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March 5, 2010

Via Electronic Filing

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

Re: WT Docket Nos. 96-86 and 06-150 and PS Docket No. 06-229
Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On March 4, 2010, Michael Gottdenker and Andrew Rein of Access Spectrum, LLC (Access Spectrum), and I met with Austin Schlick, Julie Veach, David Horowitz, and Neil Dellar of the Office of General Counsel; Monica Desai, Margaret Wiener, Erik Salovaara, Richard Arsenault, and Martha Stancill of the Wireless Telecommunications Bureau; and Stuart Benjamin of the Office of Strategic Planning and Policy Analysis. During the meeting, Access Spectrum discussed the issues summarized in the attached slide presentation, copies of which were distributed during the meeting.

Pursuant to section 1.1206(b) of the Commission's rules, this letter and the attachment are being submitted for inclusion in the public record in the above-referenced proceedings.

Sincerely,

/s/ Charles W. Logan
Charles W. Logan

Attachment

cc: Richard Arsenault
Neil Dellar
David Horowitz
Austin Schlick
Julie Veach
Stuart Benjamin
Monica Desai
Erik Salovaara
Martha Stancill
Margaret Wiener

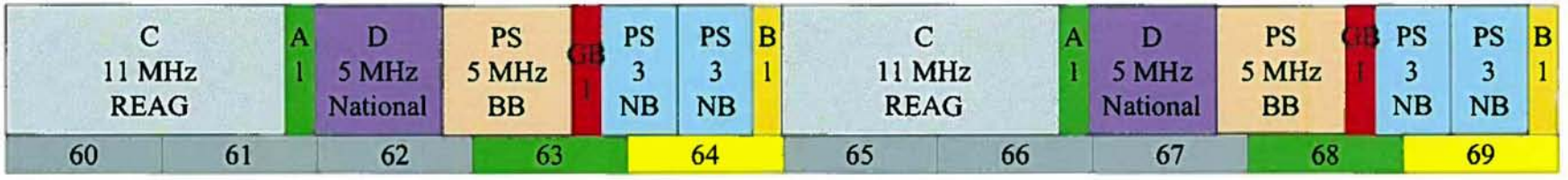
Repurposing the Upper 700 MHz A Block to Promote the FCC's National Broadband Plan

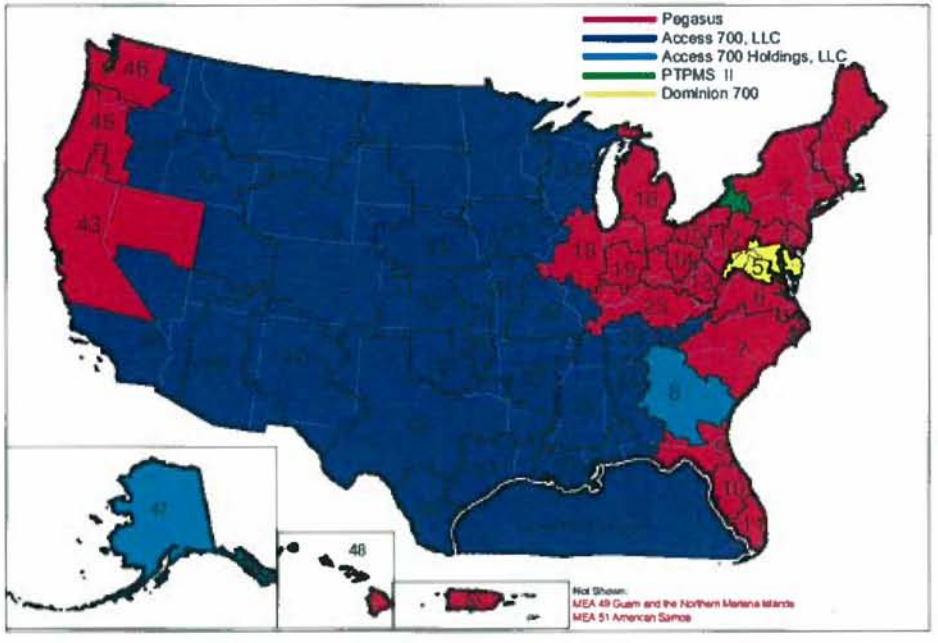
March 4, 2010

AccessSpectrum

Access Spectrum overview

- Access Spectrum and its affiliate Access 700 Holdings hold Upper 700 MHz A-Block licenses that cover ~50% of the United States





AccessSpectrum

Very valuable spectrum

- Chairman Genachowski has recognized a "looming spectrum crisis" resulting from the explosive growth of broadband and stated that "one of the FCC's highest priorities is to close the spectrum gap"

- A-Block frequencies, like other 700 MHz spectrum, are "beach-front property" – ideally suited to meet exploding consumer demand for wireless broadband

- To maximize potential for broadband use, 700 MHz frequencies must be configured to permit channel widths required by 4G technologies
  - LTE requires at least 1.4 MHz channel pairs and EvDO (CDMA 2000) requires at least 1.25 MHz channel pairs plus requisite buffers

Inefficiently configured

- Current A-Block configuration undermines FCC's broadband goals
  - Prevents the use of A-Block spectrum for 4G services and, if not corrected, will waste this extremely valuable spectrum
  - Will result in the deployment of non-4G technologies and services that may be incompatible with 4G systems in adjacent blocks

- In 2007, prior FCC rejected a proposal to configure A Block in 1.5 MHz pairs as part of broader reconfiguration of Upper 700 MHz band
  - The proposal rejected by the FCC would have avoided unjust enrichment concerns by granting A Block incumbents only the same number of MHz-pops they currently hold

Repurposing the A Block for broadband

- Increasing the size of the currently licensed A Block is now impractical
- Therefore, the FCC should establish incentives for A-Block incumbents to return their spectrum so that it can be repurposed
- This will promote a range of public interest benefits:
  - Advance broadband
  - Benefit public safety
  - Promote efficiencies
  - Establish a precedent for repurposing other spectrum bands
  - Ensure spectrum does not lie fallow or go underutilized

Repurposing the A Block: advance broadband

- There are several ways that the FCC could repurpose the A Block to advance its broadband goals
  - Combine the A Block with the adjacent D Block to increase broadband capacity and match band pairs in rest of 700 MHz band
    - This is supported by Clearwire, MetroPCS, Sprint, T-Mobile, the Rural Telecommunications Group, and Xanadoo
  - Combine the A Block with the Public Safety 700 MHz allocation
  - Explore other options for reconfiguring the A Block and auctioning it for different uses

Implementing a repurposing program

- There are many ways to provide incumbents incentives to return their spectrum for repurposing:
  - Transferable and non-transferable bidding credits
  - Two-sided auctions – FCC sponsored or private simultaneous auction
  - Replacement spectrum in comparable bands
  - Some combination of the above

- A well-designed incentive program will accelerate FCC efforts to repurpose and rationalize current spectrum use

Repurposing the A Block: establish a precedent

- Repurposing the A Block will establish a precedent for repurposing other spectrum bands for broadband
  - Establishing mechanisms for repurposing the A Block can be readily applied to other bands
  - Precedent will provide certainty and encourage licensees in other bands to repurpose their spectrum
  - Establishing repurposing framework is a critical step towards meeting the nation's growing need for broadband spectrum
  - Establishing a compensation scheme that encourages the return of spectrum can have the net effect of *increasing* auction revenues
  - Establishing a repurposing framework will promote economic growth by helping to ensure that spectrum is put to its highest and best use

The FCC's statutory authority

- The FCC has authority to repurpose spectrum by using transferable bidding credits, two-side auctions and other tools
  - Sections 4(i) and 303(r) grant the FCC authority to carry out its statutory mandate: manage the spectrum in the public interest; promote innovation and new services; maximize efficient use of spectrum
  - In BRS/EBS proceeding, FCC expressed belief that it had authority to use transferable bidding credits and two-sided auctions

- Section 309(j)(8) and auction "proceeds" – FCC has discretion to adopt policies that may reduce net bids, *e.g.,* tribal lands bidding credits
  - In any event, repurposing spectrum should *increase* auction revenues

- Section 309(j) and "initial" licenses – A two-sided auction can be structured to comply with the Act

Next steps

- The FCC should seek comment in its pending 700 MHz proceeding on:
  - The best way to repurpose the A Block
  - The appropriate mechanisms to implement this repurposing program