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October 19, 2009

SUBMITTED ELECTRONICALLY

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

Re: WT Docket No. 09-51 (A National Broadband Plan for Our Future); WT Docket No. 09-66 (Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless Including Commercial Mobile Services); WT Docket No. 05-265 (Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers); WT Docket No. 06-150 (Service Rules for the 698-746, 747-762 and 777-792 MHz Bands); WT Docket No. 07-195 (Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band); WT Docket No. 04-356 (Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands); NOTICE OF ORAL EX PARTE COMMUNICATIONS

Dear Ms. Dortch:

Pursuant to the provisions of Section 1.1206 of the rules of the Federal Communications Commission ("FCC" or "Commission"), I hereby submit a notification of *ex parte* communication in the above referenced proceedings. In particular, on October 16, 2009, the undersigned and Leo Cloutier, Senior Vice President, Strategy & Business Development, of Bright House Networks met with David Goldman in the Office of Chairman Julius Genachowski.

During the meeting, we discussed issues facing potential entrants to the wireless marketplace, including the unwillingness of certain carriers to enter into roaming agreements for all services on reasonable and non-discriminatory bases and the lack of available spectrum. The attached presentation, which summarizes the issues raised, was circulated at the meeting.

If there are questions regarding the foregoing or the attached, please contact the undersigned.

Very truly yours,

/s/ Russell H. Fox

Russell H. Fox

Attachment

cc: David Goldman (electronically)

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Bright House Networks

Meeting with David Goldman, Office of Chairman Genachowski

October 16, 2009

Background

- Bright House is already one of the nation's premier providers of broadband services
  - 7th largest cable MSO
  - Advanced digital video, high-speed data, and competitive voice service offerings
  - Full-service communications provider in FL, AL, CA, IN, and MI, with 2.4 million customers
  - Ranked highest in customer satisfaction by J.D. Power and Associates for its high speed Internet access service

Wireless

- Mobile wireless is quickly becoming a critical means by which consumers expect to meet their broadband requirements
  - The most significant growth in consumer use of wireless devices are devices to deliver bandwidth-intensive applications -- the same type of applications historically supported by wireline networks

Wireless

- In order to address these customer expectations, Bright House is evaluating the provision of wireless broadband as an extension its current broadband offerings
- Bright House already has:
  - Obtained access to AWS spectrum through the SpectrumCo LLC joint venture
  - Participated in the 700 MHz auction
  - Invested in an advanced mobile WiMAX broadband network through Clearwire Corporation

Wireless

- Even an established company like Bright House and incumbent wireless providers face significant challenges competing in the wireless market
  - Difficulty competing with largest wireless carriers due to current barriers to entry and regulatory regime
    - Lack of spectrum availability
    - Lack of roaming capability

Lack of Roaming Capability

The Problem

- Consumer expectations and behavior no longer support distinctions between mobile voice and other mobile services
- All carriers need access to automatic roaming on commercially reasonable bases for all wireless services and devices to meet consumer needs and expectations
- Large wireless carriers have the power and financial incentive to refuse to enter into commercially reasonable roaming agreements
  - Because consumers' use of broadband services is increasingly wireless based, refusal to enter into roaming agreements will unfairly permit large national carriers to capture this market.

Lack of Roaming Capability

Solutions

- The FCC should:
  - Extend the automatic roaming obligation to all mobility services, including broadband data services
  - Reverse the home roaming exception
  - Further define when roaming rates are reasonable and non-discriminatory and adopt a regulatory regime that enforces those rules against providers who violate the proscription
    - Define the metrics and procedures governing violations of the rule (*e.g.*, require reporting of retail yield for like services to improve enforceability of roaming rules)

Lack of Available Spectrum

The Problem

- Ownership of wireless spectrum has become increasingly concentrated among the largest providers
- Industry consolidation has limited the ability of new entrants to provide different, innovative services and offer competitive prices for existing services
- Demand for wireless services continues to skyrocket, creating a burgeoning demand for spectrum
  - This demand is exacerbated by the increasing use of bandwidth intensive applications by wireless devices.

Lack of Available Spectrum

Solutions

- The FCC should:
  - Conduct a spectrum inventory to match spectrum availability with future demand
  - Tailor its auction rules to ensure that new spectrum is not licensed to those dominant carriers with abundant spectrum today
  - Because spectrum below 1 GHz is inherently more valuable than spectrum above, adopt rules which even further restrict excessive accumulation of that spectrum.
  - Promote entry by local and regional providers by issuing licenses that cover smaller geographic areas.