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Ex Parte

VIA ECFS

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Policies Regarding Mobile Spectrum Holdings, WT Docket No. 12-269

Dear Chairman Wheeler:

T-Mobile, Sprint, and DISH continue to demand that the Commission increase the set-aside of spectrum in the incentive auction. They have flooded the record and papered Congress with pleas for more taxpayer-discounted spectrum. Their request is always the same: enlarge the set-aside and further limit the ability of AT&T and Verizon to participate in the auction. T-Mobile, Sprint, and DISH are all large corporations with multibillion dollar market caps. Each can more than afford to pay taxpayers market value for spectrum, and none needs a special set-aside that removes licenses from open and competitive bidding.

Recent developments demonstrate that, if anything, the set-aside to benefit certain favored competitors should be eliminated, not increased.

First, Sprint has suggested publicly that it may not participate at all in the incentive auction. At a recent investor's conference, Sprint's Chief Financial Officer, Joe Euteneuer, was equivocal at best about Sprint's participation. Directly questioned by Phil Cusick, Mr. Euteneur suggested Sprint did not really need spectrum from the incentive auction for indoor use given the pervasiveness of WiFi deployment.[1] When pressed, he said, "[a]nd I think the 600 MHz auction

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[1] Thomson Reuters StreetEvents Edited Transcript, "Sprint Corp at JPMorgan Global Technology, Media and Telecom Conference" (May 19, 2015) at 13.

is something that we are looking at but not necessarily something we need to do."[2] If Sprint is out of the game, it cannot serve as a legitimate counterweight and competitor to T-Mobile and DISH. Fewer entities vying for the set-aside licenses will depress bidding. The result would be below-market winning bids, less spectrum made available by broadcasters for commercial use, and lower revenues for taxpayers.

Second, *The Wall Street Journal* reports that T-Mobile and DISH are discussing a billion-dollar merger,[3] which neither company has denied. The article indicated that people close to the deal are even proposing the new company's leadership structure: "[t]he two sides are in close agreement about what the combined company would look like, with DISH's Chief Executive Charlie Ergen becoming the company's chairman and his T-Mobile counterpart, John Legere, serving as the combined company's CEO."[4] And, just a few days ago, there were reports that DISH is actively seeking funding to purchase T-Mobile.[5] The merger would further reduce the number of competitors for the set-aside licenses. The combined entity would be a large, well-funded competitor that would overwhelm all other potential bidders for the set-aside spectrum. That would allow it to steal away with still more spectrum at below market prices in addition to DISH's effort to claim a taxpayer-funded $3 billion windfall in the AWS-3 auction.

Third, a combined T-Mobile/DISH would possess a large inventory of warehoused spectrum that has never been put to use to meet consumers' mobile broadband needs. As the chart below shows, the merged entity would have the second largest spectrum inventory in the United States after Sprint. It would have more than two times the spectrum per customer that AT&T has and three-and-a-half times that of Verizon.

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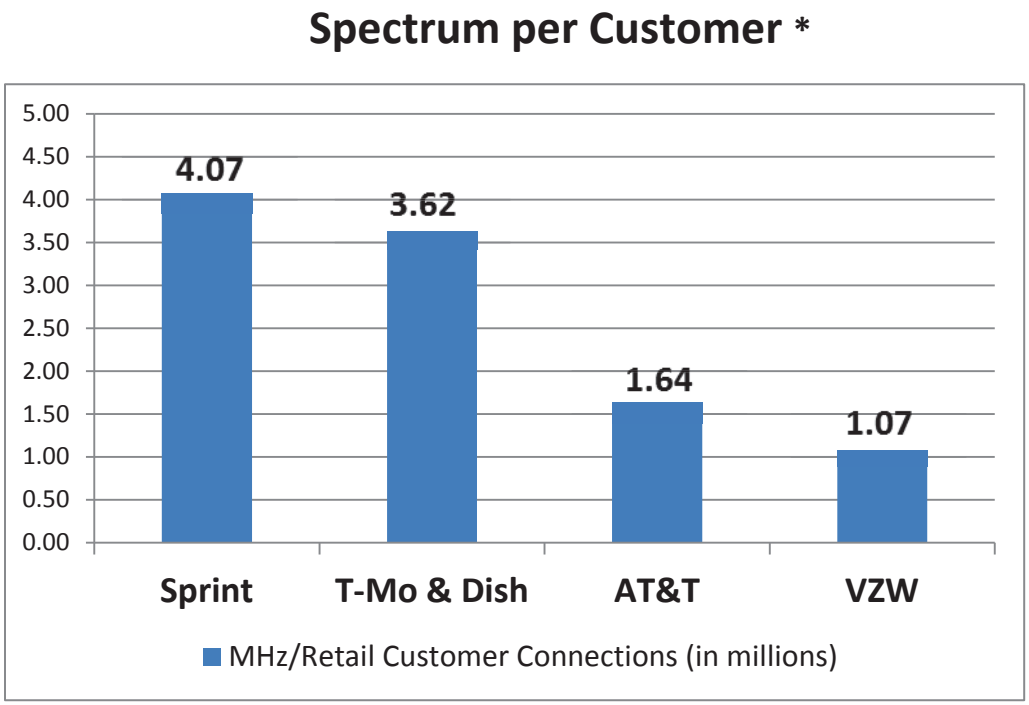
[2] *Id* at 14.

[3] Ryan Knutson, Thomas Gryta and Shalini Ramachandran, The Wall Street Journal, "Dish Network in Talks to Merge with T-Mobile --- Deal would accelerate a wave of consolidation and solve strategic issues for both firms" (June 4, 2015), available at http://www.wsj.com/articles/dish-network-in-merger-talks-with-t-mobile-us-1433383285?KEYWORDS=Dish+Network+In+Talks+to+Merge

[4] *Id.*

[5] Julie Sabino, HNGN, "Dish, T-Mobile Merger Report: Dish Looking for Banks to Fund $10-$15 Billion Bid for T-Mobile" (June 14, 2015), available at http://www.hngn.com/articles/100902/20150614/dish-t-mobile-merger-report-looking-banks-fund-10-15.htm



Sources: Carriers' Q1 2015 Financial Statements; Wells Fargo "Wireless Spectrum Primer" Report

* Number of MHz available to serve each million retail customer connections as reported in carriers' 1Q Earnings Reports.

Finally, all the chatter from those who want further government handouts is a distraction from the intended purposes of the incentive auction: to encourage broadcasters to bring much-needed spectrum to market, to put that spectrum in the hands of companies that will use it to meet consumers' growing mobile broadband demands, and to generate the most revenue possible for U.S. taxpayers. An auction that creates set-asides fails to meet these fundamental goals. It limits open competition, discourages broadcasters, and slashes revenues for taxpayers.

Given these realities, the Commission should reverse course. Rather than increasing the set aside to grant additional taxpayer funded favors to favored competitors, it should get rid of the set-aside and instead hold an open and competitive auction that will release as much spectrum into the

market as possible and allow consumers to reap the benefits of fast, ubiquitous mobile broadband in the global-leading U.S. mobile marketplace.

Sincerely,

cc: Commissioner Mignon Clyburn
Commissioner Michael O'Rielly
Commissioner Ajit Pai
Commissioner Jessica Rosenworcel