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Ms. Marlene H. Dortch   February 12, 2019
Secretary
Federal Communications Commission
445 12th St SW
Washington, DC 20554

Notice of Ex Parte

> *In re Expanding Flexible Use of the 3.7 to 4.2 GHz Band, WC Docket No. 18-122*
> *and Unlicensed Use of the 6 GHz Band, ET Docket No. 18-295*

Dear Ms. Dortch,

On Tuesday, February 12, 2019, Joe Kane of the R Street Institute ("R Street") met with Erin McGrath, Wireless Advisor for Commissioner O'Rielly. During this meeting, R Street discussed the above-captioned proceedings, regarding the Commission's efforts to expand flexible use of the 3.7–4.2 GHz band[1] and allow for unlicensed use of the 6 GHz band.[2]

During the meeting, R Street discussed the strengths and weaknesses of alternative proposals the Commission is considering for the 3.7–4.2 GHz band. I expressed concern about some commenters who oppose certain reallocation plans on grounds related to their own interests rather than actual economic problems. I encouraged the Commission to focus its attention on productive allocation of spectrum, rather than any one private interest. Such an approach will best achieve the Commission's goals under the Communications Act.[3]

R Street also enquired about the possible compatibility of proposals to expand fixed point-to-multipoint use of the band with those aimed at clearing a portion of it. The necessity of registering earth stations and prudently defining the zone in which they receive

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[1] *Expanding Flexible Use of the 3.7 to 4.2 GHz Band,* Notice of Proposed Rulemaking, GN Docket No. 18-122, ¶1 (July 12, 2018) [hereinafter "3.7–4.2 GHz NPRM"]. https://goo.gl/5wCcKN.

[2] *Unlicensed Use of the 6 GHz Band, Notice of Proposed Rulemaking,* ET Docket No. 18-295, ¶1 (Oct. 23, 2018). https://goo.gl/EgQ7vy.

[3] 47 U.S.C. § 303(g).

interference protection has important impacts on the ability and incentive of all players to economize and use the band as intensively as possible. I also expressed interest in revising the full-band, full-arc policy as needed to promote maximally productive use of uncleared satellite spectrum by both incumbent satellite users and fixed-wireless providers.

R Street expressed support for a market-based approach to clearing some portion of the 3.7–4.2 GHz band. Specifically, the C Band Alliance proposal[4] is a helpful model for working toward a final Commission decision. I encouraged the Commission to set an ambitious target for bandwidth the satellite consortium must clear. I also discussed the potential problem of holdouts and why it makes alternative mechanisms, such as an incentive auction, less likely to repurpose spectrum effectively.

R Street also discussed the irrelevance of government revenue in determining the effective means to repurposing this band. The economic benefits of efficient allocation should be the Commission's lodestar, as these will surely swamp the amount the treasury could gain via an auction. Moreover, the Commission is legally prohibited from basing its policy decision on the expectation of government revenue.[5]

R Street also addressed the ongoing proceeding to allow for unlicensed use of the 6 GHz band. Specifically, I enquired about the possibility of harmonizing the Dynamic Frequency Selection rules present in the U-NII-2A and U-NII-2C band with the proposed Automated Frequency Coordination rules proposed for the 6 GHz band. Enabling these systems to work together could greatly expand the technical and business case for operating in both bands and increase the productive potential of a wide swath of unlicensed spectrum.

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In accordance with Section 1.1206(b) of the Commission's rules,[6] this letter is being filed with your office. If you have any questions, please contact the undersigned.

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[4] 3.7–4.2 GHz NPRM, ¶¶66–97.
[5] 47 U.S.C. §309(j)(7).
[6] 47 C.F.R. § 1.1206(b).

Respectfully submitted,

_____/s/_____

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