

114TH CONGRESS  
1ST SESSION

# S. 2278

To promote the availability of additional unlicensed spectrum for innovation and investment, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2015

Mr. SCHATZ introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To promote the availability of additional unlicensed spectrum for innovation and investment, 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 “Promoting Unlicensed  
5       Spectrum Act of 2015”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act—

8               (1) the term “appropriate committees of Con-  
9       gress” means—

1 (A) the Committee on Commerce, Science,  
2 and Transportation of the Senate; and

3 (B) the Committee on Energy and Com-  
4 merce of the House of Representatives;

5 (2) the term “Assistant Secretary” means the  
6 Assistant Secretary of Commerce for Communica-  
7 tions and Information;

8 (3) the term “Commission” means the Federal  
9 Communications Commission;

10 (4) the term “Federal entity” has the meaning  
11 given the term in section 113(l) of the National  
12 Telecommunications and Information Administration  
13 Organization Act (47 U.S.C. 923(l));

14 (5) the term “Spectrum Relocation Fund”  
15 means the Fund established under section 118 of  
16 the National Telecommunications and Information  
17 Administration Organization Act (47 U.S.C. 928);  
18 and

19 (6) the term “unlicensed operations” means the  
20 use of spectrum on a nonexclusive basis and without  
21 the expectation of protection from interference  
22 under—

23 (A) part 15 of title 47, Code of Federal  
24 Regulations; or

1 (B) licensing by rule under part 96 of title  
2 47, Code of Federal Regulations.

3 **SEC. 3. FEDERAL COMMUNICATIONS COMMISSION ALLOCA-**  
4 **TION AND ALLOTMENT OF SPECTRUM.**

5 (a) IN GENERAL.—The Commission shall ensure that  
6 spectrum allocation and assignment produce a balance be-  
7 tween radio frequency bands available for—

- 8 (1) exclusive licensing through an auction; and  
9 (2) unlicensed operations.

10 (b) RULEMAKING.—Not later than 18 months after  
11 the date of enactment of this Act, the Commission shall—

- 12 (1) promulgate rules to implement subsection  
13 (a), including establishing a process that will achieve  
14 the mandate under subsection (a) in the future allo-  
15 cation and assignment of radio frequency bands; and

- 16 (2) consider whether to adopt rules that permit  
17 unlicensed operations in spectrum assigned by auc-  
18 tion until the licensee brings the spectrum into use  
19 by initiating commercial service.

20 (c) INCLUSION IN SERVICE RULES.—The Commis-  
21 sion shall include in the service rules of an auction for  
22 spectrum any rules promulgated under subsection (b).

23 (d) INCLUSION IN REPORTS.—The Commission shall  
24 ensure that each report submitted to Congress under sec-  
25 tion 1006 of the Bipartisan Budget Act of 2015 (Public

1 Law 114–74; 129 Stat. 584) reflects the rulemaking re-  
2 quired under this section.

3 **SEC. 4. NATIONAL STRATEGY FOR UNLICENSED SPEC-**  
4 **TRUM.**

5 (a) STATEMENT OF POLICY.—It is the policy of the  
6 United States to—

7 (1) maximize the utility of the spectrum re-  
8 sources of the United States;

9 (2) advance innovation and investment in wire-  
10 less broadband services; and

11 (3) promote a balanced spectrum policy that  
12 makes adequate spectrum resources available for  
13 both licensed and unlicensed technologies.

14 (b) NATIONAL STRATEGY.—Not later than 1 year  
15 after the date of enactment of this Act, the Commission,  
16 in consultation with the Assistant Secretary, shall develop  
17 a national strategy for making additional radio frequency  
18 bands available for unlicensed operations.

19 (c) CONSIDERATIONS.—The strategy developed under  
20 subsection (b) shall include—

21 (1) identification of proposed radio frequency  
22 bands to be cleared of incumbent users to permit use  
23 by devices conducting unlicensed operations;

24 (2) consideration of a balanced approach that  
25 ensures that consumers have access to additional

1 low-, mid-, and high-band radio frequency spectrum  
2 to conduct unlicensed operations;

3 (3) consideration of rules to permit spectrum  
4 sharing to make available additional radio frequency  
5 ranges for unlicensed operations, including—

6 (A) expanding utilization of the spectrum  
7 sharing model implemented by the Commission  
8 for the spectrum between 3550 and 3650 mega-  
9 hertz;

10 (B) allowing underlay unlicensed oper-  
11 ations in spectrum allocated for other services  
12 in a manner that does not cause harmful inter-  
13 ference to licensees; and

14 (C) any other spectrum sharing approach  
15 that the Commission finds will—

16 (i) expand opportunities for unli-  
17 censed operations in a spectrum band; or

18 (ii) otherwise improve spectrum utili-  
19 zation;

20 (4) examination of additional ways to improve  
21 the accuracy and efficacy of existing and planned  
22 databases or spectrum access systems designed to  
23 promote spectrum sharing and access to spectrum  
24 for unlicensed operations; and

1           (5) consideration of the extent to which addi-  
2           tional bands used for unlicensed operations may be  
3           harmonized to achieve greater economies of scale.

4           (d) REPORT REQUIRED.—

5           (1) IN GENERAL.—Not later than 1 year after  
6           the date of enactment of this Act, the Commission  
7           shall submit to the appropriate committees of Con-  
8           gress a report that describes the strategy developed  
9           under subsection (b), including any recommenda-  
10          tions for legislative change.

11          (2) PUBLICATION ON COMMISSION WEBSITE.—  
12          Not later than the date on which the Commission  
13          submits the report under paragraph (1), the Com-  
14          mission shall make the report publicly available on  
15          the website of the Commission.

16 **SEC. 5. MAKING FEDERAL SPECTRUM AVAILABLE FOR UN-**  
17 **LICENSED OPERATION.**

18          (a) IN GENERAL.—Not later than 270 days after the  
19          date of enactment of this Act, the Assistant Secretary, in  
20          conjunction with the Commission and the Director of the  
21          Office of Management and Budget, shall submit to the ap-  
22          propriate committees of Congress a report on the steps  
23          necessary to designate additional radio frequency bands  
24          used by Federal entities for unlicensed operations in a

1 manner that does not cause harmful interference to Fed-  
2 eral Government operations.

3 (b) CONSIDERATIONS.—The report required under  
4 subsection (a) shall consider—

5 (1) recommendations on how to reform the  
6 Spectrum Relocation Fund to address costs incurred  
7 by Federal entities related to sharing radio fre-  
8 quency bands with radio technologies conducting un-  
9 licensed operations;

10 (2) recommendations for ensuring the solvency  
11 of the Spectrum Relocation Fund if the Spectrum  
12 Relocation Fund is used to cover the costs described  
13 in paragraph (1);

14 (3) whether it may be possible for unlicensed  
15 operations to be permitted on an underlay basis in  
16 spectrum bands used by Federal entities without  
17 causing harmful interference to Federal Government  
18 operations, including impacting homeland security or  
19 national security communications needs; and

20 (4) whether other spectrum sharing techniques  
21 may be used to facilitate access by radio technologies  
22 conducting unlicensed operations to Federal spec-  
23 trum, such as with the access system used by the

- 1 Commission for the spectrum between 3550 and
- 2 3650 megahertz.

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