

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

In the Matter of )  
 )  
Auction of Priority Access Licenses for ) AU Docket No. 19-244  
the 3550-3650 Band (Auction 105) )  
 )

**COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION**

Competitive Carriers Association (“CCA”)<sup>1</sup> strongly supports the Federal Communications Commission’s (“FCC” or “Commission”) efforts to make new mid-band spectrum available for wireless services, and CCA looks forward to its members having an opportunity to participate in Auction 105 in June 2020. The Commission adopted a clear goal for the CBRS proceeding: to “promote competition and ensure the development and rapid deployment of new technologies to consumers, including to those in rural areas, disseminate licenses among a wide variety of applicants, and encourage efficient and intensive use of the spectrum.”<sup>2</sup> CCA supports the Commission’s overall Auction 105 structure, but opposes the proposal to allow bidding at the Cellular Market Area (“CMA”) level<sup>3</sup> because it could undermine the FCC’s stated goal for the band. CMA-level bidding is unnecessary, could reduce

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<sup>1</sup> CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

<sup>2</sup> *Promoting Investment in the 3550-3700 MHz Band*, Report and Order, 33 FCC Rcd. 10,598, 10,601 ¶ 7 (2018) (“*2018 Report and Order*”) (footnotes omitted).

<sup>3</sup> *See generally Comment Sought on Competitive Bidding Procedures for Auction 105*, Public Notice, FCC 19-96, AU Docket No. 19-244 (rel. Sept. 27, 2019) (“*Public Notice*”).

participation in the auction, and could lead to less investment and deployment in rural America. The Commission instead should auction all licenses by county.

**I. THE COMMISSION’S WORK IN THE 3.5 GHZ BAND PROMISES TO DELIVER 5G AND OTHER NEXT-GENERATION TECHNOLOGIES THROUGHOUT THE NATION**

The Commission has rightly noted that the 3.5 GHz band “will be an essential part of next generation wireless network deployments, including 5G, throughout the world.”<sup>4</sup> While the 3.5 GHz band is only one piece of the puzzle in making mid-band spectrum available, it is a corner piece: It is “likely to be one of the first 5G bands deployed,”<sup>5</sup> and, because the Commission has already authorized five Spectrum Access System administrators, “auction winners should be well-positioned to start providing service in the band quickly.”<sup>6</sup> Success in the 3.5 GHz band will help chart the path forward in other proceedings to clear spectrum for innovative technologies. CCA applauds the Commission for expeditiously moving forward in this important band.

The promise of the 3.5 GHz band is in many ways the product of wise choices by the Commission. The three-tier access and authorization framework for the Commission’s technical rules, for example, helps ensure that the band is put to efficient use, while protecting incumbents (and protecting new Priority Access License (“PAL”) holders from harmful interference from General Authorized Access users).<sup>7</sup> And in the *2018 Report and Order*, the Commission made a number of important decisions, including “extending the [PAL] license term to 10 years and

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<sup>4</sup> *2018 Report and Order* at 10,598 ¶ 1.

<sup>5</sup> *Public Notice*, Statement of Commissioner Michael O’Rielly.

<sup>6</sup> *Id.*, Statement of Chairman Ajit Pai.

<sup>7</sup> *See 2018 Report and Order* at 10,599-600 ¶ 3.

providing opportunity for renewal,” “adopting performance requirements for PALs,” and “allowing PALs to be partitioned and disaggregated on the secondary market.”<sup>8</sup>

But perhaps the most consequential decision the Commission made in the *2018 Report and Order* was to license PALs at the county level, rather than at the census-tract level. That decision, the Commission explained, was the product of intense and lengthy work to strike a balance that promotes investment and avoids unnecessary complexity and infrastructure costs from border interference issues, while still providing an opportunity for participants with different profiles to purchase licenses at a manageable cost.<sup>9</sup> Parties in the proceeding had offered many “compromise proposals and hybrid approaches” regarding license size, and the Commission identified “the use of counties as part of the PAL licensing scheme” as the “main commonality” among them.<sup>10</sup>

The Commission reasoned that using counties as the size for PALs would best “maximiz[e] auction participation to ensure this band is put to its highest and best use” and “service the needs of rural communities and . . . allow new and innovative services to reach underserved and unserved communities.”<sup>11</sup> The Commission’s auction procedures should give effect to that decision and advance the important objectives the Commission identified as underlying the balance it struck.

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<sup>8</sup> *Id.* at 10,601 ¶ 7.

<sup>9</sup> *See id.* at 10,607 ¶ 20; *see also, e.g.*, Letter from Courtney Neville, Associate General Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-258, at 1 (filed Oct. 16, 2018) (agreeing that “the FCC’s proposed approach will help to ensure all providers, especially those serving rural and remote areas, can use this slice of mid-band spectrum to effectively deploy next-generation technologies and 5G services”).

<sup>10</sup> *2018 Report and Order* at 10,617 ¶ 35.

<sup>11</sup> *Id.* at 10,608 ¶ 21, 10,612 ¶ 27.

## II. CMA-LEVEL BIDDING COULD UNDERMINE THE COMMISSION’S GOALS FOR THE BAND

The Commission adopted county-level licensing. But the *Public Notice* now requests comment on auction rules that would “allow any bidder to elect to bid at a Cellular Market Area (CMA) level . . . rather than bidding separately for the counties within the CMA,” in the “172 CMAs that are classified as Metropolitan Statistical Areas (MSAs) and that incorporate multiple counties.”<sup>12</sup> CCA continues to support the Commission’s decision to license the band by county. But we oppose the CMA bidding procedure because it risks distorting prices for less-densely populated counties subject to CMA bidding, and in so doing, could reduce auction participation and undermine investment and deployment by the very companies in the best position to improve wireless service in rural America.

The proposed CMA bidding rule would require that a CMA-level bidder must win the same number of blocks in every county within a CMA. If a bidder loses in any county in the CMA, it loses in every county. A large nationwide mobile carrier opting for CMA-level bidding therefore must be willing to over-bid in a CMA’s least-densely populated county in order to protect its interest in the multiple more-densely populated counties in a CMA—even if it has no intention of meeting the needs of the rural parts of the CMA. As a result, for a CMA-level bidder, the value of a less-populous county in a CMA is its substantive value as a community to serve, plus its regulatory value as a way to protect the carrier’s bidding strategy in urban counties.

For smaller regional carriers who live and work in rural counties and wish to bid on them, on the other hand, it is only economically rational to invest and bid amounts equal to their

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<sup>12</sup> *Public Notice* ¶¶ 25, 30.

intention to actually serve that community. Even the most capable and ambitious rural and regional carriers may face hurdles in trying to outbid larger carriers for whom the stakes of winning the county are much different (and partially unrelated to any interest in providing service in the county). The regulatory price distortion that CMA-level bidding could create therefore risks crowding out the smaller regional or rural carriers most interested in building out robust networks in rural counties rather than merely the minimum needed to meet the FCC’s buildout requirements. That outcome would run counter to the core policies the Commission adopted when choosing counties as the size for PALs.

A closer examination of the proposal demonstrates the problem. As the Commission has described the proposal, a “bid at the CMA level would indicate demand for a single quantity of blocks for every county in the CMA,” and if a CMA bidder “wins blocks in the CMA, the bidder would win the same number of blocks specified in the bid in each of the counties in the CMA.”<sup>13</sup> The “start-of-round price for a CMA is equal to the sum of the start-of-round prices of all counties in that CMA,” and the “clock price for a CMA is equal to the sum of the clock prices of all counties in the CMA.”<sup>14</sup> The Commission explains that the price for a block in any given county (whether in a county subject to CMA-level bidding or not) will increase in each progressive round of the ascending clock auction “[a]s long as aggregate demand for blocks in the county exceeds the supply of blocks.”<sup>15</sup> Once a bid to reduce demand is processed and results in demand equaling supply, the price will generally remain the same (unless a bidder at

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<sup>13</sup> *Id.* ¶ 29.

<sup>14</sup> *Auction 105 Technical Guide* ¶ 3, <https://www.fcc.gov/file/16622/download> (last accessed Oct. 22, 2019) (“*Technical Guide*”).

<sup>15</sup> *Public Notice* ¶ 55.

some subsequent point submits a bid to increase demand that raises demand above supply once more).<sup>16</sup>

Given this structure, consider a CMA that includes highly urban counties A and B, and less-urban county C. Assume for simplicity's sake only two bidders in county C, a large National Carrier X using CMA-level bidding and smaller Regional Carrier Y bidding at the county level. Assume that National Carrier X desires 4 blocks in the CMA<sup>17</sup> because its real focus is serving counties A and B where it needs many blocks the most, and Regional Carrier Y desires 4 blocks only in county C because its strategy is to focus on improving service in underserved areas. Because the total demand in county C (8 blocks) exceeds the total supply (7 blocks), the price will increase round by round until demand drops to equal supply—*i.e.*, one of the two bidders will have to drop its bid to 3 blocks.

Regional Carrier Y must decrease its bid when the price per block would exceed the value of using a block of spectrum to actually provide service in the band. Not so for National Carrier X—if it wants to gain 4 blocks in highly urban and valuable counties A and B, it must continue to bid for 4 blocks across the entire CMA. It can be expected *not* to decrease its bid to 3 blocks, even as the cost of bidding on the CMA includes a price for county C that is higher than National Carrier X would pay for that county on its own. In fact, the only way for Regional Carrier Y to win a fourth block in county C is not simply to pay a price higher than the value of

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<sup>16</sup> See *id.* The *Public Notice* and the *Technical Guide* provide numerous additional details regarding the proposed bidding procedures generally and how they interact with the CMA bidding proposal specifically, but the basic structure is sufficient to understand the distortion the proposal could introduce.

<sup>17</sup> Four is the maximum number of blocks in any county available to any single bidder. See *id.* ¶ 28.

the license, but to pay such an exorbitant price that National Carrier X would rather lose its coveted fourth blocks in counties A and B than pay that price for a fourth block in county C.<sup>18</sup>

Such an outcome could undermine rather than further the Commission’s goals. In fact, this dynamic, generated by CMA bidding, would produce outcomes contrary to the reasons the Commission identified in the *2018 Report and Order* when choosing to license PALs at the county level for the following reasons.

*First*, rather than “maximizing auction participation”<sup>19</sup> and “support[ing] licensee diversity,”<sup>20</sup> CMA bidding could do just the opposite. Providers interested in serving less-urban counties within CMAs will be less likely to incur the significant costs associated with auction participation if they know that CMA bidders will be committed to driving the prices beyond what is economically rational. In the simplified example above, the involvement of even one CMA bidder created an obstacle to a regional carrier’s ability to purchase as many blocks as it desired; adding a second large CMA-level bidder with the same basic incentives could make it especially challenging for any smaller regional carrier to purchase even a *single* block in less-urban counties within CMAs, driving participation still lower.<sup>21</sup> Lower participation in the

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<sup>18</sup> See generally Letter from Michael Calabrese, Director, Wireless Future Project, Open Technology Institute/New America, to Marlene H. Dortch, Secretary, FCC, AU Docket No. 19-244, at 1 (filed Oct. 17, 2019) (“OTI Ex Parte”) (agreeing that “the CMA bidding process, as described, would have the effect of driving the price of rural and other less densely populated counties in the 172 CMAs up above the level they would reach if auctioned individually by county”).

<sup>19</sup> *2018 Report and Order* at 10,608 ¶ 21.

<sup>20</sup> *Id.* at 10,621 ¶ 41.

<sup>21</sup> See OTI Ex Parte at 1 (agreeing that the effect of CMA bidding would be to “exclude small operators (such as WISPs) and other market entrants”).

auction by rural and regional carriers would diminish competition and decrease the overall value of the band, as well as auction revenues.

*Second*, rather than meeting “the needs of rural communities and . . . allow[ing] new and innovative services to reach underserved and unserved communities,”<sup>22</sup> CMA bidding would make it less likely that rural communities within CMAs are served by license winners whose real commitment is to serving the county rather than using it to comply with a regulatory requirement. “[R]ural deployment” and “localized use cases” are not the business models of the carriers most likely to opt for CMA bidding.<sup>23</sup> Just as the Commission “agree[d] with those commenters” that argued that using large partial economic areas, rather than counties, to define license areas would be detrimental to smaller carriers and those interested in more innovative uses of the spectrum, it should recognize that the CMA bidding proposal could have a similar effect.<sup>24</sup>

*Third*, the regulatory distortions caused by CMA bidding would also undermine the Commission’s other CBRS policy choices, which were meant to ensure that 3.5 GHz licenses are not concentrated in the hands the largest mobile carriers. In the *2018 Report and Order*, for example, the Commission recognized that “adopt[ing] counties as the geographic area size for PAL licensing and a longer, renewal license term” might “impede small businesses’ ability to effectively compete in the auction”; in response, the Commission decided to provide bidding credits to “improve the ability of small businesses to attract the capital necessary to meaningfully

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<sup>22</sup> *2018 Report and Order* at 10,612 ¶ 27.

<sup>23</sup> *Id.* at 10,616 ¶ 33.

<sup>24</sup> *Id.* at 10,620 ¶ 39.



participate in a PAL auction.”<sup>25</sup> Likewise, in the *Public Notice*, the Commission proposes specific bidding-credit caps justified in part by the “range of potential use cases suitable” for the band and the “relatively small geographic areas for PALs.”<sup>26</sup> The CMA bidding proposal, however, would exacerbate the very concerns the Commission recognized in creating the bidding credits.

CMA bidding may also have other harmful impacts that the Commission did not foresee in the *Public Notice*. NCTA – The Internet & Television Association and several of its members, for example, argue that it would “create strong incentives for county price steering, leading to chaotic and inefficient outcomes and poor price and demand discovery for county bidders.”<sup>27</sup> They also explain that, because of the Commission’s proposal to exempt CMA bidders from the “no excess supply” rule where any single county in the CMA still has excess supply, “many desired county licenses would remain unsold despite demand from county bidders.”<sup>28</sup> Providing flexibility for a handful of auction participants that already have great resources is not worth the distortion and other harmful impacts that the CMA bidding idea could introduce into the auction.

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CCA remains strongly supportive of the Commission’s efforts in the 3.5 GHz band, and eagerly anticipates the band’s deployment for 5G and other innovative applications throughout

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<sup>25</sup> *Id.* at 10,645-46 ¶ 86.

<sup>26</sup> *Public Notice* ¶ 20.

<sup>27</sup> Letter from Danielle J. Piñeres, Vice President & Associate General Counsel, NCTA – The Internet & Television Association, to Marlene H. Dortch, Secretary, FCC, AU Docket No. 19-244, at 1-2 (filed Oct. 15, 2019).

<sup>28</sup> *Id.* at 2; *see Public Notice* ¶ 68-69 (describing the “limited exception to the ‘no excess supply’ rule for CMA-level bids only”).

the nation. CCA encourages the Commission not to move forward with its CMA bidding proposal, however, as it risks undermining the Commission's intention that the band improve wireless service in rural areas. The Commission should proceed instead by auctioning the county-sized licenses on a county by county basis.

Respectfully submitted,

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