August 15, 2016

Ex Parte

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

Re: *Amendment of Parts 15, 73 and 74 of the Commission's Rules to Provide for the Terrestrial Use of the 2473-2495 MHz Band for Low-Power Mobile Broadband Networks*, **IB Docket No. 13-213**
Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band, **ET Docket No. 13-49**

Dear Ms. Dortch:

On August 11, 2016 Michael Calabrese, representing New America's Open Technology Institute (OTI), met with Erin McGrath, wireless counsel to Commissioner Michael O'Rielly, concerning the above-listed proceedings.

I reiterated OTI's support for expanded use of Wi-Fi Channel 14 premised on a public interest condition, proposed last year in filings by our groups – and separately by Google – that could enable both TLPS and enhanced Wi-Fi for consumers more broadly.[1] Specifically, I stated that in exchange for the valuable terrestrial mobile waiver and the waiver of the strict OOBE limits at the border between the 2.4 GHz unlicensed band and Globalstar's spectrum, the Commission should authorize public use of Wi-Fi Channel 14 in locations where Globalstar's TLPS is not deployed and where Globalstar itself has determined that Channel 14 transmissions create virtually no risk of harmful interference to its mobile satellite device customers (e.g., indoors and generally within urban areas). Permitting a "use or share" regime is a logical outgrowth of the Commission's notice on whether and under what conditions to allow Globalstar to lease or otherwise provide third parties access under its license to Channel 14 by authorizing rule changes that combine unlicensed spectrum with Globalstar's licensed spectrum.

[1] *See* Ex Parte Letter from Michael Calabrese, New America's Open Technology Institute, and Harold Feld, Public Knowledge, *Terrestrial Use of the 2473-2495 MHz Band for Low-Power Mobile Broadband Networks*, IB Docket No. 13-213 (Feb. 13, 2015). *See also* Ex Parte Letter from Austin Schlick, Google, *Terrestrial Use of the 2473-2495 MHz Band for Low-Power Mobile Broadband Networks*, IB Docket No. 13-213 (Oct. 10, 2015).

If Globalstar receives valuable new spectrum rights, Channel 14 should not lie fallow in schools, libraries and other venues if public access is feasible without interfering with Globalstar's mobile satellite subscribers and initial TLPS deployments. Following the precedent of the Commission's Order on third party mobile boosters, third party users could register with Globalstar's Network Operating System – or through one or more Spectrum Access Systems (SAS) certified by the Commission – and receive permission to operate in any location where Globalstar is not deployed. Unlike in the Booster Order, where the Commission merely assumed that licensees would not "unreasonably deny" third parties access, Globalstar should be required to permit such sharing. Globalstar could be allowed to revoke permission in a specific location where either (a) the third parties cause interference of a type and manner that would require Globalstar to abate the interference were it running the access point; or (b) Globalstar has deployed and commenced operations in that location within an initial period (e.g., 5 years) after the effective date of the Commission's order.

The OTI representative further suggested that the Commission should ensure that the public will have the option to query a FCC-certified SAS to gain access to Channel 14, even if that phases in later and is contingent on future Commission action based on how effectively SASs manage the 3.5 GHz Citizens Broadband Radio Service. Any order authorizing TLPS should also require Globalstar to make its NOS data available to certified SAS operators for the purpose of enforcing the minimum protection zones necessary to safeguard TLPS and Globalstar's existing mobile satellite services. OTI also strongly opposes any condition that would allow Globalstar to block access in areas larger than is required to avoid harmful interference, or to charge any fees greater than necessary to recover the incremental costs of providing NOS data, as needed, to a FCC-certified SAS.

Concerning the Commission's ongoing proceeding to make next generation Wi-Fi possible by authorizing shared use of the U-NII-4 band at 5.9 GHz, the OTI representative inquired about progress on OET's testing process and suggested that if the Commission cannot adopt a final order this year with respect to the technical details around sharing the 5.9 GHz band between Wi-Fi and non-safety (and non-time-critical) DSRC operations, the Commission should nevertheless make a quick decision on re-channelization of the band based on a clear separation of the two or three DSRC channels that are necessary for time-critical public safety applications (e.g., vehicle-to-vehicle signaling). The public interest is best served if the remainder of the band (40 or 45 megahertz) is shared between DSRC non-safety applications and low-power unlicensed operations on an equal basis, enabling gigabit Wi-Fi.[2]

Respectfully submitted,

/s/ *Michael Calabrese*
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cc: Erin McGrath

[2] *See* Michael Calabrese, *Spectrum Silos to Gigabit Wi-Fi – Sharing the 5.9 GHz 'Car Band'*, Open Technology Institute at New America (Jan. 2016), available at https://goo.gl/RY8M09.