

December 22, 1999

MEMORANDUM

TO: Presidents with an Interest in ITFS
FROM: Parks Todd
SUBJECT: Auction of Unresolved ITFS Licenses

I know that you must be frustrated by the apparently never-ending need for further action regarding this project. Most of you contacted your Congressional Representatives a year ago regarding this issue. We thought that we had won the battle, but we were wrong. We need to do what we did last year all over again.

Although the sixteen of you who have licenses in hand would not be directly affected by an auction, the indirect effect would spell the end of our vision of a state wide network. Even if that were not the case, I am sure that you will want to help the twenty-four of your colleagues whose ITFS licenses are still pending.

It appears that the contract with Wireless One of North Carolina will have to be renegotiated. If this is the case, we would be in a much stronger position than we were five years ago. The ITFS channels are a valuable resource that make our efforts very much worthwhile.

Attached is a sample letter to be sent to your U. S. Representative and Senators along with some "talking points" that you may find useful in personalizing the letter.

Please give this matter the timely attention that it deserves.

JPT:sh

Attachments

c: President H. Martin Lancaster
Dr. Stephen C. Scott
Dr. Brenda H. Rogers
Ms. Clay Tee Hines
Dr. Douglas Eason
Mr. Bob Blackmun

S99-062
Paper Copy

[COLLEGE LETTERHEAD]

[DATE]

[Member Name]

[Address]

[Address]

Re: **ITFS Auctions**

Dear [MEMBER NAME]:

The FCC is planning to hold auctions between colleges and other non-profit educational organizations for Instructional Television Fixed Service ("ITFS") spectrum which is used to provide distance learning services such as instructional television, teacher training, continuing education and high-speed Internet access. Until now, this spectrum was awarded to educational institutions at no charge pursuant to a comparative point system which favored local, accredited schools. The FCC's decision to auction ITFS spectrum was based on the fact that Congress did not explicitly exclude ITFS from the FCC's auction authority in the Balanced Budget Act of 1997 as it did with noncommercial educational and public broadcasting.

Requiring educational organizations such as [College Name] to bid against one another in order to acquire ITFS licenses would senselessly divert the limited funds of educational institutions to the Federal Treasury and will discourage colleges from utilizing advanced wireless telecommunications technology to support education.

Importantly, the FCC unanimously requested that Congress pass legislation clarifying its intent with regard to ITFS auctions. Although the legislative history is silent, it is clear that Congress never had auctions between educators in mind as a means of balancing the budget. For these reasons we ask that you support current legislative efforts spearheaded by Congresswoman Lynn C. Woolsey (D-CA) and others that will correct this inadvertent omission in the Balanced Budget Act of 1997.

Your help on this vital matter is greatly appreciated.

Sincerely,

NO ITFS AUCTIONS COALITION FACT SHEET

1. In enacting the Balanced Budget Act of 1997, which broadened the FCC's auction authority, Congress inadvertently neglected to exempt ITFS applicants for new and modified facilities from having to compete at auction as it did for applicants for noncommercial educational and public broadcast stations. Given the long-standing reservation of ITFS spectrum for noncommercial educational use, it makes little sense to treat ITFS different from noncommercial educational and public broadcast services.
2. Requiring educators to competitively bid against one another for ITFS spectrum would senselessly divert the limited funds of our educational institutions to the Federal Treasury rather than toward the purchase of books, the hiring of teachers and the enhancement of educational programs.
3. Forcing educators to pay for ITFS spectrum will discourage colleges from applying for ITFS licenses and deprive our educational institutions of modern telecommunications technology vital to learning.
4. The FCC recently addressed part of the problem by adopting new streamlined application procedures which will reduce and possibly eliminate the number of applications subject to auction by elimination of instances of mutually exclusivity. However, new station applications which are mutually exclusive will continue to be auctioned.
5. Congress has previously recognized that ITFS licenses, like other licenses, should not be subject to auction. In the Omnibus Budget Reconciliation Act of 1993, in which Congress initially authorized the FCC to use auctions to award certain types of licenses, Congress expressly exempted ITFS licenses from the FCC's auction authority.
6. There are over 200 applications pending at the FCC that will be set for auction, absent Congressional action to clarify that the FCC's auction authority does not extend to licensing ITFS stations.
7. No adverse impact on the budget reconciliation process will result because only \$10 million was recently attributed to implementation of auctions for ITFS facilities as part of the scoring process.