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M2Z Networks to Seek Immediate Judicial Relief from D.C. Circuit Court in Light of FCC's Continuing Violation of Section 7 of the Communications Act

Silicon Valley's New Broadband Entrant Continues to Seek a Fair and Transparent Process Before the FCC

Washington, DC (August 14, 2007) – M2Z Networks, Inc. (“M2Z”) today informed the Federal Communications Commission (“FCC”) that it plans to seek a Writ of Mandamus from the U.S. Court of Appeals for the D.C. Circuit. In seeking the Writ, M2Z will ask the D.C. Circuit to direct the FCC to come into immediate compliance with all parts of Section 7 of the Telecommunications Act by making a public interest determination on M2Z’s license application, which has been pending for over 15 months.

The FCC was statutorily required to make a public interest determination on M2Z’s license application by May 5, 2007. To date, this has not occurred.

“We strongly believe that the FCC should fully and fairly review the detailed record associated with M2Z’s license application and its forbearance petition and make a decision consistent with the law Congress enacted,” said Uzoma Onyeije, Vice President of Regulatory Affairs for M2Z Networks. He added, “The statute is clear concerning both process and substance for Section 7 decisions. As an independent agency accountable only to Congress, the FCC’s highest priority is implementing the will of the legislature.”

Section 7 of the Telecommunications Act states that “[t]he Commission shall determine whether any new technology or service proposed in a petition or application is in the public interest within one year after such petition or application is filed.” The statute also requires that parties who oppose a new technology or service “shall have the burden to demonstrate that such proposal is inconsistent with the public interest.”

On May 5, 2006, more than 15 months ago, M2Z filed a license application that is governed, by operation of law, by Section 7's requirement that the FCC make a time-limited public interest determination about the application. M2Z's license application seeks FCC authority to provide a new wireless broadband service using advanced technologies on currently fallow spectrum in the 2155-2175 MHz band. In its application, M2Z voluntarily pledged to provide a free, fast, family friendly wireless broadband service throughout the United States consistent with a rapid and unprecedented build-out commitment.

Over the last 15 months, M2Z has repeatedly called on the Commission to take timely action consistent with the law and with the statutory deadline of May 5, 2007. Unfortunately, the opportunity to review and vote on an order concerning the license application was not afforded to the full Commission prior to lapse of the twelve month timeframe. The inability of staff to provide the full Commission with the opportunity to comply with the Telecommunications Act has led to great concern from members of Congress.

Representative Anna Eshoo (D-CA), whose district includes a large portion of Silicon Valley, a member of the House Telecommunications and the Internet Subcommittee sent a letter to each of the FCC Commissioners earlier this summer inquiring into the FCC's interpretation of and compliance with Section 7 of the Act. In the last year, a bipartisan group of Senators and Representatives have also asked the FCC to comply with all its statutory obligations, including Sections 7 and Section 10, and to provide a fair and transparent opportunity for M2Z's application and forbearance petition to be considered.

Americans are overwhelmingly in favor of granting M2Z's license application. There are more than 2,000 comments and letters of support of M2Z's license application in WT Dockets 07-16 and 07-30. To date, hundreds of federal, state, and local elected officials from all across the United States, including North Carolina, Virginia, Tennessee, South Dakota, Alaska, Hawaii, California, Mississippi, and Maryland, have indicated their strong support for granting M2Z's license.

Additionally, M2Z's application has garnered support from leading advocates on issues such as education, the digital divide, online child and family safety, economic development, and national economic competitiveness. These organizations reflect a wide range of perspectives and include the National PTA, One Economy Corporation, the Hispanic Telecommunications and Technology Partnership (HTTP), ACORN, the Minority Media and Telecommunications Council (MMTC), Media Access Project (MAP), Public Knowledge, Family Watch International, Enough is Enough, the Internet Keep Safe Coalition, and many others.

Thousands of individual citizens and small businesses have written in support of M2Z's application due to the dearth of competition in broadband and the need for a nationwide free, fast and family friendly broadband service as a welcome alternative in the marketplace. Finally, two uncontested economic studies submitted into the FCC record, including one conducted by former FCC Chief Economist Dr. Simon Wilkie, conservatively estimate that M2Z's entry into the marketplace will generate direct benefit to American consumers in excess of \$18 billion and as much as \$32 billion.

“M2Z has been very patient on behalf of the millions of Americans who would benefit from our proposed service.” said Milo Medin, M2Z’s Chairman. “It took the FCC nine months to seek comment on our application, which is as long as it took the Commission to decide the largest telecommunications merger in history, the BellSouth/AT&T merger. Not only is it the law, but it is commonsense to give license applications that *increase* competition at least the same treatment as license transfer applications for mega mergers that *lessen* competition.”

Background on Section 7

Action by the federal court overseeing the FCC is needed here because the delay associated with M2Z’s application is precisely the type of bureaucratic delay that led to passage of Section 7. As Congressman John Dingell, who is the current Chair of the House Energy and Commerce Committee and a co-sponsor of Section 7, explained to the House in January of 1984, the goals of Section 7 are to: (1) “encourage the availability of new technology and services to the public”; (2) “prevent the Commission from “hamper[ing] the development of new services”; and (3) allow “the forces of competition and technological growth [to] bring many new services to consumers.” Chairman Dingell noted that “[i]f not blocked by the FCC, the forces of competition and technological growth would bring many new services to consumers.” Thus, the burden-shifting procedure “is intended to shift the balance of the process in favor of new services” and “allow the FCC, on an expedited time frame, to review [an] application” proposing a new service or technology. In fact, the FCC itself has previously determined that Section 7 of the Communications Act creates “a presumption that new services are in the public interest.” A review of the M2Z docket shows that opposition to M2Z’s license and innovative use of wireless technology comes from a handful of incumbent carriers and spectrum speculators like AT&T, Verizon, and NextWave that want only to prevent competition and new market entry. A review of the record also shows that these parties have not met the high burden required by Section 7 to demonstrate that it is not in the public interest to grant M2Z’s license application.

About M2Z Networks:

Founded in 2005 and headquartered in Menlo Park, Calif., M2Z Networks’ goal is to transform the current state of the broadband marketplace by building a new high-speed wireless broadband network throughout the United States. In May 2006, the company submitted a license application to the FCC to construct and operate a nationwide wireless broadband network in the 2155-2175 MHz spectrum band. Approval of the application would guarantee delivery of free, fast and family-friendly wireless broadband service to at least 95 percent of Americans within a 10 year timeframe. M2Z is backed by Kleiner, Perkins, Caufield and Byers; Charles River Ventures; and Redpoint Ventures; three of the most successful venture capital firms in Silicon Valley with a total of \$5 billion of capital under management. For more information, please visit www.M2Znetworks.com and www.FreeBroadbandNow.org.