



September 27, 2019

Ex Parte

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

Re: *Unlicensed Use of the 6 GHz Band, ET Docket No. 18-295; Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Order and Notice of Proposed Rulemaking, GN Docket No. 18-122; 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; Petition for Waiver to Allow Deployment of Intelligent Transportation System Cellular Vehicle to Everything (C-V2X) Technology, GN Docket No. 18-357*

Dear Ms. Dortch:

On September 25, 2019 Michael Calabrese, representing the Open Technology Institute at New America (OTI), met with William Davenport, Chief of Staff and Senior Legal Advisor to Commissioner Geoffrey Starks, with reference to the above-listed proceedings.

With respect to the underutilized **C-band spectrum at 3700-4200 MHz**, I reiterated the opposition of the Public Interest Spectrum Coalition (PISC) to any form of private sale or privately-run auction. I noted that OTI's comments filed in response to the first C-band *Public Notice* provides a legal analysis demonstrating it would be a violation of Section 309(j) if the Commission authorized any mechanism other than a FCC-administered public auction regardless of whether a private auction was conditioned on FCC-like protections and/or a contribution of some share of revenue to the Treasury.¹

I noted that both PISC and the Broadband Connects America coalition, in their respective filings, strongly supported the Commission's proposal to authorize point-to-multipoint (P2MP) fixed wireless broadband providers to coordinate shared use of the upper portion of the band that remains allocated to the Fixed Satellite Service. I further noted that the Reed Engineering Study filed by WISPA, Microsoft and Google conclusively demonstrates the feasibility of coordinated sharing between fixed point-to-multipoint (P2MP) operators and existing earth stations on *every megahertz* of the ongoing FSS band in a majority of rural, Tribal and small town communities where it's most needed. The Reed Study further confirms that

¹ See Comments of the Open Technology Institute at New America, Public Notice, *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Order and Notice of Proposed Rulemaking*, GN Docket No. 18-122, at 15-17 (July 3, 2019).

coordinated access to unused spectrum in the 3.7-4.2 GHz band can serve as the foundation for high-capacity fixed wireless broadband services in most rural and underserved areas with no harmful interference to incumbent FSS licensees.²

With respect to the **6 GHz proceeding**, I reiterated key points in comments and reply comments that OTI filed on behalf of the Public Interest Organizations. Consumer and rural broadband advocates strongly support the Commission's proposal to authorize unlicensed sharing across the entire 1,200 megahertz from 5925 to 7125 MHz. However, we also strongly believe significant improvements to the NPRM's proposal are necessary for Wi-Fi and other unlicensed technologies to keep pace with consumer demand in a 5G world. The PIOs urged the Commission to authorize low power, indoor-only unlicensed use across the U-NII-5 and U-NII-7 band segments without the cost and complexity of AFC coordination.

I also reiterated OTI's strong opposition to mobile industry proposals to clear and auction the U-NII-6, U-NII-7 and/or U-NII-8 band segments for exclusive licensed use.³ In addition to being extraordinarily undeveloped and infeasible, the mobile industry proposal would undermine the emerging 5G wireless ecosystem by crippling Wi-Fi 6. This would make connectivity, particularly indoors for home and small business use, far less useful and more expensive than it would be under the Commission's pending proposal. The mobile industry would at best delay Commission action to expand use of available spectrum capacity in the 6 GHz band for as long as a decade. The first step alone – a study by NTIA and a consensus among federal incumbents to vacate or share the band – would take several years.

With respect to the **5.9 GHz band**, I expressed OTI's concern that a vote on the Further Notice of Proposed Rulemaking, originally anticipated for the June meeting, has been unduly delayed. I noted that the Public Interest Organizations (PIOs), in comments opposing 5GAA's self-styled "Petition for Waiver," urged the Commission to take a fresh look at the best use of the entire 5.9 GHz band through a FNPRM that strongly considers relocating V2X safety applications to another band, such as the grossly underutilized 4.9 GHz public safety band. The relocation of CV2X safety applications and the authorization of contiguous, very wide-channel unlicensed access across the entire U-NII-3, U-NII-4 and U-NII-5 bands would be a win-win for consumers who will benefit immediately from fast and affordable Wi-Fi 6 connectivity and down the road from more secure auto safety communications.

Respectfully submitted,

/s/ Michael Calabrese
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cc: William Davenport

² See Comments of the Public Interest Spectrum Coalition, Public Notice, *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Order and Notice of Proposed Rulemaking*, GN Docket No. 18-122, at 15-17 (August 7, 2019)..

³ See, e.g., Reply Comments of Ericsson, ET Docket No. 18-295 (March 18, 2019); Reply Comments of CTIA, ET Docket No. 18-295, at 7-11 (March 18, 2019); Reply Comments of Verizon, ET Docket No. 18-295, at 5-11 (March 18, 2019); Reply Comments of T-Mobile USA Inc., ET Docket 18-295, at 7-9 (March 18, 2019); Comments of Ericsson, ET Docket No. 18-295 (Feb. 15, 2019).