

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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| In the Matter of |) | |
| |) | |
| Public Notice Seeking Comment on |) | GN Docket No. 19-128 |
| Bidirectional Sharing Pursuant to |) | |
| RAY BAUM'S Act of 2018 |) | |

REPLY COMMENTS OF THE SATELLITE
INDUSTRY ASSOCIATION

I. INTRODUCTION

The Satellite Industry Association (“SIA”)^{1,2} hereby files these reply comments in response to the Public Notice released by the Office of Engineering and Technology and the Wireless Telecommunications Bureau (“Bureaus”) on bidirectional sharing as directed by Congress in RAY BAUM’s Act of 2018 (“Act”).³ Pursuant to the Act, the Federal Communications Commission (“Commission”) is required to collaborate with the National

¹ SIA Executive Members include: AT&T Services, Inc.; The Boeing Company; EchoStar Corporation; Intelsat S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; Ligado Networks; Lockheed Martin Corporation; OneWeb; SES Americom, Inc.; Space Exploration Technologies Corp.; Spire Global Inc.; and Viasat, Inc. SIA Associate Members include: ABS US Corp; Airbus Defense and Space, Inc.; Analytical Graphics, Inc.; Artel, LLC; Blue Origin; Eutelsat America Corp.; ExoAnalytic Solutions; Globalstar, Inc.; Glowlink Communications Technology, Inc.; HawkEye 360; Hughes; Inmarsat, Inc.; Kymeta Corporation; Leonardo DRS; Omnispace; Panasonic Avionics Corporation; Peraton; Planet; Speedcast Government; SSL; Telesat Canada; and XTAR LLC. For more information on SIA, *see* www.sia.org.

² These comments are supported by all SIA members except for AT&T Services, Inc., which abstains from participation.

³ *Office of Engineering and Technology and Wireless Telecommunications Bureau Seek Comment on Bidirectional Sharing Pursuant to RAY BAUM’S Act of 2018*, Public Notice, DA 19-371 (rel. May 1, 2019); Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, Pub. L. No. 115-141, § 610, 132 Stat. 1080, 1108 (2018).

Telecommunications and Information Administration (“NTIA”, and together the “Agencies”) to develop and submit a report to Congress that “examines aspects of providing Federal entities flexible access to non-Federal spectrum on a shared basis across a range of short-, mid-, and long-range timeframes.”⁴ As discussed below, SIA urges the Commission to report to Congress that any use of commercial spectrum for federal use must be examined on a band-by-band basis and must ensure that federal entities are subject to the same rules as commercial entities and not given preferential access to spectrum.

II. SIA SUPPORTS MORE EFFICIENT USE OF SPECTRUM RESOURCES

Bidirectional sharing is an important element of the national spectrum strategy.⁵ It has been specifically contemplated by the Act, which requires the Agencies to “consider the regulatory certainty that commercial spectrum users and Federal entities need to make longer-term investment decisions for shared access to be viable” and “evaluate any barriers to voluntary commercial arrangements in which non-Federal users could provide access to Federal entities.”⁶ In particular, permitting federal users to share spectrum with non-federal users will provide a significant incentive to identify federal spectrum that can be repurposed for commercial use for all technologies, both terrestrial and space-based. Furthermore, a well-coordinated bidirectional sharing scheme will have the benefit of providing a clear process for commercial earth stations to communicate with federal satellites. But for bidirectional sharing to succeed without impeding use of commercial spectrum, the Agencies need to create a transparent and well-defined regulatory environment that ensures incumbent commercial services are protected from

⁴ *Id.*

⁵ Developing a Sustainable Spectrum Strategy for America’s Future, 83 Fed. Reg. 54513-14 (Oct. 30, 2018).

⁶ Act, 132 Stat. at 1108.

interference and have access to adequate spectrum whether on a short-, medium-, or long-term basis. SIA does not support preferential treatment for federal users and does not support federal operators being subject to a different regulatory environment than commercial operators in accessing non-federal spectrum. In addition, rules governing federal non-routine operations in commercial spectrum would also need to be developed. These conditions must be made clear in any report to Congress on this important issue.

III. ANY FEDERAL USE OF COMMERCIAL SPECTRUM MUST BE SUBJECT TO THE COMMISSION'S RULES.

In the report, the Agencies should emphasize the importance of protecting commercial operators in the event that federal operators are allowed to share commercial spectrum. As an initial matter, any frequency bands identified for sharing should continue to be classified as commercial under the Table of Frequency Allocations.⁷ Furthermore, the Agencies should recommend in the report that, if federal operators are granted access to commercial spectrum under any mechanism, they will be subject to the same operating rules as commercial operators in accessing non-federal spectrum and that the Commission has the authority to protect commercial and non-commercial operators that are operating pursuant to the Commission's rules from harmful interference. Failure to do so would create a regulatory environment that allows federal users to be governed by a different regulatory standard than commercial operators in the same band, which will lead to a confusing and uncertain regulatory environment negatively impacting the efficient use of the spectrum and discouraging investment in new commercial uses of spectrum.

⁷ 47 C.F.R. § 2.106.

Consistent with this concept, federal users must be subject to the same application process and eligibility rules as commercial operators in accessing non-federal spectrum including all licensing rules, as well as the rules regulating special temporary authorizations. Applicable NTIA rules and guidelines should be updated to reflect that federal use of commercial bands is subject to the applicable FCC rules for that band and service type. Any federal operations in commercial bands should be subject to the Commission's rules and public comment and notice requirements consistent with the Administrative Procedures Act.

In addition, the use of commercial spectrum by federal users should not result in additional regulatory burdens for commercial operators. For example, in recent years, the Commission has worked to decrease the amount of time it takes to review satellite and earth station applications.⁸ The addition of federal operations in commercial bands should not add complexity or lead to any delay in licensing commercial operations in these bands. As the Agencies prepare their report, they should consider emphasizing that a regulatory environment that requires federal operators to operate consistent with the Commission's rules when operating in commercial bands is key to providing certainty to non-federal operators.⁹

⁸ *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, 30 FCC Rcd 14713, 14761 ¶134 (2015); *International Bureau Announces Expected Processing Times for Earth Station Applications*, Public Notice, 31 FCC Rcd 6854 (IB 2016).

⁹ Several parties encourage the use of secondary markets for federal sharing in non-federal bands. See Comments of Verizon, GN Docket No. 19-128 at 3-5 (filed May 31, 2019). Unless otherwise specified, all citations herein are to comments filed on May 31, 2019 in GN Docket No. 19-128. See also Comments of Federated Wireless Inc. at 6-7; Comments of CTIA at 8-9. SIA does not object to the use of secondary markets for certain bands but notes that the Commission did not extend its secondary market rules to satellite operators, instead relying on satellite-capacity transponder leasing. *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5- 1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, 26 FCC Rcd 5710, 5713 n.15 (2011).

IV. THE BUREAUS SHOULD EXPLORE ALLOWING COMMERCIAL SATELLITES ACCESS TO FEDERAL-ONLY FSS/MSS BANDS.

To make bidirectional sharing truly bidirectional, the Agencies should explore in their report allowing non-federal users access to federal spectrum. Parties in the comment round expressed their support for permitting federal entities to lease spectrum to a non-federal licensee.¹⁰ For satellite operations, the Agencies should interpret bidirectional sharing to also include exploring to what extent non-federal users should have access to Fixed Satellite Service and Mobile Satellite Service spectrum currently allocated for federal operations. This interpretation of bidirectional sharing and shared access is in line with the Commerce Spectrum Management Advisory Committee's ("CSMAC") 2018 discussion of bidirectional sharing¹¹ and the MOBILE NOW Act which requires Commerce to "submit recommendations to incentivize federal entities to relinquish, or share with federal or non-federal users, federal spectrum for commercial wireless broadband services."¹² It is also consistent with recent actions by the Commission and NTIA to find sharing arrangements between federal entities and non-federal users.¹³

¹⁰ Comments of T-Mobile at 7-8; Comments of Telecommunications Industry Association at 7-8 ("TIA").

¹¹ Commerce Spectrum Management Advisory Committee, *Spectrum Efficiency Subcommittee Report*, at 6-7 (July 2018).

¹² See *Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act*, S. Rep. No. 115-4 (2017).

¹³ See e.g., *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); *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014 (2016).

V. THE COMMISSION SHOULD ISSUE AN NOI FOR EACH SERVICE AND FREQUENCY BAND TO BE CONSIDERED

The Agencies should also recommend that the Commission issue a Notice of Inquiry (“NOI”) for each service and frequency band that is to be considered for bidirectional sharing followed, as appropriate, with a rulemaking proceeding. Each NOI should be band and service specific to reflect the differences between rules and licensing regimes for satellite and terrestrial systems and between different satellite bands. SIA concurs with commenters that spectrum allocations must be carefully considered for each service and frequency band on an individual basis.¹⁴ A one-size-fits-all approach to bidirectional sharing would be inappropriate and could lead to unintended harms for commercial users and American consumers.

VI. CONCLUSION

For the reasons set forth above, the Commission, working with NTIA, must make clear in its report to Congress that commercial satellite operators have a continued need for adequate access to spectrum that is free from harmful interference to provide the valuable services currently offered in the United States and that any bidirectional sharing by federal users will only be allowed on a fair and transparent basis, with both sets of users subject to the same rules.

Respectfully submitted,

THE SATELLITE INDUSTRY ASSOCIATION

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¹⁴ Comments of TIA at 3-4; Comments of Boeing at 3.