Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
International Bureau and Wireless Telecommunications Bureau Seek Focused Additional Comment in 3.7-4.2 GHz Band Proceeding	)	GN Docket No. 18-122
	)	RM-11791
	)	RM-11778
	)	

REPLY COMMENTS OF VERIZON

I. THERE IS EXTENSIVE SUPPORT FOR THE FCC TO REPURPOSE 3.7-4.2 GHz SPECTRUM FOR 5G WHILE ENSURING CONTENT DISTRIBUTION SERVICES CONTINUE WITHOUT DISRUPTION.

The record demonstrates that mid-band spectrum – and 3.7-4.2 GHz spectrum in particular – is vital to advancing 5G in the United States. Commenters agree that repurposing 3.7-4.2 GHz spectrum will drive robust 5G deployment, benefiting American consumers and businesses, the U.S. economy, and our global leadership in wireless.[1] The sooner the Commission acts to make 3.7-4.2 GHz spectrum available for 5G, the sooner the nation can reap these many benefits.

The record also shows broad support for ensuring that the content distribution services delivered today via C-Band spectrum continue without disruption. Despite varying positions on

[1] *See, e.g.*, ACA Connects Comments at 2 (filed July 3, 2019) ("ACA Comments") (C-band spectrum "is critically important to winning the global race to 5G"); Charter Communications, Inc. Comments at 1-2 (filed July 3, 2019) ("Charter Comments") ("The 3.7-4.2 GHz spectrum band ('C-band') is ideal for the deployment of 5G . . . . Access to 5G spectrum is a key component to ensuring the technological advancement and economic security of the United States."); *see also, e.g.*, CTIA Comments at 3 (filed Oct. 29, 2018) ("Increasingly across the globe, mid-band spectrum in the 3 GHz to 5 GHz band range is viewed as a key component to unlocking the economic and social benefits of 5G connectivity.").

the mechanics of repurposing spectrum or the rights of satellite and earth station operators, the record confirms that the Commission should ensure continued delivery of content to users and that costs associated with any changes in delivery are fairly compensated.[2]

Both points are correct: repurposing 3.7-4.2 GHz spectrum for 5G and other flexible-use services will deliver vast benefits and warrants quick Commission action; and action on this front should ensure that content distribution services continue without disruption. These are the essential public policy objectives that should drive the Commission's actions in this proceeding.

II. THE RECORD DEMONSTRATES THAT THE T-MOBILE INCENTIVE AUCTION PROPOSAL FAILS TO COMPLY WITH THE LAW.

Although there is broad support for repurposing 3.7-4.2 GHz spectrum in a way that ensures content distribution services are not disrupted, T-Mobile's incentive auction plan is not a lawful path to get there. Verizon and other commenters demonstrate that receive-only earth station registrants are ineligible to participate in a reverse auction, because they are not licensees under the Communications Act ("Act") and have no licensed spectrum usage rights to put up at auction.[3] Commenters explain that statutory language, Commission precedent, and relevant policy objectives all dictate the same result – registrants cannot participate.

The arguments that some commenters advance for receive-only earth station eligibility lack merit. Their principal claim involves bootstrapping a registrant's right to protection against

[2] *See, e.g.*, AT&T Comments at 2 (filed July 3, 2019) (identifying "the universally agreed-upon goals of this proceeding," including "preserving without disruption the services that currently depend on C-Band downlink transmissions."); BYU Broadcasting Comments at 2 (filed July 3, 2019) ("BYU Comments"); National Public Radio, Inc. Comments at 8 (filed July 3, 2019) ("NPR Comments"); Raytheon Company Comments at 2 (filed July 3, 2019).

[3] Verizon Comments at 3-11 (filed July 3, 2019); C-Band Alliance Comments at 29-33 (filed July 3, 2019); Dynamic Spectrum Alliance Comments at 12-15 (filed July 3, 2019) ("DSA Comments"); Wireless Internet Service Providers Association Comments at 3-5 (filed July 3, 2019) ("WISPA Comments").

interference into a license as defined by the Act and then into a right to participate in a reverse auction.[4] But these commenters ignore the statutory requirements for reverse auction participants: Section 309(j)(8)(G) only allows "a *licensee* to relinquish voluntarily some or all of its *licensed spectrum usage rights*."[5] And, as described again below, earth station registrants are not licensees as defined by the Act.

First, a few commenters omit the crucial language in the statutory definition of "license" that it be "required" by the Act or Commission rules,[6] or they wrongly assert that "the Act requires a license for the operation of receive-only stations."[7] But the Commission does not require a receive-only earth station to obtain a registration to operate; there have been thousands of receive-only earth stations that operate without one. They also fail to acknowledge that when the Commission created the voluntary receive-only earth station system, it explicitly decoupled the issuance of a license from the right to interference protection, declaring that while participating earth station operators would not be licensees, they would be protected against interference.[8] Put another way, that registrants obtain such protection proves nothing about license status under the Act or their eligibility to participate in an incentive auction.

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[4] ACA Comments at 5-6 (citing Commission decisions granting registrants interference protection); Charter Comments at 5-6 (same); NPR Comments at 6 ("[t]his right to participate is connected to the right to be protected from interference"); BYU Comments at 6 (earth stations "are licensees under the Act and entitled to protections for authorized frequencies, i.e., they have 'licensed spectrum usage rights'").

[5] 47 U.S.C. § 309(j)(8)(G) (emphasis added).

[6] BYU Comments at 7 ("a license is any 'instrument of authorization'"); Charter Comments at 4 (quoting definition of license in 47 U.S.C. § 153(49) but omitting the word "required").

[7] ACA Comments at 8.

[8] *Regulation of Domestic Receive-only satellite earth stations*, First Report and Order, 74 F.C.C.2d 205 (1979) ("Earth Station First R&O").

These commenters further argue that a receive-only earth station is "incidental" to a satellite transmission and thus qualifies under the statutory definition of a license,[9] but this claim ignores the Commission's longstanding conclusion that receive-only earth stations are not "incidental" to transmission and thus a registration cannot be a license under the statute.[10] They fail to counter the Commission's reasoning that taking such an approach in this context could require other receive-only operations like televisions and radios to obtain licenses. Receive-only earth station registrations are not licenses as defined in the Act, and their operators thus have no "licensed spectrum usage rights" required to participate in a reverse auction.

Two commenters call for earth station operators to participate in an auction to provide compensation for modifying their facilities,[11] but the Commission has repurposed other spectrum and required that incumbents be compensated – *without* including them in an auction.[12] The policy goal to ensure that the content delivered via earth stations is uninterrupted does not dictate earth station participation in a reverse auction, let alone that the Commission is required to include them. The Commission can protect their interests through employing other well-established and lawful mechanisms including compensation for repurposing costs.[13]

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[9] ACA Comments at 7-8; Charter Comments at 4.

[10] Earth Station First R&O, 74 F.C.C.2d at 217 ¶ 31.

[11] BYU Comments at 8; Charter Comments at 7-8.

[12] *See, e.g., Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services,* Ninth Report and Order and Order, 21 FCC Rcd 4473 (2006); *Redesignation of the 17./7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use,* Report and Order, 15 FCC Rcd 13430 (2000).

[13] WISPA Comments at 15 ("[T]he Commission has the authority, capability and competence to order and successfully administer a compensation mechanism for registered receive-only earth station facilities.").

III. THE RECORD ESTABLISHES THAT THE FCC CAN MODIFY LICENSES WHERE THERE IS NO FUNDAMENTAL CHANGE.

Several commenters properly identify the legal standard set out in Section 316 of the Act: The Commission has authority to modify licenses provided there is no "fundamental" change to the license or the rights it grants.[14] Verizon and other commenters highlight the unique circumstances in play with C Band that would allow a modification here without triggering any such fundamental change. For example, the Small Satellite Operators deliver no traffic in the United States and make no use of their market access rights. The Commission thus has authority to modify the licenses or market access grants they have held for years under the Section 316 framework, including by substantially reducing the amount of spectrum they have access to, because this action would not disrupt any operations at all, let alone fundamentally change them.[15]

IV. THE FCC SHOULD REJECT THE PROPOSAL FOR A POINT-TO-MULTIPOINT SERVICE IN THE 3.7-4.2 GHz BAND.

The Public Notice did not seek comment on the introduction of a new fixed broadband point-to-multipoint terrestrial service in the 3.7-4.2 GHz band, but some commenters took the opportunity to reiterate their support nonetheless. While a few discussed placing the service in the repacked, fixed satellite service portion of the band,[16] one commenter proposed placing this

[14] AT&T Comments at 4; BYU Comments at 9; Google LLC Comments at 12-13 (filed July 3, 2019) ("Google Comments"); Satellite Industry Association Comments at 10-11 (filed July 3, 2019); T-Mobile Comments at 6-8 (filed July 3, 2019).

[15] Verizon Comments at 14-15; C-Band Alliance Comments at 24 ("The SSOs' lack of service transmission to CONUS means that the authorization of new terrestrial mobile operations in CONUS will not harm the SSOs and therefore cannot effect a 'basic and fundamental' change to the market access authorizations they possess.").

[16] Google Comments at 15; WISPA Comments at 15-17.

new service in frequencies to be repurposed for 5G and other flexible use services.[17] Verizon and others opposed these proposals earlier in the proceeding,[18] and we reiterate our opposition here.

Creating a new service that would award point-to-multipoint licenses or permit opportunistic unlicensed use would frustrate the Commission's goal of clearing encumbrances and enabling flexible use in the 3.7-4.2 GHz band, in which new entrants can choose to offer mobile or fixed service (including point-to-multipoint).[19] Even if such a service were confined to the repacked portion of the band, C-Band operators showed that it would complicate frequency coordination and increase the potential for harmful interference to reception of video downlinks.[20] A point-to-multipoint service would create encumbrances that would jeopardize the 5G initiative in the band, even if limited to the repacked satellite portion, as that portion of the band may be subject to further repurposing in the future. And there is no evidence that such a service can operate in the same spectrum as area-wide, flexible-use services like 5G mobile services. Creating preferential treatment for this new service would also create winners and losers that would distort competition and would impair the goal of driving spectrum to its highest valued use. With all of the complex issues on the table that the Commission must resolve, it should not take on this additional, extraneous and highly problematic issue.

Companies that wish to offer point-to-multipoint service can compete for licenses like everyone else, at the same time, and under the same rules for the 3.7-4.2 GHz band or they can

[17] DSA Comments at 18-19.

[18] *See, e.g.*, Verizon Reply Comments at 16-19 (filed Dec. 11, 2018); CTIA Comments at 25-27; Intel Corporation et al. Joint Comments at 8-9 (filed Oct. 29, 2018); Qualcomm Incorporated Comments at 6-7 (filed Oct. 29, 2018).

[19] Verizon Reply Comments at 17-18.

[20] *See, e.g.*, CBS Corporation et al. Comments at 10-12 (filed Oct. 29, 2018).

pursue opportunities in the soon-to-be-available 3.5 GHz band (including at least 80 megahertz of lightly licensed GAA spectrum). They surely will be exploring opportunities resulting from the 6 GHz proceeding as well. But there is no legal or policy reason to grant a new point-to-multipoint service in any part of the 3.7-4.2 GHz band.

V. CONCLUSION.

The Commission should adopt a framework for 5G in the 3.7-4.2 GHz band as soon as possible. That framework should be built on the policy goals of repurposing the maximum amount of spectrum to help meet the accelerating need for 5G and other wireless services and ensuring uninterrupted operation of content delivery services that currently rely on the C-Band.

Respectfully submitted,

/s/

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July 18, 2019