

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	GN Docket No. 17-258
Promoting Investment in the)	
3550-3700 MHz Band)	

**REPLY COMMENTS OF CANTOR TELECOM SERVICES, L.P.
IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING**

Cantor Telecom Services, L.P. (“Cantor Telecom”) hereby submits these remarks in response to the Federal Communications Commission (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”)¹ and the recent comments filed in response thereto. Cantor Telecom agrees with industry stakeholders that the Commission should ensure efficient deployment of spectrum through preservation of the existing 2015 rules² and through the use of a vibrant secondary market.

I. INTRODUCTION

The existing Citizens Broadband Radio Service (“CBRS”) rules in the 3550-3700 band (“3.5 GHz Band”) promulgated in 2015 resulted from a fulsome record that was developed in response to an extensive notice and comment period and which balanced the interests of all interested stakeholders. The NPRM in the instant proceeding seeks to change the rules governing Priority Access Licenses (“PALs”), in particular, by

¹ *In the Matter of Promoting Investment in the 3550-3750 MHz Band*, Further Notice of Proposed Rulemaking and Order Terminating Petitions, Docket No. GN 17-258, FCC 17-34 (rel. Oct. 24, 2017) (“2017 NPRM”).

² *See In the Matter of Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-2650 MHz Band*, Report and Order and Second Further Notice of Proposed Rulemaking, Docket No. GN 12-354, 30 FCC Rcd 3959 (2015) (“2015 R&O”).

extending the license term and expanding the license size, for the benefit of only a select few parties. In the interest of furthering the Commission’s goal of promoting “development of innovative technologies and services in the 3.5 GHz Band,”³ the overwhelming majority of commenters in this proceeding oppose revising the Commission’s existing CBRS rules to increase the geographic license areas to Partial Economic Areas (“PEAs”) and support license terms shorter than the proposed 10 years.

Cantor Telecom maintains that shorter license terms and census tract-based geographic areas, along with a robust secondary market and accessible spectrum exchange, promote greater flexibility and motivate users not to allow valuable spectrum resources to lie fallow. Larger geographic license areas and longer terms would likely stifle innovation and foreclose participation by smaller entities as a result of the higher cost of licensing fees.

II. DISCUSSION

A. The Commission Should Not Adopt a 10 Year Initial License Term

Cantor Telecom agrees with commenters who argue that a 10-year initial license term impedes the economic viability of CBRS spectrum, particularly with respect to smaller cellular providers, WISPs, and rural broadband interests.⁴ For example, Google

³ 2015 R&O at para 8.

⁴ See, e.g., Comments of the City of New York, GN Docket No. 17-258 (filed Dec. 28, 2017) at 1; Comments of Express Dial Internet, Inc. (dba KWISP Internet), GN Docket No. 17-258 (filed Dec. 28, 2017) at 1, 4; Comments of the Dynamic Spectrum Alliance, GN Docket No. 17-258 (filed Dec. 28, 2017) at 4, 10-11 (“DSA Comments”); Comments of the General Electric Company, GN Docket No. 17-258 (filed Dec. 28, 2017) at 7, 39 (“GE Comments”); Comments of Google LLC, GN Docket No. 17-258 (filed Dec. 28, 2017) at 14-18 (“Google Comments”); Comments of The Junction Internet LLC, GN Docket No. 17-258 (filed Dec. 28, 2017) at 2; Comments of Link Technologies, Inc., GN Docket No. 17-258 (filed Dec. 28, 2017) at 3; Comments of Next Century Cities, GN Docket No. 17-258 (filed Dec. 28, 2017) at 9-11; Comments of Rural Wireless Association, Inc., GN Docket No. 17-258 (filed Dec. 28, 2017) at 7-10 (“RWA Comments”); Comments of Vivint Wireless, Inc., GN Docket No. 17-258 (filed Dec. 28, 2017) at 3 (“Vivint Comments”); Comments of the Wireless Internet Service Providers Association, GN Docket No.

has noted that “[g]iven the early stage and fast pace of development of the 3.5 GHz band, [the three-year, nonrenewable license] approach is most consistent with economic efficiency and the Coasean concept of using auctions to put spectrum to best use.”⁵ Cantor Telecom reiterates that a 3-year license term is both sufficient and necessary to effectuate efficient spectrum deployment. Longer license terms would make the market less fluid and dynamic and potentially result in large swaths of spectrum lying fallow for extended periods of time during which another user could make productive use of the license.⁶ Moreover, the record simply does not support a 10-year license term. Even commenters who have advocated for modifying existing rules and extending license terms have raised objections to the proposed 10 years.⁷

In the event that the Commission determines that it is in the public interest to extend the length of the CBRS license term, Cantor Telecom strongly urges the Commission to implement a hybrid approach as discussed below in Section C and to prohibit automatic renewal of such licenses. As commenters such as GE and Microsoft have noted, the possibility of renewal will preclude smaller users and incentivize spectrum hoarding, contrary to the Commission’s goals.⁸

B. The Commission Should Not Adopt PEA Licenses

A significant number of commenters, including “virtually all non-nationwide providers” as well as Google, Microsoft Corporation, Motorola, Rural Wireless

17-258 (filed Dec. 28, 2017) at fn. 46 (“WISPA Comments”); Comments of Sacred Wind Communications, Inc., GN Docket No. 17-258 (filed Dec. 28, 2017) at 7 (“Sacred Wind Comments”).

⁵ Google Comments at 19.

⁶ See Comments of Cantor Telecom Services, L.P., GN Docket No. 17-258 (filed Dec. 28, 2017) at 5.

⁷ See Comments of Comcast Corporation, GN Docket No. 17-258 (filed Dec. 28, 2017).

⁸ See GE Comments at 39; *see also* Microsoft Comments at 3.

Association, Vivint, and WISPA have argued in favor of retaining the existing geographic license size of census tracts in order to provide for “flexible and targeted networks.”⁹ Indeed, the extensive record in the instant docket indicates that increasing geographic license sizes to PEAs will have substantial adverse impact on rural connectivity, and create prohibitive barriers to entry for smaller entities such as local private network operators and WISPs.¹⁰ Furthermore, as parties such as Google have pointed out, the number of PAL licenses under a census tract regime is neither burdensome for administrators, nor problematic for carriers who aggregate multiple census tracts to offer service.¹¹ The Spectrum Access System administrators and a Cantor Telecom spectrum exchange are well positioned to support the number of licenses contemplated by the original CBRS rules. In light of the significant disadvantages and inefficiencies associated with increased geographic license sizes, Cantor Telecom urges the Commission to retain census tracts as the applicable geographic license size to promote greater access to CBRS licenses, to reduce the risk of warehousing rights to protected spectrum, and to ensure that parties who dedicated valuable resources in reliance on the 2015 R&O can realize their investment.

C. Alternatively, the Commission Should Consider Discrete Aspects of Hybrid Licensing Schemes

Certain parties commented in support of a hybrid compromise should the Commission determine that the public record does not support retention of the current

⁹ Google Comments at 5-14; Microsoft Comments at 5-6; Comments of Motorola Solutions, Inc. at 4-5, GN Docket No. 17-258 (filed Dec. 28, 2017) (“Motorola Comments”); RWA Comments at 4; Vivint Comments at 4-5; WISPA Comments at 14-15; Comments of NTCA – the Rural Broadband Association, GN Docket No. 17-258 (filed Dec. 28, 2017) at 4.

¹⁰ See, e.g., Comments of Blooston Rural Carriers at 3-5, GN Docket No. 17-258 (filed Dec. 28, 2017); RWA Comments at 3-4.

¹¹ Google Comments at 24.

rules in their entirety.¹² Cantor Telecom does not endorse any such model in its entirety. However, there are discrete aspects of certain proposals that may merit further consideration with respect to an extension of the current PALs license term. For example, the Rural Wireless Association supports a license term not to exceed five calendar years with the original licensee enjoying the ability to renew once before having to recompete for the license.¹³ Cantor Telecom views an such extension as a reasonable compromise that gives the original licensee additional time to more fully evaluate the utility of a PALs license before deciding whether to recompete for the license. Such a compromise also continues to ensure that licensees unwilling or unable to fully utilize their PALs spectrum rights or make the spectrum available through the secondary market do not indefinitely retain the rights.

In addition, some parties have suggested that the Commission develop rules that “require relinquishment, partition or disaggregation of the PAL if deployment requirements are not met,”¹⁴ or that spectrum not covered should be subject to a “keep-what you-serve” approach where specific performance deadlines are imposed and unserved license areas are made available for reassignment.¹⁵ Cantor Telecom supports a “use it or lose it” scheme whereby PAL users would be prohibited from warehousing licenses without any beneficial use and inoperative licenses would be relinquished to other participants through the spectrum exchange after a reasonable period of time if

¹² See, e.g., Comments of Alaska Communications at 3, 5, GN Docket No. 17-258 (filed Dec. 28, 2017); RWA Comments at 4.

¹³ RWA Comments at 4. RWA also notes that “MSAs and RSAs together comprise Cellular Market Areas (“CMAs”), which have served as the basis for several prior Commission auctions.”

¹⁴ RWA Comments at 10.

¹⁵ See Comments of California Internet, L.P. DBA GeoLinks, GN Docket No. 17-258 (filed Dec. 28, 2017) at 4.

meaningful performance requirements are not met. Relinquished partial or full licenses could easily be made available through secondary market mechanisms handled by a spectrum exchange to make available valuable use rights on spectrum that would otherwise lie fallow. However, Cantor Telecom cautions that a “use it or lose it” or “keep what you use” scheme should not be viewed as a substitute for smaller licenses, which maximize economic use of the 3.5 GHz band, but the concept has some merit if properly developed, subject to yet-to-be-defined license performance requirements. Smaller license areas promote greater access to CBRS licenses and reduce the risk of warehousing rights to protected spectrum, promoting investment and innovation in new technologies. Moreover, smaller licenses foster flexibility, fungibility and liquidity in the secondary market, maximizing the value for use rights. To further the Commission’s objective of spurring innovation and encouraging efficient use of spectrum in the 3.5 GHz Band with maximum flexibility, Cantor Telecom would enthusiastically support a “use it or lose it” approach and urges the Commission to seek comment on performance metrics and relinquishment criteria such that any adopted rule changes receive appropriate input from industry stakeholders.

D. The Commission Should Permit Disaggregation and Partitioning of Licenses

Many commenters, while not opposed to disaggregation and partitioning of PAL licenses, argue that disaggregation and partitioning are an inadequate solution in response to deficiencies caused by expanding geographic license areas and increasing license terms.¹⁶ Cantor Telecom agrees that disaggregation and partitioning should not be a substitute for other CBRS policies promoting efficient spectrum deployment, but should

¹⁶ RWA Comments at 10.

instead be implemented as a supplement. Cantor Telecom supports commenters such as Motorola who have pointed out that “regardless of license characteristics,” disaggregation and partitioning of PAL licenses “promise[s] to improve spectrum utilization in the band.”¹⁷

E. The Commission Should Encourage Secondary Market Transactions Through a Spectrum Exchange

As the Commission has acknowledged, a spectrum exchange “could facilitate a vibrant and deep market for PAL rights.”¹⁸ The Commission has noted that “[i]f a market demand develops for spectrum exchanges in the 3.5 GHz Band, it is in the public interest to allow such exchanges to respond to this demand consistent with the requirements of the Communications Act and our rules.”¹⁹ Cantor Telecom agrees with commenters urging the Commission to acknowledge the necessity of spectrum exchanges in CBRS. Specifically, Cantor Telecom agrees that “a more liquid and inclusive secondary market for access to CBRS spectrum by all interested parties is best achieved by a combination of small PAL areas (e.g., census tracts) and a market-driven spectrum exchange,”²⁰ not only for leasing but also for secondary market assignments of complete or partial licenses, such that use rights may be divisible by geography, time and capacity in order to derive maximum value per unit. Cantor Telecom urges the Commission to recognize, as other commenters have, that spectrum exchanges are essential to ensuring the efficient

¹⁷ Motorola Comments at 7.

¹⁸ 2015 Order at para 433.

¹⁹ Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550 – 3650 MHz Band, Order on Reconsideration and Second Report and Order, GN Docket No. 12-354, 31 FCC Rcd 5011 (2016) at para. 233.

²⁰ DSA Comments at 22.

deployment and equitable use of spectrum.²¹

III. CONCLUSION

Cantor Telecom urges the Commission to increase liquidity and ensure efficient use of spectrum by retaining the 2015 rules relating to license term and geographic license size; permitting partitioning and disaggregation; and facilitating a vibrant secondary market through spectrum exchanges.

Respectfully submitted,

/s/

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²¹ Comments of Ruckus Networks, a company of Arris U.S. Holdings, Inc., *In the Matter of Promoting Investment in the 3550-3750 MHz Band*, Further Notice of Proposed Rulemaking, Docket No. GN 17-258 (filed Dec. 28, 2017) at 17 (“Without the presence of one or more exchanges, the administrative burden (i.e. cost) for PAL license holders willing to lease protected spectrum access will far exceed the benefits they could derive from leasing.” Ruckus further noted that any light-touching leasing regime requires the Commission to “take an active role in the formation of spectrum exchanges.”).