

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Partitioning, Disaggregation, and)	WT Docket No. 19-38
Leasing of Spectrum)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ respectfully submits these comments in response to the Notice of Proposed Rulemaking (“*Notice*”) released by the Federal Communications Commission (“FCC” or “Commission”) seeking comment on how changes to its partitioning, disaggregation, and leasing rules might increase spectrum access to close the digital divide,² as directed by the Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act (“MOBILE NOW Act”).³

Access to spectrum is critical for carriers to reach unserved and underserved areas where gaps in service often continue to persist. Policies that provide flexibility to partition and disaggregate spectrum will promote opportunities for carriers to acquire spectrum in a particular geographic area and enhance buildout efforts. Properly tailored partition and disaggregation

¹ 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.

² *Partitioning, Disaggregation, and Leasing of Spectrum*, Notice of Proposed Rulemaking, FCC 19-22, WT Docket No. 19-38, ¶¶ 1, 14 and App’x ¶ 2 (rel. Mar. 15, 2019) (“*Notice*”).

³ MOBILE NOW Act, Pub. L. No. 115-141, Division P, Title VI, § 601 et seq. (2018).

rules also will promote the Commission’s long-held goal to provide licensees the “flexibility to determine the amount of spectrum they will occupy and the geographic area they will serve.”⁴

CCA therefore urges the Commission to modify its partitioning, disaggregation, and leasing requirements to facilitate the deployment of advanced telecommunications services across all corners of the United States. The Commission should streamline the requirements for the lease or sale of spectrum, including for rural and regional providers. The Commission also should adopt reasonable construction buildout extensions and modified performance requirements for partitioned and disaggregated licenses so that carriers can expand service to rural consumers under an attainable buildout framework. Finally, the Commission should adopt similar relief for providers offering various types of voice or broadband services, not merely common carriers. These measures will promote efficient use of spectrum and will support the deployment of advanced services across the United States.

I. THE FCC SHOULD ADOPT INCENTIVES AND REDUCE REGULATORY BURDENS TO ENCOURAGE THE SALE OR LEASE OF SPECTRUM

The Commission seeks comment on whether it should adopt incentives to encourage licensees to lease or sell spectrum, particularly to small or rural carriers.⁵ CCA supports the adoption of such incentives, and agrees that streamlining spectrum sale and leasing procedures will help to achieve this goal. Both the licensee and the licensor can face substantial burdens associated with the application process in secondary market transactions. In particular, small and rural carriers often are at a competitive disadvantage if they do not have the means necessary to

⁴ Notice ¶ 2, citing *Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Service Licensees*, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd. 21831, ¶ 1 (1996).

⁵ Notice ¶ 25.

purchase or lease large swaths of spectrum. And for larger carriers, the transaction costs of partitioning or disaggregating spectrum may deter what would otherwise be a mutually beneficial lease or sale of spectrum rights. The Commission should therefore adopt policies that reduce procedural barriers and incentivize competitive carriers to engage in a spectrum lease or sale.

Additionally, as discussed below, modified performance requirements or license terms for licensees that buy or lease spectrum would appropriately reflect the realities of deploying such spectrum in rural, underserved, and unserved areas, and would incentivize the efficient allocation of spectrum. Such changes would promote both the “availability of advanced telecommunication services in rural areas” and “spectrum availability for covered small carriers.”⁶

The Commission also should adopt policies that allow spectrum “reaggregation” for spectrum that has been partitioned or disaggregated on the secondary market.⁷ CCA agrees that holding multiple licenses for what was once a single license may impose certain regulatory and administrative burdens on licensees, including construction requirements, renewal showings, and continuous service requirements.⁸ Allowing a provider to consolidate multiple licenses will maximize buildout and efficiency.

II. THE COMMISSION SHOULD MODIFY PERFORMANCE REQUIREMENTS TO PROMOTE SPECTRUM PARTITIONING AND DISAGGREGATION FOR RURAL AREAS

The *Notice* asks “whether reduced performance requirements applicable to partitioned or disaggregated licenses would facilitate the deployment of advanced telecommunications services

⁶ 47 U.S.C. § 1506(b)(1)(B).

⁷ *Notice* ¶ 25.

⁸ *Id.*

in rural areas.”⁹ In CCA’s view, improving carriers’ ability to obtain spectrum in rural areas will accelerate deployment to these areas, consistent with the goals of the MOBILE NOW Act.¹⁰ Large geographic license areas often result in significant swaths of rural territory being combined together with more densely populated urban territory. Many of the defining characteristics of rural areas, such as “[l]ow population density, low priority in the equipment distribution chain, [and] significantly higher construction and backhaul costs,”¹¹ may make these corners more attractive for carriers focused on the unique business cases necessary to deploy in these areas. Policies that encourage buildout through license partitioning and/or disaggregation will benefit rural consumers and aid in the ubiquitous deployment of advanced communications services.

To further promote partitioning and disaggregation opportunities, the Commission should adopt appropriate performance requirements that reflect the realities of deploying newly partitioned and disaggregated spectrum, particularly in rural America.¹² While CCA generally supports strong buildout requirements, some flexibility to the requirements discussed in this proceeding will help to account for the unique circumstances associated with receiving partitioned or disaggregated licenses.

⁹ *Id.* ¶ 15.

¹⁰ 47 U.S.C. § 1506(b)(1)(B)(i).

¹¹ Comments of the Blooston Licensees, WT Docket. No. 10-112, at 1 (filed Oct. 2, 2017); Comments of NTCA – The Rural Broadband Association, WT Docket No. 10-112, at 2 (filed Oct 2, 2017) (“In rural locations, deployment costs are often higher and there are fewer subscribers from which to recover an investment.”).

¹² *Notice* ¶¶ 15–18.

The Commission’s proposal “to extend by one year a receiving party’s construction deadline for a partitioned or disaggregated license”¹³ is therefore a sensible solution to setting performance deadlines for such licenses. The FCC proposes two conditions for this one-year extension to apply: “when (i) the receiving party is a rural carrier or is acquiring spectrum that includes ‘rural areas’ as defined in Section 616, and (ii) the receiving party elects to meet the construction requirement independently for its partitioned or disaggregated license area.”¹⁴ CCA generally supports these conditions, as they would limit the use of this extension to areas in need of deployment. The Commission may, however, need to clarify the second condition in cases where the ultimate license holder assists with some of the construction requirements. In addition, the Commission should consider on a case-by-case basis whether certain licensees receiving partitioned or disaggregated spectrum should receive a further modified timeline to meet buildout requirements.

CCA also encourages the Commission to apply any extension to the interim and final construction requirements,¹⁵ which would ensure that carriers can meet both milestones once they have received partitioned or disaggregated spectrum. Applying an extension to one without the other would unnecessarily limit the relief intended to facilitate deployment, particularly if a rural carrier obtains partitioned or disaggregated spectrum right before the interim buildout deadline. Consistent with proposals in the *Notice*, the Commission also could limit one-year construction extensions to requests filed no later than six months before the construction

¹³ *Id.* ¶ 17.

¹⁴ *Id.*

¹⁵ *Id.* ¶ 18.

deadline to ensure timely and efficient applications.¹⁶ Further, to ensure that license terms coincide with the buildout deadlines, CCA encourages the Commission to extend the license term where “the final construction deadline is coincident with renewal.”¹⁷

Given the timing constraints that may be present if a carrier receives partitioned or disaggregated spectrum in the middle of a license term, extended construction deadlines and modified performance requirements, where appropriate, would enable more rural carriers to pursue spectrum in such areas. Creating realistic timeframes makes carriers more likely to invest in the resources necessary to deploy advanced telecommunications services in hard-to-reach areas. Ultimately, tailored modifications to the Commission’s existing policies can increase the ubiquitous deployment of reliable service.¹⁸

Finally, CCA urges the Commission to expand the class of licensees that benefit from modified obligations to include licensees other than merely “common carriers.” Making this change is necessary to serve the MOBILE NOW Act’s purpose of promoting “the availability of advanced telecommunications services in rural areas.”¹⁹ With a trend towards IP-enabled services, providers of mobile voice and broadband may not fall cleanly into the definition of a common carrier, but still provide valuable services and need access to spectrum to do so. “[S]trictly limiting the benefits and build-out incentives” of partitioning and disaggregation in this way would “exclude broadband providers that are not ‘common carriers’ and provide fewer options for larger carriers wishing to disaggregate, partition, or lease spectrum to rural providers”

¹⁶ *Id.* ¶ 17.

¹⁷ *Id.* ¶ 18.

¹⁸ *Id.*

¹⁹ 47 U.S.C. § 1506(b)(1)(B)(i).

or other small providers.²⁰ This, in turn, could stifle some rural consumers' access to advanced telecommunications services.

III. CONCLUSION

The MOBILE NOW Act directs the Commission to promote the availability of telecommunications services in rural areas and spectrum availability to all carriers, including small and rural providers. To satisfy that directive, the Commission should incentivize the sale and lease of spectrum and reduce procedural barriers to partitioning and disaggregation. Adopting the measures discussed above would advance the goals articulated in the MOBILE NOW Act and would increase deployment of advanced telecommunications services to all corners of the United States.

Respectfully submitted,

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²⁰ Letter from Stephen E. Coran, Lerman Senter PLLC, Counsel to WISPA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 19-38 et al., at 1 (Mar. 8, 2019).