
(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "Commission" means the Federal Communications Commission.

(3) The term "the Act" means the Communications Act of 1934.

(4) The term "commercial carrier" means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Government stations licensed pursuant to section 305.