

Documents  
CCIR Study Groups  
Period 1986-1990

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*1WP 8/15"*

Working Group 8 ad hoc 1

DRAFT NEW DECISION

PROPOSED NEW INTERIM WORKING PARTY TO DEVELOP AND  
COORDINATE CONTRIBUTIONS FROM STUDY GROUP 8  
ON THE TECHNICAL BASES FOR WARC-92

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 [ ] <sup>to</sup> ~~should~~ be submitted to administrations, ~~[xx] months in advance of the Conference,~~

(e) that the interim meeting of Study Group 8 for <sup>the</sup> study period 1990-1994 will ~~be~~ held after ~~this date,~~

*presumably the CCIR report is due to be completed.*

**\*\*\* FULL DESCRIPTION AND MAJOR ACTION \*\*\***  
**H.R. 2965**

**SPONSOR:** Dingell (D-MI)

**BRIEF TITLE:** Emerging Telecommunications Technologies Act of 1989.

**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

\*\*\* COSPONSOR REPORT -- COMPLETE COSPONSOR HISTORY \*\*\*  
H.R. 2965

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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)	Tauzin (D-LA)
Leland (D-TX)	Richardson (D-NM)	Wyden (D-OR)

*AV ...  
Subcommittee ...*

*D X Dennis Eckhart (TX)  
Rick Boucher (VA)*

*16 D  
10 R  
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26*

*R X Matthew Rinaldo (NJ)  
Tom TAUBE (IA)  
Don Ritter (PA)  
Thomas Bliley (VA)  
Jack Fields (TX)  
X Michael Orlay (OH)  
Dan Schaefer (CA)  
Loren Lent (VA)*

101ST CONGRESS  
1ST SESSION

# 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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1989

Mr. DINGELL (for himself, Mr. MARKEY, Mr. MADIGAN, Mr. SWIFT, Mr. MOORHEAD, Mr. LELAND, Mrs. COLLINS, Mr. SYNAR, Mr. TAUZIN, Mr. HALL of Texas, Mr. RICHARDSON, Mr. SLATTEBY, Mr. BRYANT, Mr. COOPER, Mr. MANTON, and Mr. WYDEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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 Telecommuni-  
5 cations Technologies Act of 1989".

6 SEC. 2. FINDINGS.

7 The Congress finds that—



1 (1) the Government currently reserves for its own  
2 use approximately 40 percent of the electromagnetic  
3 spectrum that is assigned for use pursuant to the Com-  
4 munications Act of 1934;

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

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

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

13 (5) scarcity of assignable frequencies for commer-  
14 cial use can and will—

15 (A) impede the development and commercial-  
16 ization of new telecommunications products and  
17 services;

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

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

23 (6) a reassignment of these frequencies can  
24 produce significant economic returns; and

1           (7) the Secretary of Commerce, the President, and  
2           the Federal Communications Commission should be di-  
3           rected to take appropriate steps to correct these defi-  
4           ciencies.

5 **SEC 3. IDENTIFICATION OF REASSIGNABLE FREQUENCIES.**

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

11           (1) are assigned to Government stations pursuant  
12          to section 305(a) of the Act;

13           (2) are not required for the present or identifiable  
14          future needs of the Government;

15           (3) it is or will be feasible to make available for  
16          use under the Act (other than for Government stations  
17          under such section 305); and

18           (4) are most likely to have the greatest potential  
19          for commercial uses under the Act.

20          (b)       **MINIMUM        AMOUNT        OF        SPECTRUM**  
21 **RECOMMENDED.**—

22           (1) **IN GENERAL.**—The report required by subsec-  
23          tion (a) shall identify (and recommend for reassignment)  
24          bands of frequencies that span a total of not less than  
25          200 megahertz, that are located below 5 gigahertz,

1 and that offer frequencies meeting the criteria specified  
2 in paragraphs (1) through (3) of subsection (a). If the  
3 report identifies (as meeting such criteria) bands of fre-  
4 quencies spanning more than 200 megahertz, the  
5 report shall identify (and recommend for reassignment)  
6 those bands (spanning not less than 200 megahertz)  
7 that meet the criteria specified in paragraph (4) of such  
8 subsection.

9 (2) MIXED USES PERMITTED TO BE COUNTED.—  
10 Frequencies which the Secretary's report recommends  
11 be partially retained for use by a Government station  
12 within a geographically limited area, but which are  
13 also recommended to be reassigned to be made avail-  
14 able under the Act outside that area (without interfer-  
15 ing with the Government's use of the frequency), may  
16 be counted toward the minimum spectrum required by  
17 paragraph (1) of this subsection, except that—

18 (A) the frequencies counted under this para-  
19 graph may not count toward more than 20 per-  
20 cent of the minimum required by paragraph (1) of  
21 this subsection; and

22 (B) a frequency may not be counted under  
23 this paragraph unless the geographically limited  
24 area for which it will be retained for Government

1 use includes not more than 20 percent of the pop-  
2 ulation of the United States.

3 (c) CRITERIA FOR IDENTIFICATION.—

4 (1) NEEDS OF THE GOVERNMENT.—In determin-  
5 ing whether a frequency meets the criteria specified in  
6 subsection (a)(2), the Secretary shall—

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

11 (B) seek to promote—

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

14 (ii) the sharing of frequencies in geo-  
15 graphically separate areas (as permitted  
16 under subsection (b)(2));

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

19 (iv) the use of nonradiating communica-  
20 tions systems where practicable.

21 (2) FEASIBILITY OF USE.—In determining wheth-  
22 er a frequency meets the criteria specified in subsection  
23 (a)(3), the Secretary shall—



1 (A) assume such frequencies will be assigned  
2 by the Commission under section 303 of the Act  
3 over the course of not less than 15 years;

4 (B) assume reasonable rates of scientific  
5 progress and growth of demand for telecommuni-  
6 cations services;

7 (C) determine the extent to which the reas-  
8 signment will relieve actual or potential scarcity  
9 of frequencies available for commercial use; and

10 (D) seek to include frequencies which can be  
11 used to stimulate the development of new tech-  
12 nologies.

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

16 (A) the extent to which equipment is avail-  
17 able that is capable of utilizing the frequency;

18 (B) the proximity of frequencies that are al-  
19 ready assigned for commercial use; and

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

24 (d) PROCEDURE FOR IDENTIFICATION OF REASSIGN-  
25 ABLE FREQUENCIES.—

1           (1) SUBMISSION OF PRELIMINARY IDENTIFICA-  
2 TION TO CONGRESS.—Within 12 months after the date  
3 of the enactment of this Act, the Secretary shall pre-  
4 pare and submit to the Congress a report which makes  
5 a preliminary identification of reassignable frequencies  
6 which meet the criteria established by this section.

7           (2) CONVENING OF PRIVATE SECTOR ADVISORY  
8 COMMITTEE.—Not later than the date the Secretary  
9 submits the report required by paragraph (1) of this  
10 subsection, the Secretary shall convene a private sector  
11 advisory committee (A) to review the frequencies iden-  
12 tified in such report, (B) to advise the Secretary with  
13 respect to the frequencies which should be included in  
14 the final report required by subsection (a) of this sec-  
15 tion, and (C) to prepare and submit the report required  
16 by paragraph (4) of this subsection. The private sector  
17 advisory committee shall meet at least monthly until  
18 each of the actions required by section 4(a) have taken  
19 place.

20           (3) COMPOSITION OF COMMITTEE.—The private  
21 sector advisory committee shall be composed of repre-  
22 sentatives of—

23                   (A) United States manufacturers of spec-  
24 trum-dependent telecommunications equipment;

25                   (B) commercial carriers;

1 (C) other users of the electromagnetic spec-  
2 trum, including radio and television licensees;

3 (D) the Federal Communications Commis-  
4 sion; and

5 (E) other interested members of the public  
6 who are knowledgeable about the uses of the elec-  
7 tromagnetic spectrum.

8 (4) RECOMMENDATIONS ON SPECTRUM ALLOCA-  
9 TION PROCEDURES.—The private sector advisory com-  
10 mittee shall, not later than 36 months after the date of  
11 the enactment of this Act, submit to the Secretary, the  
12 Committee on Energy and Commerce of the House of  
13 Representatives, and the Committee on Commerce,  
14 Science and Transportation of the Senate, a report  
15 containing such recommendations as the committee  
16 considers appropriate for the reform of the process of  
17 allocating the electromagnetic spectrum for civilian and  
18 Government use.

19 SEC. 4. WITHDRAWAL OF ASSIGNMENT TO GOVERNMENT  
20 STATIONS.

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

23 (1) withdraw the assignment to a Government  
24 station of any frequency which the report recommends  
25 for reassignment;

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

4           (3) assign or reassign other frequencies to Gov-  
5 ernment stations as necessary to adjust to such with-  
6 drawal or limitation of assignments; and

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

9 (b) EXCEPTIONS.—

10           (1) AUTHORITY TO SUBSTITUTE.—If the Presi-  
11 dent determines that a circumstance described in para-  
12 graph (2) exists, the President—

13           (A) may substitute an alternative frequency  
14 or band of frequencies for the frequency or band  
15 that is subject to such determination and with-  
16 draw (or limit) the assignment of that alternative  
17 frequency or band in the manner required by sub-  
18 section (a); and

19           (B) shall submit a statement of the reasons  
20 for taking the action described in subparagraph  
21 (A) to the Committee on Energy and Commerce  
22 of the House of Representatives, the Committee  
23 on Commerce, Science, and Transportation of the  
24 Senate, and other appropriate committees of the  
25 Congress.



1           (2) GROUND<sup>S</sup> FOR SUBSTITUTION.—For purposes  
2 of paragraph (1), the following circumstances are de-  
3 scribed in this paragraph:

4           (A) the reassignment would seriously jeop-  
5 ardize the national defense interests of the United  
6 States;

7           (B) the frequency proposed for reassignment  
8 is uniquely suited to meeting important govern-  
9 mental needs; or

10           (C) the reassignment would seriously jeop-  
11 ardize public health or safety.

12           (3) CRITERIA FOR SUBSTITUTED FREQUEN-  
13 CIES.—For purposes of paragraph (1), a frequency may  
14 not be substituted for a frequency identified by the  
15 report of the Secretary under section 3(a) unless the  
16 substituted frequency also meets each of the criteria  
17 specified by section 3.

18           (c) LIMITATION ON DELEGATION.—Notwithstanding  
19 any other provision of law, the authorities and duties estab-  
20 lished by this section may not be delegated.

21 SEC. 5. DISTRIBUTION OF FREQUENCIES BY THE COM-  
22 MISSION.

23           (a) PLAN OF DISTRIBUTION.—Not later than one year  
24 after the President notifies the Commission pursuant to sec-  
25 tion 4(a)(4), the Commission shall prepare and submit to the

1 President and the Congress a plan for the distribution under  
2 the Act of the frequencies reassigned pursuant to the require-  
3 ments of this Act. Such plan shall—

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

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

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

11 (2) contain appropriate provisions to ensure—

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

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

17 (b) PROHIBITION OF SPECTRUM AUCTION.—

18 (1) REASSIGNED FREQUENCIES.—No frequency  
19 reassigned by the President under section 4 of this Act  
20 shall be allocated or assigned by the Commission by  
21 means of any system using any auction or comparable  
22 device or practice.

23 (2) OTHER FREQUENCIES.—Nothing in paragraph  
24 (1) or any other provision of this Act or the Act shall  
25 be construed to authorize the Commission to distribute

1 frequencies using any auction or comparable device or  
2 practice.

3 (8) LICENSE FEES NOT AFFECTED.—This subsec-  
4 tion shall not affect the validity of any license fee im-  
5 posed pursuant to section 8 of the Act.

6 SEC. 6. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

7 (a) AUTHORITY OF PRESIDENT.—Subsequent to the  
8 withdrawal of assignment to Government stations pursuant  
9 to section 4, the President may reclaim reassigned frequen-  
10 cies for reassignment to Government stations in accordance  
11 with this section.

12 (b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

13 (1) UNALLOCATED FREQUENCIES.—If the fre-  
14 quencies to be reclaimed have not been allocated or as-  
15 signed by the Commission pursuant to the Act, the  
16 President shall follow the procedures for substitution of  
17 frequencies established by section 4(b) of this Act.

18 (2) ALLOCATED FREQUENCIES.—If the frequen-  
19 cies to be reclaimed have been allocated or assigned by  
20 the Commission, the President shall follow the proce-  
21 dures for substitution of frequencies established by sec-  
22 tion 4(b) of this Act, except that the notification re-  
23 quired by section 4(b)(1)(A) shall include—

1           (1) The term "Secretary" means the Secretary of  
2 Commerce.

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

5           (3) The term "the Act" means the Communica-  
6 tions Act of 1934.

7           (4) The term "commercial carrier" means any  
8 entity that uses a facility licensed by the Federal Com-  
9 munications Commission pursuant to the Communica-  
10 tions Act of 1934 for hire or for its own use, but does  
11 not include Government stations licensed pursuant to  
12 section 305.

○