



November 6, 2019

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, GN Docket No. 18-122; ET Docket No. 18-295

Dear Ms. Dortch:

On November 4, Gordon H. Smith, Patrick McFadden, and the undersigned, all of the National Association of Broadcasters (NAB) met with Chairman Ajit Pai and FCC Chief of Staff Matthew Berry. During this meeting, NAB discussed its positions with respect to expanded operations in the C-band.¹

Throughout this proceeding, NAB has emphasized the critical importance of preserving sufficient unencumbered C-band spectrum to avoid disruption of the existing content distribution ecosystem that serves nearly 120 million American households. C-band distribution is simply unmatched by alternatives in terms of reliability, ubiquity and simplicity. An outcome in this proceeding that eliminates or encumbers the C-band risks disrupting service to hundreds of millions of Americans who rely on it today. Accordingly, Commission officials have consistently recognized the importance of protecting services delivered using the C-band today.²

¹ *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Order and Notice of Proposed Rulemaking, GN Docket No. 18-122, GN Docket No. 17-183, FCC 18-91 (July 13, 2018).

² See, e.g., Letter from Chairman Pai to the Hon. John N. Kennedy, GN Docket No. 18-122 (Oct. 15, 2019) (“we want to ensure that the services that are currently using the C-Band will continue to be delivered to the American people.”); *Expanding Flexible Use of the 3.7-4.2 GHz Band*, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 6915, 7011 (2018) (Commissioner Michael O’Rielly stating “Third, any reallocation must fully protect the incumbent contractees that currently use C-band to bring many services to consumers. From my perspective, any final proposal that doesn’t do that will be close to a non-starter.”); *id.* at 7015 (Commissioner Jessica Rosenworcel stating, “Third, we need to acknowledge that these frequencies are used right now by television and radio broadcasters and cable operators to deliver programming to more than 100 million American households.”)

Within that framework, NAB and its members have worked diligently and constructively with other stakeholders to try to achieve some degree of consensus around a viable path forward. Our members have worked closely with the C-Band Alliance (CBA) to examine the potential of compression and other technologies to allow the successful reallocation of more than 200 MHz of spectrum while protecting content distribution. These potential modifications are not without risk – higher order modulation may decrease reliability and it remains to be seen whether the use of additional compression in a distribution architecture that already relies on compression will introduce additional visual artifacts that will detract from the viewing experience. Nevertheless, based on the accelerated timeframe of this proceeding and the perceived need to reallocate more than 200 MHz of spectrum, NAB and its members have well understood, and strived to accommodate, the need for flexibility and creativity.

There is no industry the Commission regulates that is more cognizant of and faithful to its public interest obligations than broadcasters. NAB is taking a lead role in negotiating the shared use of spectrum broadcasters currently use at 2025-2110 MHz with the Department of Defense (DOD), facilitating DOD's move out of the 1755-1780 MHz band. This allowed the Commission to include this spectrum in the AWS-3 auction, offering nationwide, paired spectrum that complemented carriers' existing portfolios. Broadcasters directly contributed to the success of this \$45 billion auction while receiving absolutely no benefit. We simply understood that being responsible and cooperative spectrum stewards is part of our ongoing obligation to the public. We have brought that same spirit of cooperation to this proceeding.

Broadcasters already share spectrum with unlicensed users pursuant to the TV White Spaces rules and are working with TVWS proponents to make those rules as robust as possible. Moreover, while other industries insist that innovation requires the constant allocation of additional spectrum, broadcasters are seeking to transition to the next generation of television within the existing television band. In contrast, to move to the next generation of wireless service, the wireless industry is yet again requesting hundreds of megahertz of unencumbered spectrum in this proceeding.

The Commission should bear these different approaches in mind in considering how to proceed. It would be frustrating to learn that our hard work in accommodating changes necessary to facilitate a larger spectrum reallocation in this proceeding was only be a stopgap measure on the path to eliminating satellite use across the entire band. If the Commission reallocates a portion of the C-band immediately, while also considering the reallocation of the rest of the band at a subsequent date, there will have been little point to the invasive and risky modifications we have been discussing. Broadcasters and content companies will have in good faith volunteered to shoehorn themselves into a smaller spectrum footprint only to risk having the rug pulled out from under them at a time and under circumstances entirely of someone else's choosing. An overlay auction of heavily used

spectrum, for example, would yield little return for the Treasury while also establishing that broadcasters and content providers could be forced off the C-band the moment winning bidders convinced international satellite providers to sell out.

Even if winning overlay bidders ultimately chose to clear spectrum only in major cities, where fiber is available, the resulting diminished C-band would not represent a sustainable business model to continue to serve broadcast television and radio stations away from major cities, leaving them entirely unprotected. This would put broadcasters in the same untenable position that would result from adoption of the misguided ACA/Charter/CCA proposal.

This approach is completely unnecessary. If the Commission finds it imperative to reallocate more mid-band spectrum for 5G, it need not confine itself to the C-band. For example, examining the potential to auction a portion of the 6 GHz band, rather than making the entire band available for unlicensed use, could potentially help make more mid-band spectrum available without sabotaging a critical component of the content ecosystem.

We hope the Commission will accept a win-win result that makes significant mid-band spectrum available while protecting the continued use of the C-band for content distribution, and we look forward to working with the Commission and other stakeholders to secure that outcome.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right.

Rick Kaplan
General Counsel and Executive Vice President,
Legal and Regulatory Affairs
National Association of Broadcasters

cc: Chairman Ajit Pai
Matthew Berry