

July 21, 2016

Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: IB Docket No. 13-213 – Terrestrial Use of The 2473-2495 MHz Band for Low Power Mobile Broadband Networks.

Dear Ms. Dortch:

On July 19, 2016, Harold Feld, Dallas, Harris, and John Gasparini, all of Public Knowledge, met with Edward Smith, Legal Advisor to Chairman Tom Wheeler, regarding the above-captioned proceeding.

Public Knowledge argued that moving from proof of concept to controlled deployment is not abandoning the Commission's responsibility to control against harmful interference. To the contrary, the proposed approach has the enormous benefit of ending what has become the all too common problem of "testing stalemate." As the Commission has seen repeatedly in recent years, laboratory testing provides limited comfort to existing spectrum users because laboratory testing is always probabilistic and subject to significant disagreement as to what constitutes a real world scenario.

For this reason, Public Knowledge continues to believe that the Commission proposed approach of controlled roll out, subject to ongoing observation and authority to require interference mitigation if it occurs, is a valuable step forward in allowing new technologies to come to market.

With regard to opportunistic sharing and broader general sharing opportunities, Public Knowledge adheres to its statement of Public Interest principles submitted in November 2015.¹ Generally, the public interest is best served by maximizing direct public access to the spectrum without an licensed intermediary. Where exclusivity is granted, sufficient benefit to the public must accrue to justify the exclusivity. Given the right trade off, however, the exclusivity is not a "windfall" but a necessity justified by the public interest.

For example, the Commission recently permitted legacy licensees to enjoy expanded spectrum use rights in the 28 GHz band as part of the Spectrum Frontiers Order, and has enormously enhanced the value of the spectrum these legacy licensees possess. Accordingly, it is inconsistent and contrary to the public interest to summarily reject a workable solution that will universally enhance spectrum access for everyone as a "windfall." The correct question is not whether it expands Globalstar's spectrum usage

¹ Public Knowledge Letter, *Terrestrial Use of The 2473-2495 MHz Band for Low Power Mobile Broadband Networks*, IB Docket No. 13-213 (Nov. 19, 2015), available at <https://ecfsapi.fcc.gov/file/60001339856.pdf>.

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rights, but whether or not overall public access to the spectrum is enhanced and if the trade offs for exclusivity are justified by the unique circumstances and overall value returned to the public for use of "the public airwaves."

With regard to opportunistic sharing supporting by Public Knowledge, OTI and others, the Commission should consider a form of exclusivity and common access similar to that adopted in the 3.5 GHz Order. Unlike in the case of 3.5 GHz, where the federal users are the priority access incumbents entitled to exclusion zones, Globalstar would be entitled to an initial period of deployment and a right to modest "exclusion zones" around its established access points before the rest of the band would be opened to a Part 15 version of General Access (facilitated with registration in the Globalstar/TLPS database). These exclusion zones should be limited to census tracts, as they are in the existing 3.5 GHz rules.

However, if census tracts are considered insufficient -- either to encourage initial deployment of TLPS or to compensate Globalstar for the cost of maintaining the database -- the Commission could adopt the proposal submitted by MIT Economist William Lehr in the course of the 3.5 GHz proceeding but rejected by the Commission there as being inconsistent with the specifics of 3.5 GHz.² The Commission would provide Globalstar access points with a "guard band" of census tracts surrounding the census tract in which Globalstar is operating as the priority user. This would provide Globalstar with a limited form of protection, while still requiring TLPS access points generally to operate under Part 15 equivalent rules.

Additionally, Globalstar could be permitted to deploy within these "border" tracts because it can coordinate with itself. Because the TLPS service has proposed to accept interference from other devices in a manner identical to the Part 15 rules, these TLPS devices deployed in the "border tracts" would not enjoy any protection against Part 15 devices operating in the adjacent tracts. But it would provide Globastar with the opportunity to provide service without the additional interference protection that distance separation provides to the central "priority access" tract.

Further expansion of the sharing model between private users -- rather than simply between private users and the federal government -- would help to promote this approach and provide valuable public interest benefits by enhancing spectrum access for all. At present, WiFi channel 14 is usable by no one. This approach would make the TLPS spectrum currently terrestrially available to no one terrestrially available to everyone. That it provides incentive to the existing licensee to make the spectrum available is no more a "windfall" than the current Incentive Auction can be considered a "windfall" for allowing legacy broadcasters to take cash for spectrum given them for free. As the spectrum becomes increasingly crowded, the Commission must navigate the general

² See generally 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*, GN Docket No. 12-354 (Apr. 21, 2015).

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problem of promoting shared access within the context of existing spectrum rights and legacy services.

Again, this question is hardly unique to Globalstar. It is a question the Commission is currently facing with regard to expanded sharing in the 5.9 GHz band. It is a question the Commission is facing in the pending Petitions of Ligado and the MVDDS Coalition. It is a question the Commission faces with regard to legacy licensees in the bands now designated or under consideration for 5G deployment. Adopting TLPS rules that both allow the legacy licensee to deploy and benefit from the change in its spectrum access rules while simultaneously expanding access to previously exclusive use spectrum by the public provides another, useful model for the Commission as it navigates the next stage of wireless evolution.

In accordance with Section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed in the above-referenced docket. Please contact me with any questions regarding this filing.

Sincerely,

/s/ John Gasparini
Policy Fellow
Public Knowledge

Cc: Edward Smith