

July 2, 2019

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *WRITTEN EX PARTE PRESENTATION – Transforming the 2.5 GHz
Band* -- WT Docket No. 18-120

Dear Ms. Dortch:

We are writing on behalf of the Wireless Communications Association International (“WCA”) in response to the draft *Order* in this proceeding released by the Chairman’s Office for consideration at the Commission’s July open meeting (the “*Draft Order*”). Although there certainly are elements of the *Draft Order* which WCA disagrees with, WCA applauds the Commission for its recognition of the substantial public interest benefits that will be gained by placing Educational Broadband Service (“EBS”) spectrum directly in the hands of commercial service providers without the burdensome regulatory structure that for decades has deterred investment and deployment in this valuable 5G spectrum. It is not our intention here to reargue all of those issues where the *Draft Order* differs from WCA’s view of the public interest. However, there is one area where we believe a minor “tweak” to the *Draft Order* will advance the public interest.

The *Draft Order* would amend the definition of “Covered Geographic Licenses” set forth in Section 1.907 of the Rules to include EBS. This is a revision that was not included in the rules proposed by the *Notice of Proposed Rulemaking* in this proceeding,¹ and is not specifically addressed in the *Draft Order*.² Yet, as a consequence of that inclusion incumbent EBS licensees,

¹ *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands; Transforming the 2.5 GHz Band*, Notice of Proposed Rulemaking, 33 FCC Rcd 4687 (2018).

² Although Paragraph 25 of Appendix B of the *Draft Order* notes that “the Commission will apply the Wireless Radio Services (WRS) framework of renewal standards to both new and existing EBS licensees,” Section 1.953 is separate and apart from the discontinuance requirement that must be met to

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as well as those who succeed in the EBS overlay auction, will for the first time, be subject to Section 1.953 of the Rules – the discontinuance rules applicable to all Covered Geographic Licenses. Given the silence in both the *NPRM* and the *Draft Order* regarding the application of Section 1.953, the Commission should make clear whether or not it intends for Section 1.953 applies to incumbent EBS licenses.

If the Commission chooses to clarify that Section 1.953 applies to incumbent EBS licensees, considerations of regulatory parity suggest that the Commission should defer imposing Section 1.953 on existing EBS licensees until January 1, 2021. Section 1.953 has its genesis in the 2017 *Harmonization Second Report and Order* in WT Docket No. 10-112 – the Wireless Radio Service harmonization proceeding.³ When it adopted Section 1.953 in that proceeding, the Commission recognized that “it is equitable to provide certain existing licensees with additional time to come into compliance with our rules, if necessary”⁴ and afforded those licensees that were not then subject to well-defined permanent discontinuance requirements additional time to come into compliance. Specifically, Section 1.953 would not become effective for such licensees (including among others Personal Communications Service, 700 MHz Commercial Service, Advanced Wireless Service, Wireless Communications Service and BRS licensees) until almost seventeen months after the *Harmonization Second Report and Order* was adopted.⁵ EBS licensees deserve the same consideration, as like these other licensees, they are not currently subject to a discontinuance requirement. Thus, WCA recommends that, if the Commission intends for Section 1.953 to apply to incumbent EBS licensees, it defer that regulatory change until January 1, 2021 so as to provide incumbent EBS licensees with a transitional period similar to that provided commercial licensees.

Pursuant to Sections 1.1206(b)(2) and 1.49(f) of the Commission’s Rules, this letter is being filed electronically with the Commission via the Electronic Comment Filing System. Should you have any questions regarding this presentation, please contact the undersigned.

secure license renewal. *See* Transforming the 2.5 GHz Band, *Report and Order*, FCC-CIRC1907-XX, ¶ 109 (rel. June 19, 2019). Nowhere does the *Draft Order* address application of the discontinuance rule to either incumbent EBS licensees or EBS overlay license auction winners.

³ *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 8874 (2017) (“*Harmonization Second Report and Order*”).

⁴ *Id.* at 8899 ¶ 63.

⁵ *See id.*

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Respectfully submitted,

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