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June 7, 2019

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

Re: ***Transforming the 2.5 GHz Band***  
***WT Docket No. 18-120***  
***Ex Parte Communication***

Dear Ms. Dortch:

The Wireless Internet Service Providers Association (“WISPA”) hereby responds to the May 30, 2019 ex parte letter submitted by the Wireless Communications Association International (“WCA”) in the above-referenced docket with respect to WISPA’s proposal to impose reasonable limits on the amount of spectrum a bidder would be permitted to acquire in any future 2.5 GHz spectrum auction the FCC may conduct.<sup>1</sup>

In its letter, WCA opposes WISPA’s proposal that would limit bidders from acquiring more than 63 megahertz of spectrum in a competitive bidding process.<sup>2</sup> It cites a line from a GSMA report, stating that “[r]egulators should aim to make available 80-100 MHz of contiguous spectrum *per operator* in prime 5G mid-bands.”<sup>3</sup>

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<sup>1</sup> Letter from Mary N. O’Connor, Counsel to WCA, to Marlene H. Dortch, FCC Secretary, WT Docket No. 18-120 (filed May 30, 2019) (“WCA Letter”).

<sup>2</sup> *Id.* at 3. WISPA’s proposal assumes all 112.5 megahertz of EBS spectrum is available. If that is not the case, bidders would be limited to acquiring no more than half of the available spectrum. *See* WISPA Comments, WT Docket No. 18-120 (Aug. 8, 2018) (“WISPA Comments”) at 21 n.47.

<sup>3</sup> *Id.* (emphasis added), citing GSMA, *5G Spectrum: GSMA Public Policy Position* (November 2018) available at <https://www.gsma.com/spectrum/wp-content/uploads/2018/11/5G-Spectrum-Positions.pdf> (last visited June 4, 2019) (“GSMA Report”) at 2, 4.



WCA's argument suffers from a number of flaws, starting with omitting key, clarifying information following the GSMA Report quote: "Regulators should aim to make available 80-100 MHz of contiguous spectrum per operator in prime 5G mid-bands (*e.g.* 3.5 GHz) and around 1 GHz per operator in millimetre wave bands (i.e. above 24 GHz)."<sup>4</sup> The GSMA Report further suggests that regulators should clear spectrum in the 1-6 GHz band, but does not *specifically* discuss the need for 2.5 GHz band or EBS spectrum (unlike a specific discussion on other bands, such as the 3.3-3.8 GHz band).<sup>5</sup> The Commission has already made 150 MHz available on a shared basis in the CBRS band,<sup>6</sup> and has made significant millimeter wave spectrum available, including licensed spectrum in the 24 GHz and 28 GHz bands and lightly licensed spectrum in millimeter wave bands.

Second, WCA has a problem with its math. If the guard band spectrum (the J and K channels) is not included in the spectrum count, then it is not possible for 80-100 megahertz of *contiguous* 2.5 GHz spectrum to be aggregated. Because of the channel plan, there is 66 megahertz of spectrum in the Lower Band and Upper Band Segments, and 42 megahertz of spectrum in the Middle Band Segment. Four megahertz of guard band spectrum separates each segment, meaning that no more than 66 megahertz of contiguous spectrum can be aggregated. No auction plan can change that math. If the associated guard band channels are included, then a bidder may already have acquired more than 80 megahertz of 2.5 GHz spectrum in the market before any competitive bidding occurs. For instance, a company holding the Broadband Radio Service ("BRS") Basic Trading Area authorization – a likely bidder – already holds 76.5 megahertz of spectrum, 57.5 megahertz of which is contiguous. Under WISPA's plan, that bidder could acquire Channels G1-G3 to create a contiguous block of 88 megahertz of spectrum (Channel F4, Channel E4, the K-channels, Channels E1-E3, Channels F1-F3, Channels H1-H3 and Channels G1-G3).<sup>7</sup>

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<sup>4</sup> *Id.* at 4 (emphasis added).

<sup>5</sup> *Id.* ("It is vital that regulators assign as much contiguous spectrum as possible in the 3.3-3.8 GHz range and also consider the 4.5-5 GHz and 3.8-4.2 GHz ranges for mobile use.").

<sup>6</sup> See *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959 (2015) ("CBRS Order").

<sup>7</sup> See WISPA Comments at 20. WISPA's proposal would include associated guard band channels with the primary channels. See *id.* at 20 n.46. WISPA proposed that, where all EBS channels are available, the Commission should create four separate spectrum blocks, as follows:

- A1-A3 and B1-B3 – a 33 megahertz contiguous block of spectrum;
- C1-C3 and D1-D3 – a 33 megahertz contiguous block of spectrum;
- A4, B4, C4, D4 and G4 – a 30 megahertz block of contiguous spectrum; and
- G1-G3 – a 16.5 megahertz contiguous block of spectrum



Third, by citing the GSMA Report that focuses on “new harmonized *mobile* spectrum,”<sup>8</sup> WCA entirely ignores WISPA’s showing that mid-band spectrum is needed for *fixed* broadband services – not just 5G – and that 45 megahertz for each operator is sufficient to promote investment and deployment in rural areas.<sup>9</sup> As WISPA wrote, “[i]n general, to serve a rural area with fixed service, a bidder would need access to 45 megahertz of 2.5 GHz spectrum to justify the costs of acquiring equipment and deploying service. It is not necessary for an operator to hold all 112.5 megahertz of spectrum – in some cases on top of the BRS spectrum rights it may hold – to provide robust service to the public in rural areas.”<sup>10</sup> The Commission should not simply accept the GSMA’s self-serving report and its single business model as the only 2.5 GHz use case.

Fourth, even accepting GSMA’s premise, there are other “prime 5G mid-bands” where the stated spectrum target can be met. In CBRs, a bidder can acquire up to 40 megahertz of Priority Access Licenses to combine with up to 80 megahertz of General Authorized Access in a band that has a total of 150 megahertz.<sup>11</sup> In the 3700-4200 MHz band, it may be possible for a bidder ultimately to acquire up to 200 megahertz of spectrum. And if and when these bands are combined, there could be as much as 350 megahertz of contiguous spectrum from 3550-3900 MHz. In this scenario, up to four operators could each acquire 80 megahertz of spectrum nationwide without even taking into account spectrum holdings in the 2.5 GHz band.

Fifth, WCA ignores the public interest benefits of WISPA’s proposal, which would create competitive markets with at least two winning bidders having a sufficient amount of spectrum. It does this by suggesting that the 2.5 GHz band should be a “5G-only” band when, in fact, the 2.5 GHz band can help fill a void in the digital divide with respect to fixed broadband services, by using less spectrum than the 80-100 megahertz WCA cites. By contrast, WISPA’s proposal would encourage participation by smaller providers that could, without government subsidies or merger commitments, bring fixed broadband services to rural consumers and businesses:

Without imposing a reasonable limitation on the amount of spectrum a single bidder can acquire, it is conceivable, if not likely, that a single, large entity could acquire all available 2.5 GHz spectrum in an area. In this scenario, smaller entities – those best situated to serve rural areas – would be shut out, diminishing competition among providers or restricting deployment to a single use case (e.g., fixed or mobile). Indeed, without imposing spectrum limits, smaller entities may be dissuaded from participating at all, believing that the cost to compete for spectrum will be too high for them to fulfill a business plan predicated on deploying fixed service with less spectrum to sparsely populated rural areas. By

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<sup>8</sup> GSMA Report at 2, 4 (emphasis added).

<sup>9</sup> See WISPA Comments at 21.

<sup>10</sup> *Id.*

<sup>11</sup> 47 C.F.R. §96.31(a).



ensuring that there will be at least two auction winners in a given market, the Commission can better promote choice, innovation, and competition. These objectives will lead to differentiated service offerings, better performance, and lower prices – consumer benefits that would not be present if a single company controlled all of the spectrum.<sup>12</sup>

Finally, WISPA notes that spectrum aggregation limits are an appropriate licensing mechanism to ensure diversity in spectrum holdings. In the 2015 *CBRS Order*, the Commission imposed a 40-megahertz limit on the amount of licensed spectrum a single entity can hold in an area to “ensure availability of PAL spectrum to at least two users. . . . Allowing one licensee to acquire all seven PALs would limit choices to users interested in applications that would benefit from PAL access.”<sup>13</sup> Under WISPA’s proposal, the proposed spectrum aggregation limits for EBS auctions would allow for an even greater amount and percentage of spectrum to be acquired by a party at auction, and does not even consider the significant 2.5 GHz holdings a bidder may already hold in the market before the auction through its then-existing BRS and/or EBS spectrum rights. In this regard, WISPA’s proposal strikes the appropriate balance and incentives to ensure robust competitive bidding and enable small providers to have a meaningful opportunity to acquire 2.5 GHz spectrum.

Pursuant to Section 1.1206 of the Commission’s Rules, this letter is being filed in ECFS in the above-referenced docket. Please contact the undersigned with any questions.

Respectfully submitted,

/s/ Stephen E. Coran  
Stephen E. Coran

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<sup>12</sup> WISPA Comments at 20-21 (footnotes omitted).

<sup>13</sup> *CBRS Order* at 3999.