

ENABLING LOCAL, STATE, AND FEDERAL PARTNERSHIPS: FEDERAL CO-EQUAL ACCESS TO NON-FEDERAL SPECTRUM IN THE 764- 776 MHZ AND 794-806 MHZ FREQUENCY BAND

The Federal Law Enforcement Wireless Users Group (FLEWUG), in filings to the Federal Communications Commission, has sought co-equal access to the channels designated for public safety use in the 700 MHz frequency band: Co-equal access, prior to this proceeding, was undefined as a category of user or as an indicator of rights and responsibilities on a communications system. The questions and answers below should help clarify the definition of federal co-equal access and the conditions where it will be employed.

What is the FLEWUG and why is it interested in co-equal access to this frequency band? The FLEWUG represents more than 30 Federal Government departments and agencies with law enforcement and other public safety responsibilities. One of this group's key objectives is to plan and coordinate future, shared-use, wireless communications systems and resources. The FLEWUG has clear interests in streamlining rules that would allow the sharing of critical communications resources, particularly radio frequency spectrum.

What does the FLEWUG mean by co-equal access? The FLEWUG is seeking the flexibility in the FCC's service rules to allow federal entities to enter into agreements/partnerships with state and local entities that allows the joint development of communications systems for the mutual benefit of the partners. In this arrangement the federal users and the state and local users would have equal rights to the spectrum within the system. Neither user would have priority over the other unless it was so specified in a mutual agreement.

What is the FLEWUG's concern if co-equal access to federal agencies is not granted? Without co-equal access provisions, there is little investment protection to federal partners and thus little incentive for federal entities to pursue joint-use and shared system developments. The FLEWUG also believes that the current interoperability gap between state/local and federal public safety providers will continue to grow wider. Federal users will continue to operate at lower frequencies while state and local public safety providers migrate to the higher bands in the 700 and 800 MHz range. The likelihood of reducing the number of hand-held and mobile radios needed by a

single fire fighter, officer, or agent in the field is lessened.

Co-equal access does NOT mean—Federal-only, communications systems using non-federal spectrum. The FLEWUG does not advocate the development of federal-only wireless communications systems that use state and local public safety radio frequencies.

Co-equal access does NOT mean—Primary user status for federal entities. Federal users are not eligible to be identified as primary users on systems operating on non-federal spectrum. The FLEWUG does not advocate changing this regulation.

Co-equal access does NOT mean—Eminent domain by the Federal Government. The FLEWUG does not advocate that federal users on a shared or joint-use be afforded the right to remove users from the system during times of crises unless mutually agreed to in the terms of the partnership.

Co-equal access does NOT mean—Licensing of non-federal spectrum by federal entities. Federal users are not eligible to directly license spectrum that is allocated for state and local public safety use. The FLEWUG does not advocate changing this regulation.

What are the conditions where co-equal access to non-federal, public safety spectrum at 764-776 MHz and 794-806 MHz will be employed? Federal co-equal access to the non-federal, public safety spectrum in the 764-776 MHz and 794-806 MHz frequency bands can only be obtained by getting approval from the frequency license holder. Federal entities would only seek co-equal access to these frequencies in specific areas where mutually agreed to interoperable, shared, or joint-use systems are being developed.

For additional information regarding the FLEWUG's position on co-equal access for federal users to the channels in 764-776 MHz and 794-806 MHz frequency bands, please refer to our Comments, Reply Comments, Petition, and Ex Parte filings to the FCC on W.T. Docket No. 96-86.

