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August 4, 2017

EX PARTE NOTICE VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Notice of Ex Parte Communication; Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions, GN Docket No. 12-268; Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan, MB Docket No. 16-306*

Dear Ms. Dortch,

On August 2, 2017, Dave Mayo, Kathleen Ham, Steve Sharkey, and Chris Wieczorek of T-Mobile USA, Inc. (“T-Mobile”) met with Matthew Berry, Jean Kiddo, and Sasha Javid of the Federal Communications Commission (“Commission”).¹

During the meeting, representatives from T-Mobile discussed the company’s plans to rapidly deploy 600 MHz spectrum for mobile broadband and to begin providing service to consumers this year, including bringing new competition and choice to rural areas previously unserved by T-Mobile. T-Mobile shared the attached slides, which provide a visual overview of T-Mobile’s 600 MHz spectrum holdings nationwide and its projected year-end coverage following the start of deployment of the newly acquired spectrum.

T-Mobile’s representatives also discussed broadcaster and vendor progress on the post-auction transition and T-Mobile’s efforts to help broadcasters identify and resolve transition issues. For example, T-Mobile has agreed to invest in broadcast equipment manufacturing capacity and installation resources for PBS² and has voluntarily committed to fund the second move of low-

¹ T-Mobile USA, Inc. is a wholly owned subsidiary of T-Mobile US, Inc., a publicly traded company.

² See Press Release, PBS, Public Television Joins Forces With T-Mobile to Preserve Access to Public Television for Millions in Rural America (June 29, 2017), <http://to.pbs.org/2tteX4V>.

power television and TV translator licensees that require more than one relocation as a result of T-Mobile's rapid 600 MHz broadband deployment.³

During the meeting, T-Mobile's representatives said that keeping the 600 MHz relocation on schedule offers one of the most promising means available to accelerate and expand wireless broadband deployment in the United States, especially for the hundreds of thousands of square miles of rural and remote portions of the country where residents may have never had wireless broadband connections or where competition is limited.⁴

Quickly approving cost estimates and rapidly dispersing the money necessary to help fund broadcast relocation will complement the wireless operators' massive investments in deploying the 600 MHz spectrum as quickly as possible. While the initial estimates by broadcasters exceed the amount allocated by Congress by approximately \$389 million,⁵ we noted that the Commission is still examining and verifying the estimates, that actual costs will vary from the estimates, and that there is time and support for ensuring that sufficient funds exist to fully reimburse broadcasters. Accordingly, the difference between estimated cost and the funds available should not serve as a reason to slow the repacking process. Additionally, the Commission has made clear that delayed receipt of government subsidies intended to help fund the transition process simply will not support a broadcaster's request to extend the 600 MHz transition deadline.⁶ The Commission has held that broadcasters have an independent obligation to clear the 600 MHz band on schedule with or without funds from the U.S. Treasury absent extraordinary and wholly unanticipated events beyond the licensee's control.⁷

³ See Letter from Steve B. Sharkey, T-Mobile USA, Inc., to Marlene H. Dortch, FCC, GN Docket No. 12-268, MB Docket No. 16-306, at 2 (July 17, 2017) ("T-Mobile July 17 Letter"); see also John Eggerton, *T-Mobile to Pay for Some LPTV Repack Moves*, Broadcasting & Cable, <http://bit.ly/2u2CGYU>.

⁴ See T-Mobile July 17 Letter at 2.

⁵ See *Oversight and Reauthorization of the Federal Communications Commission: Before the Subcomm. on Comm'cns and Tech. of the U.S. House of Rep. Comm. on Energy and Commerce*, 115th Cong. (July 25, 2017) (testimony of Ajit Pai, Chairman, FCC) (testifying that broadcasters estimate \$2.139 billion for repacking, compared to the \$1.75 billion Congress allocated out of Commission auction revenues).

⁶ Broadcast stations may rely on "financial hardship" to seek an extension of time "only in limited circumstances," which may include situations in which stations are subject to an active bankruptcy or receivership proceeding. In such a case, the station must show it has filed requests to proceed with construction of the post-auction facility in the relevant court proceeding. Any other station requesting an extension of time based on financial hardship must demonstrate that "rare and exceptional financial circumstances nevertheless warrant granting additional time to complete construction of their facilities." See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 ¶ 582 (2014) ("*Incentive Auction Report and Order*"); *Incentive Auction Task Force & Media Bureau Announce Procedures for the Post-Incentive Auction Broad. Transition*, Public Notice, 32 FCC Rcd 858 ¶¶ 41-42 (2017) ("*Broadcast Transition Notice*"); see also *Broadcast Transition Notice* ¶ 73 ("[T]he Media Bureau will view unfavorably any application/request that the staff determines would be likely to delay or disrupt the transition, such as by . . . necessitating changes to the construction permit deadlines for other station(s), or likely causing a strain on limited transition resources required by other stations.").

⁷ To qualify for a limited, one-time extension, broadcast licensees must demonstrate that failure to meet the facility construction deadline is "due to circumstances that are either unforeseeable or beyond the licensee's control" and that the licensee has "made all reasonable efforts to resolve those issues"—a standard that

T-Mobile also discussed its concern that some broadcasters seem inclined to game the 600 MHz transition process in an attempt to use relocation funds to purchase the equipment necessary to support future ATSC 3.0 broadcast service offerings. To be clear, the ATSC 3.0 technology path and the repacking of 600 MHz spectrum are wholly separate and unrelated and should not be tied together in any manner. The Commission has even been clear that the development and deployment of ATSC 3.0 will not be reason to impact the timing or cost of the broadcaster repack. Broadcasters should not be allowed to revisit that decision either directly or indirectly.⁸ While T-Mobile has no objection to broadcaster development of ATSC 3.0 technology on a voluntary basis, the technology is still in development, with no line of sight to end user devices or the even more difficult proposal to include the technology in future wireless mobile devices. And regardless of how close ATSC 3.0 is to becoming a deployable commercial technology, it must not be allowed to delay the 600 MHz broadcast relocation and postpone the introduction of new wireless broadband services to the public.

Finally, T-Mobile urged the Commission to reject the late-filed “comments” of ION Media Networks (“ION”)⁹ as well as the National Association of Broadcasters’ (“NABs”) March 17, 2017 Petition for Reconsideration¹⁰ of the repacking Public Notice.¹¹ ION’s filing is, in substance, a petition for reconsideration filed months after the statutory deadline.¹² The Commission should dismiss the ION and NAB pleadings as late filed.¹³

excludes any possible delays that may occur in receiving government relocation subsidies. *Broadcast Transition Notice* ¶ 42.

⁸ See *Incentive Auction Report and Order* ¶ 624 & n.1752 (We do not . . . anticipate providing reimbursement for new, optional features in equipment unless the station or MVPD documents that the feature is already present in the equipment that is being replaced. . . . For example, a station whose current antenna or other facilities contain components enabling the transmission of ATSC Mobile/Handheld signals and that reasonably incurs the cost to replace this equipment may claim reimbursement for replacement equipment with mobile capability. A station that does not have mobile capability, however, may not claim reimbursement for the cost of adding that capability in its replacement equipment.”); *id.* ¶ 111 (“Certainty also is vital: because the reverse auction outcome depends on repacking decisions, the results of the repacking process cannot be tentative or indefinite after the auction is complete.”).

⁹ Comments on the FCC’s Post-Auction Repack and Petition for Reconsideration of ION Media Networks, GN Docket No. 12-268, MB Docket No. 16-306 (July 31, 2017).

¹⁰ Petition for Reconsideration of the National Association of Broadcasters, GN Docket No. 12-268, MB Docket No. 16-306 (Mar. 17, 2017).

¹¹ *Incentive Auction Task Force and Media Bureau Adopt a Post-Incentive Auction Transition Scheduling Plan*, Public Notice, MB Docket No. 16-306, GN Docket No. 12-268, DA 17-107 (rel. Jan. 27, 2017).

¹² Oppositions and comments on NAB’s Petition for Reconsideration were due April 26, 2017, and ION filed its comments 96 days after that date. See *Petition for Reconsideration of Action in Rulemaking Proceeding*, Public Notice, Report No. 3072, 82 Fed. Reg. 17406 (pub. Apr. 11, 2017); 47 C.F.R. § 1.429(f).

¹³ See generally *Opposition of T-Mobile USA, Inc. to the Petition for Reconsideration Filed by the National Association of Broadcasters*, GN Docket No. 12-268, MB Docket No. 16-306 (Apr. 26, 2017) (explaining NAB’s Petition addresses the underlying 39-month deadline for broadcaster relocation from the 600 MHz band following the incentive auction, and the deadline to have challenged the Commission’s adoption of that plan nearly three years ago expired on September 14, 2014).

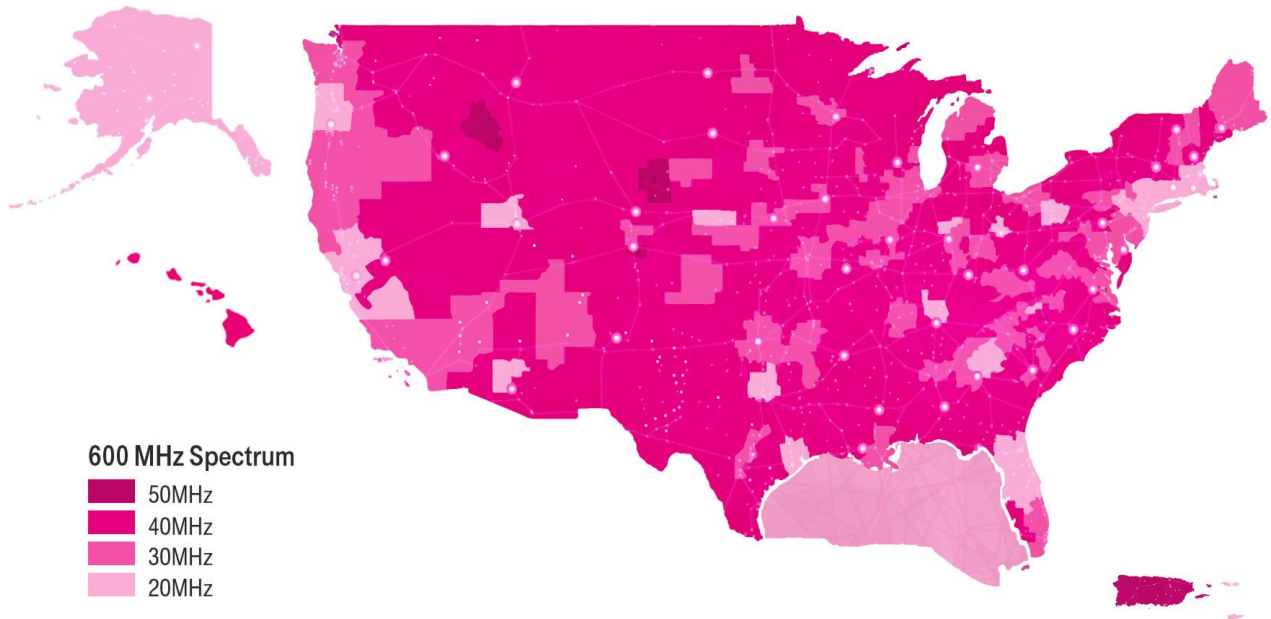
Under section 1.1206(b)(2) of the Commission's rules, we have filed an electronic copy of this letter with the Commission. Please direct any questions regarding this filing to me.

Respectfully submitted,

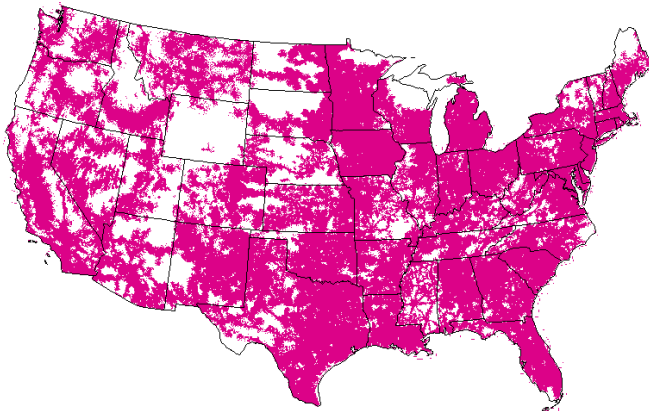
/s/ Steve B. Sharkey

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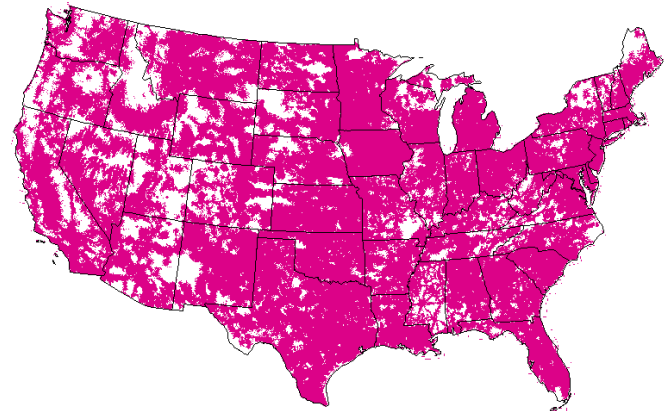
Depth of T-Mobile's New Nationwide 600 MHz Spectrum



T-Mobile Auction Results = More Magenta



EOY 2017 deployment before 600 MHz



EOY 2017 deployment after 600 MHz