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William H. Johnson
Senior Vice President
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November 1, 2019

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 October 30, 2019, Greg Romano and I, along with Adam Krinsky of Wilkinson Barker Knauer, LLP, met with General Counsel Tom Johnson and Office of General Counsel attorneys Ashley Boizelle, Deborah Broderson, Michael Carlson, Matthew Dunne, David Horowitz, and Bill Richardson.

We discussed the October 29th submission by AT&T Services, Inc., Bluegrass Cellular, the C-Band Alliance, Pine Belt Wireless, U.S. Cellular, and Verizon in this docket that identified key principles to guide an auction of C-band spectrum. Although the filers do not agree on all facets of how the proceeding should be resolved, the submission noted “there is strong consensus that all potential, qualified bidders should be welcome to participate and have clarity on the rules and procedures that will govern the sales and licensing process.”¹ In particular, auction procedures should be made public and transparent with FCC oversight; the auction should be open to all qualified bidders; the bidding process must be transparent; a portion of auction proceeds should be returned to the U.S. Treasury; and the auction process must be completed expeditiously, with an early tranche of spectrum cleared within 18 months of the FCC order and all spectrum cleared within 36 months from the time of auction.²

In addition, we discussed two “private auction” approaches identified in the record: the CBA approach and a secondary markets approach as explained by AT&T. We identified the legal paths for each option and explained that each option is legally defensible. Under the CBA approach, CBA members would enter into commercial spectrum clearing agreements for specific frequencies in defined market areas, and winning bidders would apply to the FCC for terrestrial,

¹ Letter from AT&T Services, Inc., Bluegrass Cellular, the C-Band Alliance, Pine Belt Wireless, U.S. Cellular, and Verizon to FCC, GN Docket No 18-122 (filed Oct. 29, 2019).

² *Id.* at Attachment.

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flexible-use licenses covering those specific frequencies in the defined market areas.³ This approach complies with the statutory exception to the Communications Act's auction provision, Section 309(j)(6)(E), which allows use of negotiation, threshold qualifications, and other means in the public interest to avoid creating mutual exclusivity. Under the secondary markets approach, the Commission would modify the CBA members' C-band authorizations to include terrestrial, flexible-use rights pursuant to Section 316, on the condition that the satellite operators sell the newly modified, flexible-use rights directly to interested parties under a private auction process.⁴ The satellite operators and winning bidders would then seek approval before the FCC pursuant to Section 310 of the Communications Act, as has been done in other contexts.⁵

We explained that the two approaches take different paths to the ultimate goal: helping facilitate deployment of 5G as quickly as possible through a private market transaction. And whichever process the Commission ultimately adopts could and should make use of the auction principles agreed to by stakeholders with divergent interests, as outlined above.

Sincerely,



William H. Johnson
Senior Vice President

cc: Tom Johnson
Ashley Boizelle
Deborah Broderson
Michael Carlson

Matthew Dunne
David Horowitz
Bill Richardson

³ See, e.g., C-Band Alliance Comments, GN Docket No. 18-122, at 30 (filed Oct. 29, 2018); Letter from CBA to FCC, GN Docket No. 18-122, at 6 (filed Feb. 6, 2019).

⁴ See, e.g., AT&T Reply Comments, GN Docket No. 18-122, at 2 (filed July 18, 2019).

⁵ See, e.g., *Application of Verizon Communications Inc. and Straight Path Communications, Inc.*, Memorandum Opinion and Order, 33 FCC Rcd 188 (WTB 2018) (approving Verizon's acquisition of Straight Path's various licenses).