

June 19, 2007

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
12th Street Lobby, TW-A325  
Washington, D.C. 20554

**Re: *Ex Parte* Communication, PS Docket No. 06-229; WT Docket Nos. 96-86, 06-150, 06-169; RM-11361; WC Docket Nos. 07-52**

Dear Ms. Dortch:

On June 18, 2007, Steve Largent, President and Chief Executive Officer, CTIA – The Wireless Association® (“CTIA”), Christopher Guttman-McCabe, Vice President, Regulatory Affairs, Paul Garnett, Assistant Vice President, Regulatory Affairs, and Brian Josef, Director, Regulatory Affairs, CTIA – The Wireless Association® met with Commissioner Deborah Taylor Tate and Aaron Goldberger, Legal Advisor to the Commissioner, concerning issues included in the above-referenced 700 MHz proceedings. Specifically, CTIA noted its opposition to four proposals under consideration by the Commission, namely: geography-based buildout obligations, eligibility restrictions, the Frontline plan, and “open access” proposals. CTIA noted its commitment to ensuring that the 700 MHz auction happens in a timely manner and its concern that some proposals would undermine that goal.

CTIA noted its concerns regarding the Commission’s proposal to impose geographic buildout requirements on 700 MHz licenses. While we fully appreciate the desire to make sure that licensees use the spectrum purchased at auction, there is significant risk that geographic buildout requirements will result in untimely and uneconomic buildout – forcing carriers to build inferior networks in the short run, thereby sacrificing higher quality, next generation networks in the long run. We noted CTIA’s support for population-based buildout requirements. In addition, we questioned the logic of the FCC forcing uneconomic buildout by multiple licensees on the one hand, while limiting wireless carrier access to universal service on the other hand.

During the conversation, CTIA also noted its opposition to the Frontline Wireless, LLC (“Frontline”) proposal. The Commission is being asked in an unrealistic timeframe to review and act on a plan full of legal risk, policy flaws, and business uncertainties – a plan that, if adopted, would create significant uncertainty for both the commercial and public safety spectrum. Frontline proposes that the

Commission allow commercial use of spectrum allocated to Public Safety in contravention to Section 337 of the Communications Act. The proposal, moreover, reverts back to “command and control” spectrum policy management with a laundry list of license conditions designed to favor a single entity, Frontline. The combination of conditions – buildout of the E Block and public safety broadband spectrum, E block spectrum subject to preemption for public safety emergency use, a wholesale business plan, an open access requirement on all licenses held by the licensee, a wireless *Carterfone*-type obligation, roaming service – render the prospects of business success a real and open question. We pointed out that if Frontline’s proposal truly is a viable business and results in the best use of the spectrum, it should participate in bidding at auction like all other interested bidders without the need for these special license conditions.

We also discussed the Ad Hoc Public Interest Spectrum Coalition’s (“AHPISC”) proposal that the Commission apply open access and *Carterfone* rules to at least 30 MHz of the 60 MHz of 700 MHz spectrum being auctioned,<sup>1</sup> as well as its suggestion that the Commission either prohibit wireline and large wireless incumbents from bidding or require that they bid through structurally separate affiliates.<sup>2</sup> Like the Frontline proposal, the AHPISC proposals seek to use the Commission’s service and auction rules for the 700 MHz band to predetermine the business plan and entities that will prevail in the 700 MHz auction. In addition to the fact that the Commission recently initiated proceedings on net neutrality and Skype’s proposal to impose *Carterfone* rules on the wireless industry, CTIA firmly believes that the market should determine how best to put this spectrum to use. The government should refrain from imposing a single business plan – novel and untested – on the 700 MHz spectrum. If a new entrant wins spectrum at auction, as was the case with SpectrumCo in the Advanced Wireless Services auction, that is fine. Predetermining what type of company should win, however, is a step backwards for the Commission’s spectrum assignment process.

AHPISC’s license conditions, together with its proposal to prohibit or limit wireline or large wireless providers from participating, is a clear attempt to favor non-incumbents in this auction. However, the Commission’s own most recent report on the state of competition in the commercial mobile services market shows that existing carriers have been deploying broadband technologies at breakneck speed, refuting the notion that competition would somehow be impaired if wireless providers were to win 700 MHz licenses. AHPISC has not shown any basis for imposing the restrictions it proposes, and in the absence of a strong showing to that effect, the Commission should not adopt rules that, either explicitly or effectively, would limit the participation of entities in the competitive bidding process.

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<sup>1</sup> See *Ex Parte* Comments of the *Ad Hoc* Public Interest Spectrum Coalition, filed April 5, 2007.

<sup>2</sup> See *Ex Parte* Comments of the *Ad Hoc* Public Interest Spectrum Coalition, filed April 3, 2007.

The wireless industry is proud of the tremendous growth and innovation in the mobile wireless broadband market and carriers believe that 700 MHz will play a critical role in continuing their success to date. Consumers have benefited from robust and growing competition at all levels of the mobile wireless broadband market. Consumers not only have the option of several competing carriers, but also benefit from broadband service plans that are unique to the mobile wireless world. Furthermore, consumers have literally hundreds of handset options that provide the individualized connectivity they seek. For example, each of the four largest wireless carriers offer handsets that offer open Wi-Fi connectivity, and some offer carrier-branded Wi-Fi hotspot access as a compliment to their mobile wireless broadband offering.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being electronically filed with your office. If you have any questions regarding this submission, please contact the undersigned.

Sincerely,

*/s/ Christopher Guttman-McCabe*

Christopher Guttman-McCabe

Attachments

cc: Commissioner Deborah Taylor Tate  
Aaron Goldberger