

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

In the Matter of

Expanding Flexible Use of the 3.7 to 4.2 GHz Band

GN Docket No. 18-122

Petition for Rulemaking to Amend and Modernize
Parts 25 and 101 of the Commission's Rules to
Authorize and Facilitate the Deployment of
Licensed Point-to-Multipoint Fixed Wireless
Broadband Service in the 3.7-4.2 GHz Band

RM-11791

Fixed Wireless Communications Coalition, Inc.,
Request for Modified Coordination Procedures in
Band Shared Between the Fixed Service and the Fixed
Satellite Service

RM-11778

REPLY COMMENTS OF TRINITY BROADCASTING NETWORK

Trinity Broadcasting Network ("TBN") hereby files these reply comments in response to the Public Notice released by the Commission on July 19, 2019, requesting additional comment on certain C-band reallocation proposals entered into the record in the above-captioned proceeding.¹ TBN is the largest and most widely watched religious broadcaster in the United States, serving more than 100 million homes across the country. TBN operates 57 C-band earth stations (transmit and receive) at its 35 broadcast television stations and delivers content to over 600 cable systems using more than 1000 C-band earth stations. In addition, TBN delivers content to 114 C-band earth stations for prison ministry.

¹ See *Wireless Telecommunications Bureau, International Bureau, Office of Engineering and Technology, and Office of Economics and Analytics Seek Focused Additional Comment in 3.7-4.2 GHz Band Proceeding*, Public Notice, GN Docket No. 18-122, RM-11791, RM-11778 (rel. July 19, 2019).

As TBN has noted in prior submissions in the record,² America’s standing as a leader in the race to 5G depends in no small part on the Commission’s ability to reallocate highly valuable but currently underutilized C-band spectrum in a timely and efficient manner. Like many commenters in this proceeding, TBN believes that the proposal put forth by ACA Connects — America’s Communication Association, the Competitive Carriers Association, and Charter Communications, Inc. (collectively, the “Coalition”)³ contains a strong plan to achieve this goal in the public interest. In particular, it calls for a minimum clearance target of 370 MHz while recognizing earth station operators’ legal rights to share in the proceeds from the reallocation. TBN believes these objectives of the Coalition plan will ensure that the greatest amount of C-band spectrum is made available to address the needs of the modern digital economy and that all C-band stakeholders are treated fairly in the process.

While TBN strongly supports the Coalition’s goal of clearing 370 MHz while recognizing earth station operators’ legal rights, it respectfully disagrees with other aspects of the Coalition plan. For example, although the Coalition argues that non-MVPD C-band users and MVPD earth station users should be reimbursed for costs, the Coalition plan provides for incentive payments only to MVPD earth station users and not to earth station operators.⁴ TBN strongly believes that both earth station users *and operators* should receive incentive payments and that there is no basis for treating users and operators inequitably. TBN also agrees with the

² See Letter from Trinity Broadcasting Network and LPN Spectrum LLC to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed May 16, 2019) (“TBN/LocusPoint Ex Parte”); Letter from Marc S. Martin and Brandon H. Johnson, Counsel for LPN Spectrum LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed May 31, 2019).

³ See Letter from ACA Connects — America’s Communication Association, the Competitive Carriers Association, and Charter Communications, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed July 2, 2019) (“Coalition Proposal”); *see also* Letter from Pantelis Michalopoulos and Georgios Leris, Counsel for ACA Connects — America’s Communication Association, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed July 9, 2019) (“Coalition Study”).

⁴ See Coalition Study, Attachment at 12-13.

comments of the National Association of Broadcasters in not supporting the Coalition plan to impose a mandatory transition to fiber.⁵ Transitioning to fiber will likely make sense in varying degrees in certain markets, but it is not a “one size fits all” solution for all circumstances in all markets. Indeed, a broad mandate would create harmful cascading consequences for broadcasters like TBN that operate in many different markets around the country. For example, a market like New York City is largely hospitable to a transition to fiber due to its existing fiber infrastructure and population density, but other markets lacking such infrastructure and density would present a far greater and more costly challenge, relative to other options. Accordingly, the Commission should let the idea of a fiber transition function as one of several potential options available to reach the clearance target of 370 MHz of mid-band spectrum,⁶ rather than impose an overly broad governmental fiat with unintended consequences for earth station operators.

I. THE COMMISSION SHOULD ESTABLISH 370 MHZ AS THE FLOOR FOR C-BAND SPECTRUM CLEARANCE

TBN joins other commenters in endorsing the Coalition’s proposal to make at least 370 MHz of C-band spectrum available for wireless broadband use.⁷ Commission leadership is unified in its view that freeing up mid-band spectrum for terrestrial, flexible use will make the United States more competitive in the race to 5G,⁸ and setting a high clearance target in the C-

⁵ See Comments of the National Association of Broadcasters at 3-8, GN Docket No. 18-122 (filed Aug. 7, 2019).

⁶ For example, in addition to transitioning to fiber, earth station operators could consider moving to other bands (such as the Ku band), engaging in transponder sharing, making more efficient use of transponders through newer compression technologies, or electing to go off air entirely. See TBN/LocusPoint Ex Parte at 8-9.

⁷ See Comments of T-Mobile USA, Inc. at 5-6, GN Docket No. 18-122, RM-11791, RM-11778 (filed Aug. 7, 2019) (“T-Mobile Comments”); Comments of United States Cellular Corporation at 5-6, GN Docket No. 18-122 (filed Aug. 7, 2019); see also Coalition Proposal at 3-4.

⁸ See, e.g., Letter from Chairman Ajit V. Pai to Senator John Kennedy (Apr. 25, 2019), available at <https://docs.fcc.gov/public/attachments/DOC-357325A1.pdf> (“C-band spectrum could provide significant benefits as we enter the world of 5G.”); Statement of Comm’r Michael O’Rielly at 1, *Expanding Flexible Use of the 3.7 GHz to 4.2 GHz Band*, Order and Notice of Proposed Rulemaking, GN Docket No. 18-122 (rel. July 13, 2018) (noting that Commissioner O’Rielly has “strongly advocated for at least 200 or 300 megahertz, with a serious review to release even more”); Keynote Remarks of Comm’r Brendan Carr at the WISPAmerica Convention: Grain Elevators, Water Towers, and Other Ways to Connect Americans at 4 (Mar. 20, 2019), available at

band proceeding will facilitate that objective. As T-Mobile pointed out in its comments, China, Italy, and Spain have already reallocated more than 300 MHz of mid-band spectrum for mobile use, with China poised to release a total of 500 MHz of mid-band spectrum in coming years.⁹ Thus, an insufficient reallocation of C-band spectrum by the Commission would risk placing America even further behind its peers when it comes to the deployment of 5G services that will be critical to consumers and businesses alike, and create unnecessary inefficiencies and costs for domestic manufacturers of 5G-enabled radio frequency devices if the U.S. market fails to join other countries in optimizing mid-band spectrum for 5G wireless services. Assuming the Coalition’s assumptions hold, reallocating a minimum of 370 MHz of C-band spectrum — and potentially much more, depending on residual needs for satellite service in the 3.7 to 4.2 GHz band¹⁰ — in urban markets in as little as 18 months would quickly secure our country’s future as a leader in 5G.

II. EARTH STATION OPERATORS ARE LEGALLY ENTITLED TO SHARE IN THE PROCEEDS FROM THE C-BAND REALLOCATION

Like many other commenters in this proceeding, TBN believes that any C-band reallocation plan adopted by the Commission must recognize the interests of *all* stakeholders, not just a handful of large satellite operators.¹¹ Key among these stakeholders are earth station

<https://docs.fcc.gov/public/attachments/DOC-356655A1.pdf> (“I am focused right now on approaches that will clear more than 200 MHz, at least in big cities where demand for high-capacity, mid-band spectrum is greatest.”); Statement of Comm’r Jessica Rosenworcel, *Allocation and Service Rules for the 1675-1680 MHz Band*, Notice of Proposed Rulemaking and Order, WT Docket No. 19-116 (rel. May 13, 2019) (recognizing that mid-band spectrum “offer[s] the mix of capacity and coverage we need for 5G to ever be deployed nationwide”); Monica Allevan, *FCC Nominee Starks Says Spectrum, Deployment Key to 5G Leadership*, FierceWireless (June 21, 2018, 8:00 AM), <https://www.fiercewireless.com/wireless/fcc-nominee-starks-says-spectrum-deployment-key-to-5g-leadership-0> (noting that “[i]t is going to be essential that we continue to have more and more spectrum” made available, including in the C-band).

⁹ T-Mobile Comments at 6 & nn.14-15.

¹⁰ Coalition Proposal at 3-4.

¹¹ See Comments of the Small Satellite Operators (ABS Global Ltd., Hispasat S.A. and Claro S.A.) at 2-3, GN Docket No. 18-122, RM-11791, RM-11778 (filed Aug. 7, 2019) (“SSO Comments”); Comments of NTCA — The

operators, who, as the Coalition put it, “have no less of a right to the spectrum than satellite operators.”¹²

Yet some commenters argue against the rights of earth station operators, but for reasons that appear to reflect self-interest rather than the public interest. For example, the C-Band Alliance and the Public Interest Spectrum Coalition argue that proceeds from the auction of C-band spectrum cannot be shared with earth station operators and users because they are not “licensees” under Section 309(j) of the Communications Act.¹³ However, as T-Mobile previously explained, transmit-receive earth stations *are* licensed by the Commission, and authorizations for receive-only earth stations qualify as “licenses” under Section 153 of the Communications Act because they are incidental to satellite operators’ transmissions and authorize operation of apparatus for communications purposes.¹⁴ In addition, the Commission has broad authority under the Communication Act’s “necessary and proper” clause to ensure that earth station operators are treated justly.¹⁵ Even if earth station operators were not deemed licensees under the Communications Act, the Small Satellite Operators are correct to point out that earth station operators “have made substantial investments in reliance on their FCC authorizations, and their cooperation is critical to a seamless transition and the mitigation of

Rural Broadband Association at 4, GN Docket No. 18-122, RM-11778 (filed Aug. 7, 2019); *see generally* TBN/LocusPoint Ex Parte at 10-13.

¹² Coalition Proposal at 6.

¹³ *See* Comments of the C-Band Alliance at 18-19, GN Docket No. 18-122, RM-11791, RM-11778 (filed Aug. 7, 2019); Comments of the Public Interest Spectrum Coalition at 25, GN Docket No. 18-122 (filed Aug. 7, 2019).

¹⁴ Letter from T-Mobile USA, Inc. to Marlene H. Dortch, Secretary, FCC, at 6, GN Docket No. 18-122 (filed Apr. 11, 2019).

¹⁵ *See* TBN/LocusPoint Ex Parte at 12-13.

litigation risk.”¹⁶ Thus, “the Commission can and should provide [earth station operators] with meaningful, sensibly structured financial incentives to cooperate in the transition of the band.”¹⁷

III. CONCLUSION

TBN shares the Commission’s objectives to ensure that C-band spectrum is reallocated in a way that provides the biggest boost to America’s 5G hopes while also bringing on board key constituencies whose buy-in will be necessary to achieve a seamless transition. Setting a minimum clearance target of 370 MHz and recognizing earth station operators’ right to fair compensation for the critical role that they will play in coordinating the C-band reallocation will go a long way toward achieving these objectives.

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Respectfully submitted,

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¹⁶ SSO Comments at 2-3 (quoting Letter from Scott Blake Harris and V. Shiva Goel, Counsel to the Small Satellite Operators, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, RM-11791, RM-11778, at 5-6 (filed Mar. 25, 2019)).

¹⁷ *Id.* at 3.