



November 16, 2015

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Oral *Ex Parte* Presentation

OET and Wireless Telecommunications Bureau Seek Information on Current Trends in LTE-U and LAA Technology, ET Docket No. 15-105

Dear Ms. Dortch:

On November 12, 2015 Michael Calabrese of New America's Open Technology Institute (OTI) met with Louis Peraertz, wireless counsel to Commissioner Mignon Clyburn, concerning the above-referenced proceeding.

OTI's representative expressed appreciation for the Commission's recent Notice of Apparent Liability for Forfeiture (NALF) in the matter of M.C. Dean, Inc. OTI strongly concurs with the Commission's clarification in the NALF that Section 333 prohibits the intentional or willful blocking, disruption or degradation of personal Wi-Fi hotspots. Calabrese noted that a robust and context-dependent application of Section 333 is an important backstop against the potentially disruptive and anti-competitive introduction of license-anchored LTE technologies into the unlicensed bands, as has been proposed by companies participating in the LTE-U Forum. He emphasized that even if Section 333 is aggressively enforced, post hoc enforcement could never be as efficient or effective as prospective Commission action that ensures coexistence and heads off any anti-competitive behavior before it undermines the burgeoning public interest benefits of unlicensed Wi-Fi.

Calabrese summarized the concerns that OTI and other consumer advocacy groups raised in joint comments filed last June in response to the Commission's Public Notice in Docket No. 15-105.¹ The OTI representative highlighted concerns that mobile carriers have both the ability and strong incentives to use LTE-U to engage in anti-competitive behavior harmful to consumers, while for the

¹ See Reply Comments of OTI, Public Knowledge, Free Press and Common Cause, *OET and Wireless Telecommunications Bureau Seek Information on Current Trends in LTE-U and LAA Technology*, ET Docket No. 15-105 (June 26, 2015).

first time being able to charge consumers for the use of unlicensed spectrum. Carriers have powerful incentives to use LTE-U to deter mobile market entry by “Wi-Fi First” providers, such as wireline ISPs. LTE-U is designed to give individual carriers the option to adjust their access points to impose just enough latency on neighboring Wi-Fi users to frustrate consumer use of real-time applications, such as video calling, live music streaming and VoIP. Moreover, mobile carriers deploying LTE-U and LAA operators will entirely avoid the ill-effects of any resulting poor coexistence on unlicensed bands, since they can shift their users and traffic at will to their exclusive, licensed spectrum.

OTI also noted that several studies filed by parties (including Google, Broadcom and NCTA) suggest that whether or not the ongoing 3GPP process ultimately leads to a globally-standardized version of LTE on unlicensed (Licensed Assisted Access, or LAA) that can share fairly with Wi-Fi and other unlicensed technologies, the non-standard version of LTE-U that U.S. carriers plan to deploy next year coexists poorly with Wi-Fi. Accordingly, the OTI representative urges the Commission not to move forward with the certification of any LTE-U equipment until transparent and collaborative testing among the parties can establish that the technology will not unduly disrupt the Wi-Fi ecosystem so critical to making today’s mobile broadband data use both available and affordable for most consumers, as well as for schools and other institutions.

Respectfully submitted,

/s/

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cc: Louis Peraertz