



April 21, 2016

Ex Parte

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

Re: *Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band, ET Docket No. 13-49*
Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band, GN Docket No. 12-354

Dear Ms. Dortch:

On April 19, 2016 Michael Calabrese, director of the Wireless Future Program at New America's Open Technology Institute (OTI), met with Edward Smith, wireless legal advisor to Chairman Tom Wheeler, regarding the above-listed proceedings.

Concerning the Commission's ongoing proceeding to make next generation Wi-Fi possible by authorizing unlicensed use of all or a portion of **the proposed U-NII-4 band at 5.9 GHz** with the auto industry, the OTI representative inquired about the status of the refresh Public Notice that is currently on circulation. OTI believes the Commission must ask fundamental questions in the Public Notice about whether, after 16 years and no progress, there should be any prioritized allocation at all for DSRC going forward. Subsidizing the auto industry alone with free spectrum to compete with non-safety applications already being delivered over more efficient general purpose wireless networks is bad policy that contradicts FCC policy dating back to the Spectrum Policy Task Force.

I also suggested that even if the Commission cannot reach a final order this year with respect to the technical details around sharing the 5.9 GHz band between Wi-Fi and non-safety (and non-time-critical) DSRC operations, the Commission should nevertheless make a quick decision on rechannelization of the band based on a separation of the two or three DSRC channels that are necessary for time-critical public safety applications (e.g., vehicle-to-vehicle signaling). OTI has concluded in an in-depth report that the public interest is best served if the remainder of the band (40 or 45 megahertz) is

shared between DSRC non-safety applications and low-power unlicensed operations on an equal basis, enabling gigabit Wi-Fi.¹

With respect to the pending final order on implementation of the **3.5 GHz Citizens Broadband Radio Service**, I emphasized that PISC has strongly supported rules that facilitate robust opportunistic use of unused PAL spectrum on a GAA basis as critical to laying the foundation for dynamic and efficient sharing of unused capacity on underutilized bands. I also emphasized that in keeping with last year's historic Order and its 3-tier dynamic sharing framework, the Commission should certify only one or a very small number of Spectrum Access Systems that are truly open to all GAA and PAL users nationwide, that are fully transparent, and that are willing and able to optimize intensive sharing of the band. It is critical that the Commission continue to be clear about the distinction between a Spectrum Access System (SAS) – to which the FCC will delegate its authority as a band access manager – and the far larger number of two-tier “authorized spectrum access” (ASA) systems that individual operators may choose to deploy to coordinate their own deployments on PAL and/or GAA spectrum.

I noted further that OTI and PISC continue to **support PAL license terms shorter than three years and oppose any automatic renewal of licenses**, including for a second three-year term after the first round of auctions. Wireless carriers will continue to have wide-area licenses on an exclusive and indefinite basis. The CBRS, on the other hand, enhances spectrum efficiency, competition and innovation precisely because it is small cell, dynamic and does not allow licensees using today's technology to lock up exclusive spectrum rights over large areas for indefinite periods, or to warehouse spectrum to foreclose competitive entry. As the President's Council of Advisors on Science and Technology (PCAST) recommended in their 2012 report on spectrum and the economy, in the future we can have spectrum abundance and best serve the public interest using a three-tier framework with dynamic spectrum sharing and licenses that are short-term and limited in nature to paying for non-interference (as opposed to the traditional FCC model of paying to foreclose public use and competition). Moreover, even if the market operates to out-bid a PAL holder in the future, thanks to the Order's interoperability requirement, access points and equipment can continue to operate on the 80 megahertz of GAA spectrum in the band.

Respectfully submitted,

/s/ *Michael Calabrese*
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cc: Edward (Smitty) Smith

¹ See Michael Calabrese, *Spectrum Silos to Gigabit Wi-Fi – Sharing the 5.9 GHz ‘Car Band’*, Open Technology Institute at New America (Jan. 2016), available at <https://goo.gl/Ry8M09>.