



Competitive Carriers Association
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May 8, 2015

VIA ECFS

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

RE: NOTICE OF EX PARTE

WT Docket No. 14-170: *Updating Part 1 Competitive Bidding Rules*

GN Docket No. 12-268: *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*

RM-11395: *Petition of DIRECTV Group, Inc. and EchoStar LLC for Expedited Rulemaking to Amend Section 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or Interim Conditional Waiver*

WT Docket No. 05-211: *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*

Dear Ms. Dortch:

On May 6, 2015, Steven K. Berry, Rebecca Murphy Thompson and Tim Donovan of Competitive Carriers Association (“CCA”) met with Roger Sherman, Jim Schlichting, Jean Kiddo, Sue McNeil, Johanna Thomas, Joel Taubenblatt, Margaret Wiener, Patrick Donovan, Michael Janson and Kelly Quinn (via telephone) of the Federal Communications Commission’s (“FCC” or “Commission”) Wireless Telecommunications Bureau (the “Bureau”). During the meeting, CCA discussed generally the Bureau’s most recent Public Notice released in the above-referenced proceeding.¹

CCA’s membership includes more than 100 competitive wireless providers, most of whom are small businesses. CCA noted during the meeting that small businesses are critical to fostering a competitive wireless industry broadly, and specifically a more competitive incentive auction. Smaller carriers drive innovation in the marketplace, help to lower prices and provide consumers with additional choice. In addition, recent spectrum auctions also demonstrate that smaller carrier participation brings with it enhanced revenues. In Auction 73, smaller carriers paid almost \$2 billion for licenses, and also bid a combined \$1.2 billion on licenses which winning bidders paid \$1.6 billion to obtain, delivering an additional \$400 million in revenue that wouldn’t have materialized but for their participation. Similarly, in Auction 97 small bidders paid almost \$11 billion for licenses. For all of these reasons, it is imperative that the Commission improve its designated entity (“DE”) program to reflect the current state of the wireless industry.

¹ Public Notice, *Request for Further Comment on Issues Related to Competitive Bidding Proceeding; Updating Part 1 Competitive Bidding Rules*, WT Docket No. 14-170; GN Docket No. 12-268; RM-11395; WT Docket No. 05-211, FCC 15-49 (rel. Apr. 17, 2015).

While we did not discuss specific proposals, CCA recommended guiding principles grounded in the statute to refine the DE program, including promoting competition, establishing safeguards to protect the public interest, and adopting rules of general applicability. The Communications Act, as amended, directs the FCC to establish safeguards that protect the public interest in conducting spectrum auctions and issuing licenses. Specifically, Section 309(j) states that, in designing competitive bidding rules for spectrum auctions, the Commission should “promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women,” and “for such purposes, consider the use of tax certificates, bidding preferences, and other procedures”² Congress, in giving the Commission authority to conduct the upcoming incentive auction of 600 MHz spectrum, reaffirmed the Commission’s authority to adopt rules of general applicability for auction participation.³

While the largest providers will have no trouble accessing capital for the upcoming incentive auction,⁴ the Commission’s DE rules need to be structured in a way as to not detract investments in smaller entities. During the meeting, CCA discussed with the Bureau ways for the Commission to fulfill these statutory objectives, both through its DE rules and through its secondary market policies. CCA encouraged the Commission to modify its DE program to promote competition, while establishing safeguards that protect against abuse of the program so that it operates as Congress and the Commission originally intended. CCA also reiterated that, procedurally, the FCC must conduct a thorough application review, but this review process should not delay making spectrum—especially low-band spectrum—available to competitive carriers. Establishing tailored, bright-line rules prior to the start of the auction could help to speed the application review process.

In addition to small business benefits for auction participation, the Commission should also consider reforms to its secondary market policies to promote smaller entities’ access to spectrum. One possible solution is the proposal contained in the Rural Spectrum Accessibility Act, which would offer carriers an extension of their license term to a license holder that partitions or disaggregates unused portions of its spectrum to small carriers or carriers to serve a rural area.⁵

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission’s rules. Please do not hesitate to contact me with any questions or concerns.

² 47 U.S.C. § 309(j)(3); 309(j)(4)(D).

³ See Middle Class Tax Relief and Job Creation Act of 2012 § 6404, 47 U.S.C. § 309(j)(17) (2014).

⁴ See Kagan Media Appraisals, *Can the FCC Attract a Full House for the 2016 Broadcast Incentive Auction?* (Feb. 11, 2015) (finding that both AT&T and Verizon will be interested in and financially prepared for the auction, and that “whenever the Incentive Auction takes place, the combination of surging wireless usage and demand, the desire to protect their franchises, the added foreclosure value of getting control of limited spectrum resources, the lure of low-band spectrum and the plans for generating new and lucrative cross-platform revenue streams should be irresistible drivers for the carriers to be there and bid hard for the spectrum that suits their needs.”)

⁵ See Rural Spectrum Accessibility Act of 2015, S.417.

Respectfully submitted,

/s/ Rebecca Murphy Thompson

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cc: Roger Sherman
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