

9 August 2019

**Ex Parte**

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

*Re: Expanding Flexible Use of the 3.7 to 4.2 GHz Band; GN Docket No. 18-122*

Dear Ms. Dortch:

On 7 August 2019, James Frownfelter, Chairman and CEO of ABS Global Ltd. (ABS), Srinivasanna of ABS, Phillip Spector, and undersigned counsel met on behalf of the Small Satellite Operators (ABS, Hispasat S.A. and Claro S.A.) with Commissioner Starks and Bill Davenport, Chief of Staff and Senior Legal Advisor.

During this meeting we suggested that despite all of the apparent disputes, the record indicated a clear consensus (with which the SSOs agree) was forming on most of the key points in this proceeding, as follows:

**First**, there is a consensus that the transition from satellite services to 5G services in the C-band needs to happen quickly.

**Second**, there is a consensus that the transition needs to take place through an open and transparent auction process.

**Third**, there is a consensus that all participants in the ecosystem, satellite operators, earth station owners, and taxpayers should receive compensation from the transition.

**Fourth**, there is a growing consensus that 200 megahertz of spectrum is not quite enough, and that 300 megahertz could be repurposed in a reasonable timeframe.

We pointed out that real divide among the parties seems to be whether there should be a private auction or whether there should be an FCC-run auction. The SSOs explained that, as a policy matter, they would be happy with either a public or a private auction, provided that taxpayers, satellite operators, and earth station owners were all treated fairly. However, we said that existing proposals on the record for an FCC-run auction are not viable, and that at least one of them would provide little to taxpayers.

The current T-Mobile proposal for an incentive auction, by forcing earth station operators and satellite operators to bid against one another, violates the statutory requirement that bidders be competing licensees and would not accurately appraise the value of satellite authorizations as a result. Moreover, because of the wildly different nature and value of satellite licenses and earth station licenses, the satellite operators would be forced to accept in the reverse auction a fraction

of the value of their licenses—and their sale of spectrum rights could not be considered voluntary. This too would be unlawful; indeed, because neither group would have an alternative means for receiving value in exchange for relinquishing spectrum under the proposal, winning bids during the reverse phase could well approach zero. Finally, the T-Mobile proposal does not, as the broadcast incentive did, provide the Treasury with the difference between what the buyers are willing to pay and what the sellers are willing to accept. Rather, T-Mobile currently proposes that the buyers keep the difference, which will leave practically nothing for the Treasury. On the other hand, we agree with AT&T that the Commission has the legal authority to condition a private auction to ensure that all parties are treated fairly.

We also discussed the ACA Connects fiber proposal. We indicated that we shared many of the goals of the ACA Connects proposal, and agreed that earth station operators need to be incentivized for the band repurposing to be successful. We also agreed with ACA Connects' view that satellite operators should be compensated for "lost revenues" and their "cost of capital," and that there should be some "incentive payments" as needed beyond these amounts.

But we expressed the view that any proposal that relies on a nationwide fiber build to be completed before the transition occurs is going to delay the transition by many years and is going to put it at risk.<sup>1</sup> We also expressed the view that the purpose of the proposal—making more than 200 megahertz of C-Band spectrum available for 5G—could be met more quickly and with less risk by adding better compression technology, that is already available in the market, to existing earth stations. The SSOs said they believe that 300 megahertz could be made available for 5G within 18 to 36 months with the use of such compression technology. Thus, we said there was no need to delay, and put at risk, the entire transition while an enormous fiber build is undertaken.

Sincerely,

A handwritten signature in blue ink that reads "Scott Harris".

Scott Blake Harris

Shiva Goel

*Counsel to the Small Satellite Operators*

cc:

Commissioner Starks

Bill Davenport, Chief of Staff and Senior Legal Advisor

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<sup>1</sup> See Comments of ABS Global Ltd., Hispasat S.A., and Claro S.A. at i, 3-8, GN Docket No. 18-122 et al. (filed Aug. 7, 2019).