



June 15, 2016

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: NOTICE OF EX PARTE
GN Docket No. 14-177, IB Docket No. 15-256, RM-11664, WT Docket No. 10-112, IB Docket No. 97-95: *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*
WC Docket No. 16-70: *Applications of XO Communications, LLC and Verizon Communications Inc. for Transfer of Control of Licenses and Authorizations*

Dear Ms. Dortch:

On June 15, 2016, Elizabeth Barket and I, with Competitive Carriers Association (CCA),¹ spoke via teleconference with Joel Taubenblatt, Blaise Scinto, Brian Regan, Elizabeth McIntyre, Catherine Matraves, and Catherine Schroeder about the above-referenced proceedings. As the Federal Communications Commission (FCC or Commission) is drafting an order in the *Spectrum Frontiers* proceeding,² CCA reiterated its recommendation to create a robust and clear aggregation standard for high-band frequencies to encourage innovation and arrest significant consolidation in high-band spectrum.³

Since submitting comments in the proceeding and subsequently filing a substantial *ex parte* letter on June 7, CCA members have more closely examined the record in the *Spectrum Frontiers*

¹ CCA is the nation's leading association for competitive wireless providers and stakeholders across the United States. CCA's membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents approximately 200 associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain. Additional spectrum opportunities are critical to developing and deploying new technologies for all members of the wireless ecosystem.

² See *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, Notice of Proposed Rulemaking, FCC 15-138, 30 FCC Rcd. 11,878, (rel. Oct. 23, 2015) ("*Spectrum Frontiers* NPRM" or "*NPRM*"); see also Monica Allevan, *Wheeler: U.S. will allocate 5G spectrum 'faster than any nation on the planet,'* FIERCE WIRELESS TECH (Mar. 2, 2016), available at <http://www.fiercewireless.com/tech/story/wheeler-us-will-allocate-5g-spectrum-faster-any-nation-planet/2016-03-02>.

³ Reply Comments of Competitive Carriers Association at 3 and 8, GN Docket No. 14-177, WT Docket No. 10-112 (filed Feb. 26, 2016) ("CCA Reply Comments").

proceeding, as well as proceedings for secondary market transactions. In light of this review, CCA stated that the FCC must establish a clear aggregation policy that addresses both the entirety of millimeter wave (mmW) spectrum and aggregation within a specific band. CCA reiterated that the Commission must prevent anticompetitive practices by the largest carriers who are positioned to be among the first to develop technologies for these higher frequency bands, from aggregating this unique high-band spectrum to the detriment of competition and consumers. Specifically, CCA urges the Commission to implement a two-tiered approach: (1) a one-third screen for all mmW spectrum; and (2) a one-half screen for spectrum in a particular band, like 28 GHz. CCA encourages the FCC to employ this two-tiered approach with respect to secondary market transactions and as an *ex ante* spectrum auction policy mechanism.

Through both auctions and the secondary market, dominant carriers have amassed the vast majority of “greenfield” spectrum.⁴ The approach proposed above therefore would facilitate the use of critical mmW spectrum resources, while simultaneously protecting these assets from aggregation that would make 5G deployment more difficult for all carriers and discourage competitive and innovative uses of this powerful resource. CCA is on record objecting to the potential acquisition by Verizon Wireless of valuable local multipoint distribution service (LMDS) spectrum and 39 GHz spectrum through its proposed transaction with XO Communications (XO).⁵ Recent announcements that carriers are using or plan to use these high frequency bands for 5G testing make it even more important for the FCC to prevent continued spectrum consolidation that will occur if left unchecked.⁶

The *Spectrum Frontiers* proceeding will greatly influence the success of 5G network deployment in the United States, and presents an opportunity to promote multiple new entrants to the market. Accordingly, the FCC should incorporate meaningful protections against spectrum aggregation. CCA’s proposed aggregation rule would set clear thresholds that encourage competition and innovation within the mmW bands. We look forward to working with the Commission to address spectrum aggregation policies as it moves forward in this proceeding.

⁴ See CCA Reply Comments at 18 (citing to *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 15-125, Eighteenth Mobile Competition Report, DA 15-1487, ¶ 21 (rel. Dec. 23, 2015)).

⁵ See Comments of Competitive Carriers Association at 5, ULS File No. 0007162285 (filed May 3, 2016) (“CCA Comments in Verizon-XO Spectrum Lease”).

⁶ See, e.g., Colin Gibbs, *Verizon confirms XO spectrum in 25 GHz and 39 GHz bands will be used in 5G tests*, FIERCE WIRELESS (February 23, 2016), available at: <http://www.fiercewireless.com/story/verizon-confirms-xo-spectrum-28-ghz-and-39-ghz-bands-will-be-used-5g-tests/2016-02-23>.

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.

Sincerely,

/s/ Rebecca Murphy Thompson

Rebecca Murphy Thompson
EVP & General Counsel
Competitive Carriers Association

cc (via email):

Joel Taubenblatt
Blaise Scinto
Brian Regan
Elizabeth McIntyre
Catherine Matraves

John Schauble
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