

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Auction of Priority Access Licenses for)	AU Docket No. 19-244
The 3550-3650 MHz Band)	
Comment Sought on Competitive Bidding)	
Procedures for Auction 105)	
Bidding in Auction 105 Scheduled to Begin)	
June 25, 2020)	

REPLY COMMENTS OF NCTA – THE INTERNET & TELEVISION ASSOCIATION

There is near-universal agreement in the record that the Commission should decline to permit bidders in Auction 105 to bid at the Cellular Market Area (CMA) level for blocks in all of the counties comprising certain large CMAs.¹ The opposition to CMA-level bidding confirms NCTA—The Internet & Television Association’s (NCTA) previous advocacy arguing that permitting CMA-level bidding would dramatically increase the complexity of Auction 105 and introduce inefficiencies, among other unintended consequences that could jeopardize the success of the auction and the ultimate success of the 3.5 GHz band.² Moreover, as NCTA previously highlighted, the record demonstrates that permitting CMA-level bidding in the auction would undermine the public interest benefits that the Commission identified in adopting counties as the geographic license areas for Priority Access Licenses (PALs) and disrupt the careful balance the

¹ See *Auction of Priority Access Licenses for the 3550-3650 MHz Band; Comment Sought on Competitive Bidding Procedures for Auction 105; Bidding in Auction 105 Scheduled to Begin June 25, 2020*, Public Notice, FCC 19-96, AU Docket No. 19-244, ¶¶ 29-33 (Sept. 27, 2019) (Public Notice). Unless otherwise noted, all referenced to Comments are those filed in AU Docket No. 19-244 on October 28, 2019.

² See Letter from Danielle J. Piñeres, NCTA, to Marlene H. Dortch, Secretary, FCC, AU Docket No. 19-244 (Oct. 15, 2019); Comments of NCTA—The Internet & Television Association (NCTA Comments).

Commission struck by licensing PALs at the county level. Instead, the Commission should adopt a county-based clock auction without CMA-level bidding, which would result in a simple and powerful auction that is well-understood, low-risk, and proven to be successful.

I. THE RECORD AFFIRMS THAT CMA-LEVEL BIDDING WOULD PRODUCE UNINTENDED, DETRIMENTAL CONSEQUENCES THAT WOULD JEOPARDIZE THE AUCTION’S SUCCESS

In the *2018 3.5 GHz Order* (Order), the Commission stated that it would “seek comment in the pre-auction process on allowing package bids to facilitate bidding for the counties that comprise a complete MSA in the top 305 markets.”³ The prudence of the Commission’s decision to seek further comment on this complex issue before making a final decision is borne out by the initial round of comments submitted in response to the Public Notice. Nearly every commenter – both large and small – expressed concern about the detrimental effects that CMA-level bidding would have on the auction,⁴ and many explicitly urged the Commission to

³ *Promoting Investment in the 3550-3700 MHz Band*, Report and Order, 33 FCC Rcd. 10,598, ¶ 40 (2018) (2018 3.5 GHz Order). T-Mobile’s argument that any objections to allowing CMA-level bidding are “untimely” and “contrary to the spirit, if not the wording of the *2018 3.5 GHz Order*” are not supported by anything within the four corners of the Order, which clearly directed that the “proposed procedures for the auction . . . include specific procedures for a form of package bidding” and “seek[] comment on . . . *possibly* using package bidding for all of the counties in an MSA.” See Comments of T-Mobile USA, Inc. at 8-9; 2018 3.5 GHz Order ¶ 40 (emphasis added).

⁴ See Comments of American Petroleum Institute at 1-2 (API Comments); Comments of AT&T Inc. at 2-6; Comments of Blooston Rural Carriers at 4-5; Comments of California Internet, L.P. DBA GeoLinks at 2-4 (GeoLinks Comments); Comments of Competitive Carriers Association at 4-9 (CCA Comments); Comments of Dynamic Spectrum Alliance at 2-12 (DSA Comments); NCTA Comments at 5-17; Comments of the National Rural Electric Cooperative Association at 3-5 (NRECA Comments); Comments of New America’s Open Technology Institute at 5-10 (OTI Comments); Comments of NTCA – The Rural Broadband Association at 1-2; Comments of the Rural Wireless Association at 3-9 (RWA Comments); Comments of Southern California Edison at 1-2 (SCE Comments); Comments of Southern Linc at 3-10 (Southern Linc Comments); Comments of Verizon at 2-6 (Verizon Comments); Comments of Wireless Internet Service Providers Association at 3-6 (WISPA Comments).

instead utilize only county-level bidding.⁵

The initial comments reflect widespread agreement that CMA-level bidding would undermine the public interest benefits the Commission identified, and disrupt the careful balance the Commission struck, when adopting county-sized licenses for PALs.⁶ For instance, New America’s Open Technology Institute (OTI) states that CMA-level bidding “would directly undermine [the] statutory goals [of Section 309(j)] by pricing out smaller WISPs and new market entrants, further solidifying the concentrated power of the major carriers, [and] stifling alternative business models.”⁷ And commenters agree that the costs associated with such disruption are likely to far outweigh any potential benefits of allowing CMA-level bidding because, as WISPA recognizes, “bidders . . . do not need CMA-level bidding in order to assemble spectrum blocks across multiple counties.”⁸

The record also reflects substantial concern about inefficient auction outcomes and unintended, detrimental consequences that would result from CMA-level bidding and compromise the success of the auction. Verizon, OTI, Southern Linc, WISPA, and CCA all echo NCTA’s concern that CMA-level bidding would lead to price steering, artificially high pricing

⁵ See CCA Comments at 2; GeoLinks Comments at 6; DSA Comments at 2; OTI Comments at 16; NCTA Comments at 12-13; NRECA Comments at 5 (“[T]he Commission should adopt a uniform bidding format and not adopt its proposal for CMA-level bidding.”); Southern Linc Comments at 10; WISPA Comments at 6.

⁶ NCTA Comments at 2-4; CCA Comments at 2-3; DSA Comments at 3-4; Southern Linc Comments at 8-9; OTI Comments at 10-16.

⁷ OTI Comments at 12-13.

⁸ WISPA Comments at 3; *see also* GeoLinks Comments at 3 (“CMA-level bidding is simply not needed for bidders to obtain PALs across an aggregation of counties.”); DSA Comments at 10-11 (“The . . . CMA-level bidding proposal is a solution in search of a problem.”); OTI Comments at 8 (“Nor does CMA-level bidding ease any major burden on the national and regional mobile carriers most likely to select that form of bidding.”).

for blocks, and desired blocks left unsold.⁹ Verizon also explains that CMA-level bidding “would reduce bidder flexibility, add unnecessary complexity to an already-complex auction, and have unintended consequences including the potential for inviting mischief.”¹⁰ Many other commenters also highlight that permitting CMA-level bidding would likely create a unnecessarily complex auction in which fewer and less diverse bidders participate.¹¹ They similarly stress that CMA-level bidding would reduce opportunities for entities, including small and rural businesses, to acquire licenses in desired areas, thereby decreasing the likelihood that the entire 3.5 GHz band will be put to its highest and best use.¹² For example, RWA illustrates that “the Commission’s current package bidding proposal will unfairly disadvantage small and rural entities bidding on certain rural counties.”¹³ WISPA similarly explains that “a small WISP

⁹ CCA Comments at 7-9; OTI Comments at 7-8; Southern Linc Comments at 7-8; Verizon Comments at 3-6; WISPA Comments at 4-5; *see also* SCE Comments at 1 (“[T]he allowance of CMA bidding in this auction . . . causes prices for individual counties to increase artificially.”).

¹⁰ Verizon Comments at 2-3. For example, Verizon highlights that CMA-level bidding would compromise the predictability of the auction “by layering complexity on its standard ‘no excess supply’ rule and clock price increment procedure.” *Id.* at 5

¹¹ *See, e.g.*, API Comments at 1-2 (“CMA-level bidding rules further reduce the ability of any entity other than a large commercial carrier to obtain CBRS PAL licenses.”); SCE Comments at 2 (“The greater the complexity and inscrutability of the auction procedures, the more ordinary citizens are deterred from participating.”); WISPA Comments at 5 (“CMA-level bidding combined with county-level bidding would create bidding complexity favoring those large companies that can afford to engage the limited number of economists and game theorists to advise them.”).

¹² *See, e.g.*, GeoLinks Comments at 2 (“Smaller bidders, for example, may seek only one county within a CMA based on its unique characteristics If that county is part of a packaged CMA, the smaller provider may be disincentivized from bidding.”); NRECA Comments at 1 (“[CMA-level] bidding will result in reduced opportunities for entities seeking to serve counties in exurban areas at the edge of many CMAs and may prejudice the participation of certain parties in the PAL auction.”); OTI Comments at 6.

¹³ RWA Comments at 9.

that desires only the rural county in the CMA would face higher prices from a deep-pocketed bidder and have little or no chance of obtaining PAL spectrum.”¹⁴

In contrast, commenters highlight that an auction design in which bidders bid only at the county-level would result in a simpler, predictable, more successful auction. RWA states that “county-based bidding for PALs will simplify bidding and incentivize rural providers to participate in the 3.5 GHz band auction.”¹⁵ WISPA similarly notes that “simplifying the auction to allow only county-level bids would, for many bidders, eliminate their disadvantage because they will not need to account for the complexities and strategies involved with having both CMA-level and county-level bidding.”¹⁶

¹⁴ WISPA Comments at 4.

¹⁵ RWA Comments at 3; *see also* DSA Comments at 11 (“[T]he Commission should seize this opportunity to establish uniform, reasonable procedures for auctioning this critical mid-band spectrum on a county-by-county basis.”).

¹⁶ WISPA Comments at 5-6.

II. CONCLUSION

For the numerous reasons cited by NCTA and the vast majority of other initial commenters, the Commission should decline to adopt CMA-level bidding. This approach would increase complexity, introduce significant inefficiencies, and produce a host of unintended and detrimental consequences that could jeopardize the success of the auction, and the ultimate utilization of the 3.5 GHz band. Instead, the Commission should adopt a clock auction with only county-level bidding.

Respectfully submitted,

/s/ Rick Chessen

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