

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

In the Matter of

Public Safety and Homeland Security Bureau
Seeks Comment on FirstNet Ex Parte
Submissions Proposing Interoperability
Requirements for State Opt-Out Requests from
the FirstNet Radio Access Network

PS Docket No. 16-269

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Steven K. Berry
President & CEO

Rebecca Murphy Thompson
EVP & General Counsel

Courtney Neville
Policy Counsel

COMPETITIVE CARRIERS ASSOCIATION
805 15th Street NW, Suite 401
Washington, DC 20005
www.ccamobile.org

July 17, 2017

TABLE OF CONTENTS

I. Introduction & Summary	2
II. The Interoperability Review Process Must Uphold States' Statutory Right to Opt-Out..	4
III. FirstNet's Matrix Misconstrues the Interoperability Review Process	7
IV. The Commission, NTIA and FirstNet Should All Ensure that AT&T Does Not Design FirstNet Equipment that Precludes Use of that Equipment with Opt-Out Networks.	10
V. Conclusion.....	15

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

In the Matter of

Public Safety and Homeland Security Bureau
Seeks Comment on FirstNet Ex Parte
Submissions Proposing Interoperability
Requirements for State Opt-Out Requests from
the FirstNet Radio Access Network

PS Docket No. 16-269

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ hereby comments on “Interoperability Matrices” and associated *ex parte* filings filed by the First Responder Network Authority (“FirstNet”),² in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice seeking comment on these documents.³ CCA’s members, many of whom serve the nation’s most rural and remote areas, have an interest in ensuring that the states

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the nation. 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 nearly 150 associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

² Letter from Patrick Donovan, Counsel to First Responder Network Authority, to Marlene H. Dortch, Secretary, Federal Communications Commission, and attached Interoperability Matrix named “State RAN Opt-Out Requirements_FCC_v1.0.xlsx”, PS Docket No. 16-269 (filed June 5, 2017); Letter from Patrick Donovan, Counsel to First Responder Network Authority, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 16-269 (filed June 15, 2017) (“FirstNet June 15 Letter”); Letter from Patrick Donovan, Counsel to First Responder Network Authority, to Marlene H. Dortch, Secretary, Federal Communications Commission, and attached revised Interoperability Matrix named “State RAN Opt-Out Requirements_FCC_v2.0.xlsx”, PS Docket No. 16-269 (filed June 16, 2017) (“FirstNet June 16 Letter”).

³ *Public Safety and Homeland Security Bureau Seeks Comment on FirstNet Ex Parte Submissions Proposing Interoperability Requirements for State Opt-Out Requests from the FirstNet Radio Access Network*, Public Notice, PS Docket No. 16-269 (rel. June 28, 2017).

in which they provide service have the opportunity to select the best partners for the deployment and ongoing operation of the critically important nationwide, interoperable public safety broadband network (“NPSBN”). CCA urges the FCC to remove unnecessary burdens to core-to-core interoperability, and ensure that any minimal requirements imposed on states are truly essential to the reliability and performance of the network.

I. INTRODUCTION & SUMMARY

CCA applauds Congress, the National Telecommunications and Information Administration (“NTIA”), and FirstNet’s extensive work to date to advance the NPSBN. Ongoing collaboration will help to ensure the NPSBN leverages existing equipment and maximizes participation by all stakeholders. To that end, states’ ability to opt out of the plan that FirstNet and its commercial partner develops is a key feature of the NPSBN’s design, in accordance with the Middle-Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”). This mechanism keeps AT&T consistent with statutory guidance as it formulates proposed state plans by applying the discipline of competitive pressure, improving the ability of public safety officials in all states, regardless of whether they opt-in or opt-out, to design and build the public safety network that best serves consumers. Although the FirstNet network may be suitable for many states, the statute recognizes that an alternative must be available for states that do not fit a nationwide, top-down model.

In addition, long term benchmarks can help NTIA and FirstNet ensure that AT&T continues to provide quality public safety services at reasonable rates over the 25-year lifespan of the NPSBN. If AT&T is the only Radio Access Network (“RAN”) operator on the NPSBN, the FCC, NTIA, and FirstNet will face a difficult challenge, as regulatory history evidences

governments' difficulty to regulate service quality and innovation.⁴ For that reason, it is critical that the opt-out process follow three important tenets: (1) the review process must be realistic and attainable; (2) evaluation must flexibly embrace different network configurations including core-to-core interconnection; and (3) the NPSBN's design should ensure that handsets used in the FirstNet ecosystem include all LTE bands, not just those chosen by AT&T.

FirstNet's Interoperability Matrix ("Matrix"), filed on June 16, 2017, appears to strike a reasonable balance between interoperability and local control by relying on proven industry standards. In conjunction with the Technical Advisory Board's ("TAB") Recommended Minimal Technical Requirements, CCA agrees that the Matrix should provide interoperability criteria as applied during the Commission's review of state plans. These criteria appear to permit interoperability through the interconnection of two cores on a roaming basis, which is critical to permitting states to operate their own interconnecting cores.

However, it is important to recognize that the statute does not allow a "bait-and-switch" game in which FirstNet piles on additional interoperability criteria in later stages of the state opt-out process. Contrary to FirstNet's suggestions,⁵ the Commission's interoperability review is the *only* substantive interoperability review authorized by Congress.⁶ While NTIA and FirstNet are critical to the state approval process, the statute and public interest prevent these entities from further supplementing the Commission's interoperability review.

⁴ Letter from Declan Ganley, Executive Chairman and Co-Chief Executive Officer, and Joseph Euteneuer, Co-Chief Executive Officer, Rivada Networks LLC, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 16-269 (filed June 12, 2017) (describing the importance of opt-out states in exerting competitive pressure on AT&T to continually improve the NPSBN) ("June 12 Rivada Letter").

⁵ FirstNet June 15 Letter at 2.

⁶ See Letter from John T. Nakahata, Harris, Wiltshire and Grannis, Counsel to Rivada Networks LLC, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 16-269 (filed June 15, 2017) ("June 15 Rivada Letter"); and Letter from Trey Hanbury, Hogan Lovells US LLP, Counsel to Southern Linc, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 16-269 (filed June 14, 2017) ("Southern Linc Letter").

Finally, while not strictly a part of RAN interoperability, CCA cautions against decisions that might foreclose device interoperability with the NPSBN. It seems that FirstNet's Matrix ignores the role devices play in achieving public safety interoperability. Specifically, it is troubling that Motorola, an AT&T partner for FirstNet, has announced the launch of a handset for Band 14 that, contrary to hard-fought Commission policies, operates on the 700 MHz bands controlled by AT&T but not on the 700 MHz A Block spectrum occupied by other carriers. The Commission should be leery of actions that jeopardize NPSBN interoperability. For example, the Matrix fails to address interoperability concerns that FirstNet seems intent on creating through its support of handsets tailored to operate on certain networks at the expense of additional resiliency and redundancy in the event of an emergency. This outcome defies the public interest, and threatens to reassert the *de facto* monopoly that failed public safety and led to the creation of the NPSBN.

II. THE INTEROPERABILITY REVIEW PROCESS MUST UPHOLD STATES' STATUTORY RIGHT TO OPT-OUT

The state opt-out process is a crucial part of Congress's plan to establish a nationwide, interoperable public safety network. Although FirstNet's commercial partner, AT&T, surely will design and build a nationwide network that meets the needs of some, perhaps many, jurisdictions, states whose needs are *not* met by this common network have the option to design a network that best serves first responders and consumers. To facilitate this process, Congress wisely recognized the need to maximize the NPSBN's operating capabilities and ensure that no state is forced to join a nationwide network that, in that state's judgment, fails to maximize first responders' ability to serve its citizens. Congress also wisely recognized the need to put competitive pressure on the nationwide FirstNet partner to maximize what it can deliver, both in its initial plans and over the course of 25 years. Accordingly, the Spectrum Act specifically

provides states the right to opt-out of the nationwide plan so long as it can interoperate with the nationwide network, and demonstrate the ability to build and maintain the network it proposes.

It is important to recognize, however, that no state governor is likely to take on the challenge of developing an alternative state plan without a compelling reason for doing so. State opt out decisions will be driven by robust discussions with stakeholders and public safety agencies to ensure that individual proposed plans meet the needs of the state and the NPSBN as a whole.⁷ At its heart, states are in the best position to understand the needs of their consumers and first responders. If a state desires to opt out, the FCC, NTIA, and FirstNet should review its proposal with deference, and presume that its alternative plan will promote public safety within that state and for the NPSBN.

The Spectrum Act's opt-out provisions make clear that Congress agrees with this assessment, and provides a clear pathway for states that require local network control. It is essential that the Commission, NTIA, and FirstNet ensure that the opt-out process remains a viable option. To that end, CCA urges the FCC to remove unnecessary burdens to core-to-core interoperability, and ensure that any minimal requirements imposed on states are truly essential to the reliability and performance of the network. Unfortunately, FirstNet's Matrix threatens this careful balance by imposing opaque layers of technical restrictions on states' ability to opt-out. Instead, the statutory design requires FirstNet to adopt network policies consistent with the minimal technical requirements developed by the TAB.

Although FirstNet is empowered to craft a variety of policies for operation of the nationwide network, the statute requires that these policies further certain statutory goals.⁸

⁷ See, e.g., June 14 FirstNet Colorado Letter at 5 (describing the potential importance of a state's ability to opt out to its "ability to ensure quality and effective public safety communications in rural areas").

⁸ 47 U.S.C. § 1426(c)(1).

Among other things, these goals include the issuance of a request for proposal (“RFP”) “for the purposes of building, operating, and maintaining the network that uses, without materially changing, the minimum technical requirements developed [by the TAB and approved by the Commission].”⁹ And, pursuant to the statute, those minimum technical requirements are where state interoperability requirements are to be prescribed. Thus, according to the statute, the TAB was authorized to develop state interoperability requirements, and FirstNet must adhere to these requirements “without materially changing” them,¹⁰ in soliciting proposals to construct the NPSBN.¹¹

By contrast, FirstNet itself has no statutory authority to set interoperability requirements, either directly or indirectly through the establishment of its network policies. The word “interoperability” itself appears nowhere in 47 U.S.C. § 1426(c)(1), and thus is not an explicit part of FirstNet’s authority to create network policies. And while FirstNet is authorized to set certain policies that might incidentally affect interoperability, 47 U.S.C. § 1426(c)(1) makes clear that it must do so in a way that does not alter the minimum requirements developed by the TAB.¹² CCA therefore urges the Commission to dismiss consideration of the Matrix where it imposes additional constraints on network interoperability.

⁹ 47 U.S.C. § 1426(b).

¹⁰ 47 U.S.C. § 1426(b)(1)(B).

¹¹ See Letter from John Nakahata, Counsel to Rivada Networks, LLC, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 16-269, 4-5 (filed June 19, 2017) (“June 19 Rivada Letter”).

¹² *C.f.* Comments of the Texas Public Safety Broadband Program, PS Docket No. 16-269, 7 (filed Oct 21, 2016) (explaining that the Commission may not relinquish its statutory authority to set interoperability requirements to FirstNet, a Commission licensee).

III. FIRSTNET’S MATRIX MISCONSTRUES THE INTEROPERABILITY REVIEW PROCESS

FirstNet’s Matrix¹³ references a multitude of standards, comprising thousands of pages of technical material, which makes it impossible to conduct a complete review in only ten days. However, the Matrix does not preclude states from operating their own LTE cores, and does not prescribe artificial limitations on the spectrum to be used by interoperable devices. The former is essential to allow states the flexibility they need to address possible state public safety concerns. For example, states that need to provide higher priority to public safety users, and more aggressive preemption of non-public-safety traffic, or that need greater flexibility in adding or removing authorized public safety users, would fail to achieve these goals by deploying a state RAN alone, potentially leaving critical public safety needs unmet.¹⁴

Leveraging existing facilities will speed deployment of the NPSBN and help FirstNet effectively and efficiently reach the largest geographic area possible. Indeed, spanning these areas in a timely manner will foster competition and generate more customers for FirstNet, while simultaneously providing more reliable service for consumers in rural and underserved areas. Moreover, because there are widely used industry roaming standards that allow this sort of seamless core-to-core connection, requiring direct RAN-to-core connections is not necessary for interoperability. The FirstNet Matrix appears to recognize this in referencing “RFP Appendix J-4 Table 3 StdV-3 Roaming Interface Specifications,” a provision of the RFP that describes these standard roaming interfaces for core-to-core connections. Preventing core-to-core

¹³ FirstNet June 16 Letter (explaining that only the second of the two matrices, the June 16 version, remains operative for the purposes of Commission interoperability review).

¹⁴ See June 15 Rivada Letter at 3-4 (explaining the importance of a state-controlled LTE core); June 14 FirstNet Colorado Letter at 4-5 (same); June 14 Southern Linc Letter at 2-3 (same); June 12 Rivada Letter (same); Letter from Trey Hanbury, Counsel to Southern Linc, to Marlene H. Dortch, PS Docket No. 16-269, 2-6 (filed May 8, 2017) (same) (“May 8 Southern Linc Letter”).

interconnections will necessarily prevent expansion in rural areas and circumvent FirstNet’s statutory obligations to reach these regions.¹⁵ As such, CCA encourages the Commission to tailor its review to help FirstNet meet Section 6202(b)(3)’s requirement that deployment phases include “substantial rural coverage milestones.”¹⁶ Because deployment of the NPSBN will be an extensive and ongoing process, allowing states to deploy their own networks that may propel buildout in rural and hard-to-reach areas will be critical to advancing the NPSBN while meeting Congress’s expectations for a nationwide public safety network.¹⁷

The Matrix also eschews unnecessary restrictions on the LTE bands to be used by public safety devices. It is essential that the Commission, NTIA, and FirstNet ensure that the NPSBN interoperate with as wide a range of LTE bands as possible, to maximize potential roaming coverage. Although all state opt-out networks must clearly support LTE Band 14—the band encompassing the FirstNet public safety spectrum itself—states may seek to partner with a range of carriers to extend their reach of in-state networks through roaming arrangements. Limiting the permissible bands of operation for devices operating on state networks beyond a requirement that they operate on Band 14 would be unnecessary for ensuring interoperability, and would severely limit states’ flexibility in preparing suitable state plans. What’s more, it would defy FirstNet’s stated objectives and policy that Band 14 spectrum will be made immediately available for all participating carriers, regardless of their stage in the deployment process.¹⁸

¹⁵ 47 U.S.C. § 6206 (b)(3).

¹⁶ *Id.*

¹⁷ NTIA, First Responder Network Authority, Statement of Objectives at 2 (Apr. 27, 2015) (“Statement of Objectives”).

¹⁸ Statement of Objectives at 2.

FirstNet’s *ex parte* submissions, however, have suggested that NTIA intends to perform its own interoperability review, going beyond its statutory role of assessing the ability of a state to maintain interoperability in the future. As described by FirstNet, such a review may incorporate criteria included in either version of the Matrix, as well as other requirements outside of these two superfluous documents. The Spectrum Act, however, provides no authority for NTIA to perform its own parallel baseline interoperability review. Rather, the statute authorizes the *Commission* to review state plans to ensure that they are consistent with the minimum technical requirements identified by the TAB, and that they are “interoperab[le] with the nationwide public safety broadband network.”¹⁹ NTIA, of course, has a very important role to play in ensuring the viability of state plans under 47 U.S.C. § 1442(e)(3)(D), but these provisions clearly contemplate an evaluation of the state’s, and its partner’s, long-term ability to execute the plan it has submitted—not an opportunity to second guess the Commission’s interoperability decision, nor states’ assessments of their own public safety needs.

At the very least, NTIA, like the Commission, must provide the public adequate notice of the interoperability criteria it intends to apply, and an opportunity to comment on these standards. Not only is this plainly required by the Administrative Procedure Act, to which NTIA is subject, it also is necessary to effectuate Congress’s intent that states have a real opportunity to develop alternative plans. A review process where the Commission or NTIA applies

¹⁹ 47 U.S.C. § 1442(e)(3)(C)(i). *See* June 19 Rivada Letter at 4-5 (filed June 19, 2017) (describing the statutory structure which “expressly charges the Commission with determining whether a state plan will meet the minimum interoperability technical requirements”); Comments of the Commonwealth of Pennsylvania, PS Docket No. 16-269, 7 (filed Oct 21, 2016) (explaining that separate NTIA interoperability review would be “burdensome and unwarranted”) (“Pennsylvania Comments”); Comments of the County of Fairfax, Virginia Department of Information Technology, PS Docket No. 16-269, 7 (filed Oct 21, 2016) (same).

interoperability criteria that were never publicly announced would deprive states of a meaningful opportunity to satisfy the interoperability criteria and, thus, the opportunity to opt out.²⁰ In addition, unless NTIA provides details on its evaluation criteria for state plan review soon, it will frustrate opt-out by limiting the time states have to consider these criteria and to incorporate them into potential plans as they weigh their opt-out decision.

IV. THE COMMISSION, NTIA AND FIRSTNET SHOULD ALL ENSURE THAT AT&T DOES NOT DESIGN FIRSTNET EQUIPMENT THAT PRECLUDES USE OF THAT EQUIPMENT WITH OPT-OUT NETWORKS.

Finally, FirstNet’s Matrix is inconsistent in that it ignores the role devices play in achieving public safety interoperability. FirstNet selected AT&T as its sole-source vendor for the FirstNet network, and AT&T has partnered with Motorola for user equipment and services. In 2013, AT&T reached a settlement with the FCC in which the FCC modified AT&T’s 700 MHz B and C Block licenses to implement a set of interoperability commitments, including a commitment for AT&T to focus “almost exclusively on Band 12 configurations, features and capabilities.”²¹ Notwithstanding AT&T’s 700 MHz license obligations, AT&T’s business partner Motorola recently began marketing the Motorola LEX F10, which supports Band Class 17 rather than Band Class 12, as a FirstNet-ready solution. AT&T interoperability obligations

²⁰ See Comments of the State of Alabama, PS Docket No. 16-269, 3-4 (filed Oct 21, 2016) (explaining that “Commission, NTIA, and FirstNet evaluation factors must be clear and achievable. The states cannot comply with unknown or moving requirements.”); Comments of the State of Nevada, PS Docket No. 16-269, 3-4 (filed Oct 21, 2016) (“the FCC should provide clear guidelines and rules by which they are going to measure State alternative plans. . . . [T]he Commission has an obligation to establish and make public its approval criteria in a timely fashion, so that the states may make an informed opt-out decision and have time to develop a sound plan.”); Pennsylvania Comments at 5 (same). See also May 8 Southern Linc Letter at 6 (explaining that the Commission may not “adopt[] onerous, extra-statutory processes for states to exercise their right to opt-out.”); Comments of Illinois Public Safety Broadband Network Working Group, Illinois Emergency Management Agency, PS Docket No. 16-269, 3 (filed Sep. 26, 2016) (“a state decision on opt-out could very well be predicated on the process and requirements that are yet to be determined by the Commission as well as NTIA/FirstNet”).

²¹ See *Promoting Interoperability in the 700 MHz Commercial Spectrum, et al.*, Report and Order and Order of Proposed Modification, 28 FCC Rcd 15122, 15144 ¶ 48 (2013) (“*Interoperability Order*”).

prohibit AT&T from supporting Band Class 17 devices – either directly through AT&T’s device portfolio, or indirectly through FirstNet’s device portfolio. But putting aside concerns about AT&T’s 700 MHz interoperability commitments raised by Motorola’s non-interoperable handset offering, FirstNet’s Matrix nowhere guards against the type of device incompatibility and lock-in effect that AT&T and Motorola have embraced with the launch of the Motorola LEX F10 handset.

AT&T has the incentive and ability to enter into proprietary device arrangements that could prevent states from obtaining opt-out approval or could force states to agree to unreasonable or discriminatory terms in contracts for equipment. AT&T has already shown its propensity to engage in such discriminatory behavior. In the wake of the Lower 700 MHz auction (Auction No. 73), AT&T and Motorola proposed adoption of a boutique band class (“Band Class 17”) that included Lower 700 MHz B and C Block licenses, but excluded smaller wireless operators that primarily won Lower 700 MHz A Block licenses in Auction 73.²² Lower 700 MHz A Block licensees could not access handsets and other equipment and fell behind in the deployment of 4G LTE compared to AT&T’s deployment of LTE over its neighboring Lower 700 MHz B and C Block licenses.²³ The Commission ultimately intervened to remedy AT&T’s mischief, but the damage was already done.²⁴ FirstNet now seems poised to repeat history, notwithstanding criteria on the Matrix encouraging device interoperability.

²² See *Interoperability Order*, 28 FCC Rcd at 15126-27 ¶¶ 9-II.

²³ See, e.g., Matthew Lasar, *Small Wireless Carriers: Always Stuck with Crappy Phones?*, ArsTechnica (May 3, 2010), <https://arstechnica.com/tech-policy/2010/05/a-single-radio-chip-standard-for-all-700-mhz-wireless-gadgets/> (“[T]he primary differentiator [between the LEX F10 and other similar devices] is that it is certified by AT&T.”).

²⁴ See generally *Interoperability Order*.

Motorola officials report that AT&T has already certified the Motorola LEX F10 device for FirstNet,²⁵ which will likely fail to be interoperable with equipment used by AT&T's commercial competitors to support opt-out states' public safety networks.²⁶ The LEX F10 will work on Band 14 spectrum and several of AT&T's other commercial bands, but is not advertised as operable on several bands used by Sprint, T-Mobile, Verizon, or potential rural carrier partners.²⁷ Notably, the specifications omit Band 12 capability despite AT&T's obligation to ensure that all new unique devices that operate on the paired Lower 700 MHz bands introduced by AT&T into its device portfolio will be Band 12 capable devices.²⁸ In addition, Motorola has the ability to add additional proprietary features that may prevent the device from being fully compatible or interoperable with devices from other vendors used by opt-out states.²⁹

If the Commission were to allow FirstNet to require interoperability with the Motorola LEX F10 device as a prerequisite for opt-out approval, then states would face two equally dire choices: (1) reject superior opt-out network designs because of an inability to support Band 17

²⁵ See *LEX F10 FirstNet Solution*, Motorola Solutions, https://www.motorolasolutions.com/en_us/products/lte-user-devices/lexf10.html#tabproductinfo (last visited July 11, 2017); Donny Jackson, *Motorola Solutions' New LTE Handheld Device Certified by AT&T, is 'FirstNet-ready'*, URGENTCOMM (June 29, 2017), <http://urgentcomm.com/motorola-solutions/motorola-solutions-new-lte-handheld-device-certified-att-firstnet-ready?page=1>.

²⁶ Indeed, Motorola markets the device as part of a suite of apps and services that provide a "complete public safety solution." See *LEX F10 FirstNet Solution*, Motorola Solutions, https://www.motorolasolutions.com/en_us/products/lte-user-devices/lexf10.html#tabproductinfo (last visited July 12, 2017).

²⁷ Motorola's device specifications state that the device will operate on Bands 2, 4, 5, 14, and 17. However, Motorola's device specifications do not include Band 26, Band 25, or Band 41 (Sprint's commercial bands), Band 13 (Verizon's primary LTE band) or Band 12 (one of T-Mobile's main LTE bands). *Id.*

²⁸ See Attachment 1 to *Ex Parte* Letter from Joseph P. Marx, AT&T Mobility, LLC, to Marlene H. Dortch, FCC, WT Docket No. 12-69 (filed July 10, 2017).

²⁹ For example, the Motorola device could include a version of device-to-device ("D2D") technology that meets forthcoming 3GPP standards but is not interoperable with other versions of D2D technology installed on other devices.

devices that are tailored to AT&T's commercial spectrum holdings; or (2) succumb to AT&T's equipment monopoly and agree to whatever terms AT&T and Motorola demand to license their proprietary equipment. FirstNet cannot create an insurmountable opt-out condition based on states' compliance with proprietary technical standards or equipment, and the Matrix's silence on the matter of devices is telling.

FirstNet's Matrix also includes a reference to another table in Attachment J-4 to the FirstNet RFP related to device interface specifications, but once again FirstNet fails to provide any context for its random reference. FirstNet does not explain whether this RFP reference, which itself incorporates references to hundreds (if not thousands) of pages of 3GPP, GSMA, and Open Mobile Alliance specification documents, is intended as a recommended path to future interoperability between FirstNet and an opt-out state, an explicit requirement based on FirstNet's planned network deployment, or something else. Table 1 StdV-1 in the FirstNet RFP purportedly addresses system-level interfaces, functionality and standards for device capability, and not necessarily particular LTE band classes.³⁰ But all FirstNet devices, including the Motorola LEX F10, should be designed not only to meet all of the standards and source documents contained in Table 1, but also without any specifications or "add-ons" that would impede operability with other equipment and networks. To the extent any of the references included in Table 1 conflict with the Motorola LEX F10's design, FirstNet's spreadsheet would lose all meaning on this issue. And to the extent any of the standard or source documents listed in Table 1 would allow FirstNet to deploy a proprietary, non-interoperable device, these references would defy the spirit, if not the letter, of the Spectrum Act's interoperability requirements.

³⁰ RFP Attach. J-4 at 3.

CCA has long advocated for greater handset interoperability as a means of promoting greater competition and consumer choice, and is extremely concerned that Motorola, one of AT&T's partners in its FirstNet bid, has announced a handset that includes Band 17, rather than 12, specifically for use on the FirstNet and AT&T networks. Relying on the boutique Band 17 also will prohibit potential FirstNet subscribers from using other devices that are commercially available today, and could limit inclusion of Band 14 in future commercial devices, threatening potential roaming revenue that could otherwise fund continued deployment. The Commission should prohibit the development of proprietary technical standards rolled out by FirstNet and AT&T and ensure that these entities do not engage in discriminatory practices that would force states to opt-in or abide by AT&T-mandated equipment. This threat is not hypothetical; AT&T is well-positioned to repeat its history of using network interoperability as a means of advancing its own business interests. FirstNet cannot lawfully demand third parties conform to unnecessary standards as a means of erecting artificial barriers to the deployment of public safety communications networks.

V. CONCLUSION

CCA appreciates Congress, FirstNet, and NTIA's ongoing work to facilitate the NPSBN for the benefit of consumers and industry. Ultimately, the Commission's review should enable FirstNet, in partnership with AT&T and opt-out states, to achieve its goal of deploying a nationwide public safety network in a more inclusive, efficient, and effective manner. We look forward to working with all stakeholders to ensure that the remainder of the state opt-out process is transparent and advances its important goal.

Respectfully submitted,

/s/ Rebecca Murphy Thompson
Steven K. Berry
Rebecca Murphy Thompson
Courtney Neville
COMPETITIVE CARRIERS ASSOCIATION
805 15th Street NW, Suite 401
Washington, DC 20005
(202) 449-9866

July 17, 2017

Attachment: Motorola Solutions LEX F10 Specifications