



June 19, 2015

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
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; *Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002*; AU Docket No. 14-252

Dear Ms. Dortch:

Mobile Future¹ continues to oppose any increase in the spectrum set-aside in the incentive auction. The FCC should not restrict competition in the auction to support the business plans of T-Mobile, Sprint, and DISH and lower their costs of doing business. Shielding large corporations from open and competitive bidding will lead to lower auction proceeds and reduced incentives for broadcasters to participate. The result will be that the Commission fails to fulfill the Spectrum Act's central objective, which is to reclaim a meaningful amount of spectrum to meet the ever-increasing consumer demand for mobile broadband.

The Commission already decided to set aside 30 MHz of spectrum for certain carriers. T-Mobile's recent filing yet again revisits settled policy decisions without presenting any new

¹ For more information about Mobile Future's mission, research, programs, and membership, see www.mobilefuture.org.

facts, data or logic to support a larger set-aside.² If anything, the Commission should eliminate the set-aside to stimulate more robust competition among all bidders rather than reserve spectrum for a select few.

T-Mobile and Sprint Can Compete for All Spectrum Offered in the Incentive Auction

T-Mobile has failed to demonstrate the need for any spectrum set-aside, let alone a larger one. While it bemoans an alleged lack of access to spectrum, in reality, T-Mobile has the opportunity to acquire both reserved and unreserved 600 MHz spectrum in every PEA. And T-Mobile has the financial wherewithal to buy that spectrum. In sharp contrast to the company's woe-is-me refrain, T-Mobile and its parent company have a combined market capitalization of approximately \$90 billion.³ If the rumors about a possible merger with DISH are true, the combined companies' financial and spectrum resources increase significantly. The DISH affiliates, SNR and Northstar, also proved they were willing and able to compete for spectrum without set-asides, submitting gross winning bids in the recent AWS-3 auction in excess of \$13 billion. And Sprint has the resources to compete as well, with the combined market capitalization for the company and its parent Softbank exceeding \$70 billion.⁴ These companies can compete for all spectrum offered in the auction if they choose to do so.

T-Mobile also had many opportunities to buy low-band spectrum but failed to do so until recently. T-Mobile has no one but itself to blame for its supposed lack of low-band spectrum. T-Mobile chose not to participate in the 2008 700 MHz auction, instead choosing to focus its resources on the AWS-1 auction, fully aware of the propagation characteristics of AWS-1 spectrum and lower band spectrum. Consistent with the statute, the Commission's long-standing policies of open eligibility spectrum auctions have worked effectively to distribute spectrum resources to carriers of all size and scope.

Between 2007 and May 2013, over 2,000 licenses for low-band spectrum were exchanged on the secondary market.⁵ T-Mobile bought only one of them,⁶ making no real efforts during those six

² Letter from Neville Ray, Chief Technology Officer, T-Mobile USA, Inc. to Tom Wheeler, Chairman, Federal Communications Commission, GN Docket No. 12-268, WT Docket No. 12-269 (filed June 2, 2015) ("T-Mobile Letter").

³ T-Mobile US Inc., CNN Money (June 18, 2015), <http://money.cnn.com/quote/quote.html?symb=TMUS>; Deutsche Telekom AG, CNN Money (June 18, 2015), <http://money.cnn.com/quote/quote.html?symb=DTEGY>.

⁴ Sprint Corp., CNN Money (June 18, 2015), <http://money.cnn.com/quote/quote.html?symb=S>; Softbank Corp., CNN Money (June 18, 2015), <http://money.cnn.com/quote/quote.html?symb=SFTBY>.

⁵ Leslie M. Marx, *Economic Analysis of Proposals that Would Restrict Participation in the Incentive Auction*, ¶ 40 (Sept. 28, 2013), available at <http://apps.fcc.gov/ecfs/document/view?id=7520944358>.

years to improve its low band spectrum holdings. Since early 2014, T-Mobile has been motivated to buy low band spectrum and acquired on the secondary market 700 MHz spectrum covering 190 million Americans or about 62 percent of the U.S. population.⁷ Of course, Sprint already holds nationwide spectrum in the 800 MHz band as a result of its acquisition of Nextel⁸ – proving that the secondary market also can work to get spectrum in the hands of those who pursue it.

T-Mobile Continues to Recycle the Same False Assertions

T-Mobile continues to misstate the facts about the competitive landscape. First, T-Mobile again claims that Verizon and AT&T were given much of their low-band spectrum holdings for free. But AT&T acquired nearly 97 percent of its low-band spectrum holdings at auction or through secondary market transactions⁹ and Verizon similarly paid for the vast majority of its low-band spectrum holdings. Second, T-Mobile claims that AT&T and Verizon foreclosed other “direct competitors” and “facilities-based wireless carriers” during the recent AWS-3 auction.¹⁰ Notably, T-Mobile does not argue that AT&T and Verizon prevented all other auction participants from placing winning bids in the auction, an impossible assertion in light of the DISH affiliates’ \$13 billion in gross winning bids on a total of 44% of all licenses offered in the auction.¹¹ T-Mobile’s use of the narrow terms “direct competitors” and “facilities-based wireless carriers,” instead of a more inclusive term such as “auction participants,” seems intended to suggest that Verizon and AT&T somehow selectively targeted and outbid other wireless carriers with whom they compete, but that would be impossible under the Commission’s anonymous bidding procedures.¹² More importantly, T-Mobile itself outbid Verizon for licenses on a 2:1 basis.¹³

⁶ *Id.*

⁷ Phil Goldstein, *T-Mobile Hopes to Deploy LTE in All of its 700 MHz A Block Spectrum This Year*, Fierce Wireless (Mar. 19, 2015), <http://www.fiercewireless.com/story/t-mobile-hopes-deploy-lte-all-its-700-mhz-block-spectrum-year/2015-03-19>.

⁸ *Applications of Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967 (2005).

⁹ Joan Marsh, *Old Whine in New Bottles*, AT&T Public Policy Blog (April 29, 2015), <http://www.attpublicpolicy.com/fcc/old-whine-in-new-bottles/>; *Ex Parte* Letter of AT&T, *Expanding the Economics and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12- 268 (filed May 2, 2014).

¹⁰ T-Mobile Letter at 2.

¹¹ *Ex Parte* Letter of Mobile Future, *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 (filed April 2, 2015).

¹² *Auction of Advanced Wireless Services (AWS-3) Licenses Scheduled for November 13, 2014*, AU Docket No. 14-78, Public Notice, 29 FCC Rcd 8386, 8429-30, 8448 ¶¶ 150, 226 (2014)

Commission Policy Should Encourage Companies to Invest in their Networks

Verizon and AT&T have spent billions purchasing spectrum and building out top rate mobile networks and have competed aggressively for years based on network quality, coverage and capacity. That requires investment in infrastructure and spectrum. AT&T and Verizon have also built nationwide networks covering more remote parts of the nation while Sprint and T-Mobile have deliberately avoided these areas, despite having significant spectrum holdings. While T-Mobile claims that it will use reserved 600 MHz spectrum to build out in rural areas, the company's prior decisions not to deploy in more remote parts of the country offer no reason to believe this trend will change. The Commission should not give reserve eligible bidders spectrum at a discount without requiring the companies to follow through on their promises. Therefore, if the Commission retains the spectrum reserve, it should impose more stringent buildout requirements, including a requirement that reserve licensees cover a percentage of the area of a PEA rather than simply a percentage of the population.

Punishing companies for timely and effectively rolling out service to subscribers and maintaining their subscriber bases by restricting their ability to obtain the spectrum needed to serve those customers would inject perverse incentives into the marketplace. With the demand for mobile broadband increasing rapidly, it is imperative that all companies have an equal opportunity to acquire the spectrum they need in all markets to keep up with soaring consumer data demands. Further, increasing a set-aside that is unnecessary in the first place, and thereby further reducing competition in the forward auction, would send a message to broadcasters in direct conflict with the Commission's ongoing efforts to attract broadcaster participation in the auction and benefit the broader public interest. The Commission must avoid taking steps that could further undermine the very purpose of the auction and decrease the overall amount of spectrum repurposed for mobile broadband use.

Sincerely,

/s/ Jonathan Spalter
Jonathan Spalter, Chairman
MOBILE FUTURE
1325 Pennsylvania Avenue, N.W., Suite 600
Washington, DC 20004
(202) 756-4154
www.mobilefuture.org

(Because the Commission withheld the identities of bidders until the conclusion of the auction, it would be impossible for one participant to foreclose certain bidders but not others.)

¹³ *Id.*; Kathleen Grillo, "The Real Lesson of the AWS-3 Auction," *Verizon Policy Blog* (Mar. 10, 2015), available at <http://publicpolicy.verizon.com/blog/entry/the-real-lesson-of-the-aws-3-auction>.