

May 31, 2018

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street S.W.  
Washington, D.C. 20554

Re: GN Docket No 18-122

Feasibility of Sharing in the  
3.7-4.2 GHz Band

Dear Ms. Secretary:

On behalf of the National Translator Association, this letter is responsive to the staff *Public Notice*, DA 18-446, inviting comment on the feasibility of sharing in the 3.7 GHz to 4.2 GHz frequency band. The National Translator Association (NTA) is a non-profit public service association dedicated to the preservation of free over-the-air broadcast services to all households, and especially dedicated to representing those persons dependent on such TV service delivery in remote, underserved rural areas.

At the outset, we raise a procedural concern. The Public Notice is an action on delegated authority, not a notice of proposed rule making adopted by the Commission. It appears to invite comment while considering all such comment to be *ex parte* communication. It provides less than a full month for comment, and establishes a deadline that coincides with the final days of a displacement filing window, thus imposing an extraordinary burden on interested parties in television broadcasting, their consultants and advisors. It is fair to ask whether any action adopted pursuant to this record, compiled under these circumstances, may be said to comply with requirements for a rule making in the Administrative Procedure Act, 5 U.S.C. Section 553.

A further problem with the Notice is that it purports to obtain the answer to a question that, by the Commission's own actions, has been made un-answerable. It asks: "*How should we assess the operations and possible impacts of sharing on Federal and non-Federal users already operating in this band?*" Since a 1979 deregulation, the Commission has made the registration of domestic satellite receive-only terminals in this band optional. No one knows how many private, public, commercial or non-commercial R/O users there are here. Recently the Commission established a mechanism for registration of such use without prior coordination of frequencies but with an onerous registration fee. It is obvious that more users are out there – many more – than are aware of the registration deadline or are willing and able to pay the fee. As a result of these choices, the Commission has guaranteed that the accurate assessment of the scope and scale of existing uses will not be possible to determine in this proceeding.

A by-product of this approach is the certainty that, if new uses are authorized under the assumption that only registered users will be protected, many other existing users will be harmed, and

some will be driven out of business. NTA is concerned that this impact is likely to fall most heavily in the rural areas. The impact becomes even more difficult to assess, when it is considered that masses of low power TV and translator stations are just now undergoing a forced migration to new channels. Until the displacement window has closed and the channel conflicts are known, there is no certainty about where these stations will end up. In turn, there are bound to be situations where a station must relocate, and obtain its input through new arrangements, whether by translator chain, microwave or satellite. The affected parties cannot file now to protect facilities that they do not yet know will be needed.

We commend the staff's attention to the docketed comment here of Robert Nemitz, on behalf of Society of Broadcast Engineers Chapter 32. The comment notes the extent of C-Band uses by television and radio broadcasters, and the absence, especially in rural areas, of alternative signal delivery, via high-speed internet or any other pathway. NTA submits that the Commission needs to start over, and determine that all C-band dishes serving existing TV or radio distribution as of a certain date – whether registered or not – shall be automatically protected against harmful interference from subsequently arriving users. The burden of co-existence should not fall on the users with a 40-year record of non-interfering public service, but rather must be placed on the new arrivals, if any. New deployments should be secondary to users who are already established in this band.

NTA supports the government-wide effort to bring high-speed internet services to all the people of the United States. We have been prompted, however, to take new service claims in that regard with a degree of caution. The rollout of spectrum sold at auction – with the promise of new high-speed service – has been slow. While it would be nice to see these services materialize quickly in the rural areas, that payoff remains to be seen. These areas are underserved precisely because they are the least profitable ones for anyone to serve. Meanwhile, a new forced sharing may discourage investment in the use and re-use of C-Band services, even when they are clearly the most efficient means of content delivery to isolated communities and services.

In sum, NTA urges that the enforced sharing of 3.7 GHz to 4.2 GHz only proceed if an accurate factual basis for it has been identified, including full recognition of the tradeoffs in lost service. In its very design this public notice cannot be expected to ascertain the facts that are needed for reasoned decision making.

Respectfully submitted,

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