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September 28, 2020

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

REPLY COMMENTS

Re: *In the Matter of Reallocation of 470-512 MHz (T-Band) Spectrum* (PS Docket No. 13-42)

Dear Ms. Dortch:

The Industry Council for Emergency Response Technologies (“iCERT”) respectfully submits the following Reply Comments in response to the *Notice of Proposed Rulemaking* (“NPRM”) released by the Federal Communications Commission (“FCC” or “Commission”) on July 6, 2020, in conjunction with the potential reallocation of the 470-512 MHz spectrum band (T-Band).¹ iCERT appreciates the opportunity to provide feedback to the Commission.

iCERT is the nation’s only trade association focused exclusively on the commercial emergency response technology sector. Our member companies represent a broad cross section of companies with a collective interest in advancing innovative solutions that will improve Public Safety communications and help protect first responders and the public they serve. This includes companies that provide and support Public Safety Land Mobile Radio (“LMR”) systems that utilize various radio frequency bands including the T-Band.

Current statutory provisions require the FCC to reallocate the T-Band and auction it for commercial purposes by 2021.² However, those provisions anticipated that the spectrum would no longer be required for Public Safety use by that time and that the spectrum would have a higher value if reallocated for commercial purposes. Neither of those assumptions is true.

¹ Reallocation of 470-512 MHz (T-Band) Spectrum, Notice of Proposed Rulemaking, FCC 20-89 (rel. Jul. 6, 2020). <file:///C:/Users/donal/OneDrive/Documents/iCERT/Policy%20Committee/FCC%20Proceedings/FCC-20-89A1.pdf>.

² See The Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, H.R.3630, 126 Stat. 156, enacted February 22, 2012.

Comments filed in response to the NPRM demonstrate that the T-Band remains a vital spectrum resource for Public Safety agencies, supporting mission critical communications for police, fire, EMS, and other emergency responders in some of the nation’s largest cities.³ The loss of this spectrum band for Public Safety’s use would jeopardize communications interoperability and impose significant costs and burdens on State and Local Government agencies at a time when they are already faced with tremendous financial and operational challenges resulting from the COVID-19 pandemic. It is also unclear whether a relocation of T-Band communications could even be achieved given the lack of suitable alternative spectrum that would be needed to accommodate Public Safety communications.

iCERT appreciates Congressional efforts to provide more spectrum for commercial use, as the development of new 5th Generation (5G) wireless services will require substantial allocations of additional spectrum. However, the T-Band will not address those spectrum needs. Moreover, Comments filed in response to the NPRM indicate that the T-Band has relatively little commercial value and that an auction of the spectrum would be unlikely to even raise the funds necessary to relocate incumbent licensees to alternate spectrum.⁴

Given the critical importance of the T-Band to Public Safety and the minimal commercial value that an auction of the T-Band would provide, iCERT agrees with the clear consensus view of Commenters that the best course of action is for Congress to repeal those statutory provisions requiring the T-Band to be reallocated. Legislation has already been introduced in both houses of Congress that would accomplish that objective.⁵ Most recently, Senators Ted Cruz and John Cornyn introduced the *“Ensuring Public Safety’s Access to Airwaves Act of 2020,”* which would both repeal the T-Band take-back provisions and provide a substantial allocation of commercial spectrum that would promote the continued development of 5G wireless services. iCERT supports these legislative efforts.

³ See Comments of The County of Los Angeles, California, Comments of the City of New York, Comments of the Boston Fire Department, and Comments of the National Public Safety Telecommunications Council (NPSTC), in response to FCC 20-89, Aug. 31, 2020.

⁴ See Comments of T-Mobile USA, Inc. at 2, Comments of Verizon 1, and Comments of the National Association of Broadcasters at 1-2.

⁵ See H.R.451 and S.2748, *“Don’t Break Up the T-Band Act.”* H.R. 451 passed the House on Sept. 23, 2020.

Notwithstanding the T-Band's critical importance to Public Safety and strong support for repeal of provisions requiring Public Safety to vacate the band, we recognize the FCC's statutory mandate to reallocate and auction the spectrum, absent further action from Congress. If Public Safety entities are to be relocated from the T-Band, however, the relocation process should be managed in a way that ensures the continued availability of mission critical communications for first responders. This requires the Commission to address several key issues.

First, Public Safety entities should only be relocated if provided with comparable facilities that will ensure continuation of mission critical communications for first responders. iCERT supports the FCC's proposed definition of "comparable facility" as a replacement system that is at least equivalent to the Public Safety's existing T-Band system with respect to system, capacity, quality of service, and operating costs. Importantly, the ability to provide comparable facilities starts with the identification of adequate and suitable spectrum that will support any relocated systems. iCERT is unaware of any spectrum band currently available that would meet this requirement. We agree with the Government Wireless Technology & Communications Association that the FCC should undertake a thorough review of suitable alternative spectrum and that such spectrum must have the characteristics that will make it suitable for mission critical Public Safety communications.⁶

Second, the FCC's compensation regime should provide for recovery of all reasonable costs associated with relocation including planning and administrative costs. While the FCC should require affected Public Safety entities to provide sufficient evidence to support its cost recovery claims, the FCC should avoid setting arbitrary caps on costs that might impose an undue financial burden on such entities. State and Local Government agencies are already faced with significant funding challenges, made worse in the face of the current pandemic, and the FCC's implementation of the T-Band reallocation provisions should not result in an unfunded mandate imposed on these agencies.

Third, the T-Band should only be repurposed if the net winning bids for the spectrum licenses auctioned exceed the total estimated relocation costs nationwide for all Public Safety T-Band

⁶ See Comments of The Government Wireless Technology & Communications Association at 2.



licensees operating in the spectrum. This includes any Public Safety licensees operating under waiver. While iCERT does not take a position on whether the law requires such licensees to be cleared from the band, we believe that the critical importance of interoperability argues in favor of a uniform and consistent approach. Relocating some Public Safety entities from the T-Band, while allowing others to remain would undermine the interoperability goals that are critical to Public Safety communications and could strand some systems in bands that may not be supported by vendors over the long term.

In summary, iCERT supports efforts to retain the T-Band spectrum for Public Safety's use and urges Congress to act promptly to repeal those statutory provisions requiring the band to be reallocated. If Congress fails to act, iCERT urges the FCC to ensure that its actions support the continuity of Public Safety's mission critical communications. This includes providing Public Safety licensees with comparable facilities and fully compensating them for all costs associated with relocation.

Respectfully submitted,

/s/ Kim Robert Scovill

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