

April 15, 2010

Chairman Julius Genachowski
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, DC 20554

RE: Written Ex Parte Communication, GN Docket No. 09-51

Dear Chairman Genachowski and Commissioners Copps, McDowell, Clyburn and Baker:

I am writing in response to statements by National Association of Broadcasters President and Chief Executive Officer Gordon Smith in his April 12, 2010 remarks at the 2010 NAB Show in Las Vegas, Nevada. CTIA recognizes the benefits of television broadcasting, but believes Mr. Smith's statements negatively focus on a misinterpretation of "threats" to free over-the-air television while disregarding the reality of a looming spectrum crisis and vast consumer appetite for mobile broadband. The Commission has charted a rational and wise course that facilitates the dual goals of identifying additional spectrum to be auctioned for mobile broadband without impairing broadcast television. TV broadcasters are among many others whose true spectrum needs are being considered and from whom additional spectrum could be obtained as part of the National Broadband Plan's 500 MHz goal, and their cooperation and participation is essential. There is precious little time for unwarranted delays.

First, it is beyond dispute that "mobile data usage is not just growing, it's exploding."¹ Wireless carriers currently do not have enough spectrum to keep pace with the increasing demand and we are just in "the early innings" of mobile Internet development, which is growing faster than previous technology cycles. Chairman Genachowski recently acknowledged the numerous data sources pointing to "a 40-fold increase in mobile Internet demand over the next 5 years" which "compares to a three-fold increase in spectrum for mobile broadband coming online."² As Chairman Genachowski and several Commissioners have noted, the U.S. is lagging behind other nations in additional spectrum identified for licensed commercial use, despite the overwhelming use and increasing demand in this country.³ That problem can be addressed by establishing future spectrum allocations to be acquired through the auction process, which the National Broadband Plan proposes.

¹ "Mobile Broadband: A 21st Century Plan for U.S. Competitiveness, Innovation and Job Creation," Prepared Remarks of FCC Chairman Julius Genachowski at New America Foundation, Washington, DC at 4 (Feb. 24, 2010).

² Prepared Remarks of FCC Chairman Julius Genachowski at NAB Show 2010, Las Vegas, Nevada at 4 (Apr. 13, 2010) (emphasis in original).

³ See *id.*



Second, CTIA agrees with the National Association of Broadcasters and the Association for Maximum Service Television, that “[e]nsuring the efficient use of existing spectrum allocations should be a priority for the Commission as it considers the role of spectrum management in broadband deployment.”⁴ This includes an effort to drive more efficient use of broadcast television spectrum. The majority of spectrum allocated for over-the-air television is vastly underutilized. Putting aside the fact that the Commission has recognized that the number of people who receive television over-the-air has decreased by 56 percent over the last ten years,⁵ the fact is there are only 15 to 20 high powered over-the-air TV stations in most major markets today, despite the availability of 49 television broadcast channels. Even under a generously high estimate, this results in 174 MHz of unused spectrum in any given major market. This can hardly be classified as efficient use of scarce spectrum, and I assure you the wireless industry will pay billions of dollars at auction, and invest hundreds of billions more, to put that spectrum to a much more productive and efficient use.

The record before the FCC on broadcast TV spectrum utilization shows that there is much room for improvement to the current broadcast model. Current broadcast TV technology not only uses the 6 MHz of spectrum that has been licensed to each station, but also requires between 6 and 12 MHz of “buffer” on either side of the channel to accommodate the interfering effect of the strong broadcast signal. If there is a way to reclaim some of the unused spectrum, through any of the means identified by the Commission, it should be investigated and pursued. The simple fact that broadcasters have argued that they already relinquished some spectrum as part of the Digital Television Transition should not somehow make them immune from scrutiny, particularly considering that broadcasters were given additional spectrum in 1996 specifically to facilitate that transition with the absolute expectation that they would return an equal amount. Congress “condition[ed] the issuance of a new license on the return, after some period, of either the original broadcast license or the new license.”⁶ Additionally, in Section 336(g) of the Act, Congress further required the FCC to report on “the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.”⁷

Further, debates about the public interest obligations of broadcasters are simply designed to misdirect this discussion – for every children’s programming and localism requirement, there are E-911, CALEA, and disability access requirements, and more, both mandatory and voluntary, for wireless. Maximizing the use of spectrum is not merely about providing a service over the spectrum resource, but about providing service to the largest number of subscribers over that spectrum resource and by providing a service in a way that is spectrally efficient. By this

⁴ Comments of the National Association of Broadcasters and Association for Maximum Service Television, NBP Public Notice #6, GN Docket Nos. 09-47, 09-51, 09-137 (filed Oct. 23, 2009) at 3.

⁵ Blair Levin, “Let’s Make a Deal, Broadcasters, Mobile Broadband, and a Market in Spectrum,” The Progress & Freedom Foundation, Progress on Point, Moderated Panel Discussion Transcript at 22 (Dec. 2009), *available at* <http://www.pff.org/issues-pubs/pops/2009/pop16.27-broadcasters-mobile-broadband-spectrum-auction.pdf>.

⁶ Conference Report to Accompany S-652, Report 104-458 at page 161 (January 31, 1996).

⁷ 47 U.S.C. § 336(g).

metric, U.S. wireless providers are the most efficient spectrum users worldwide.⁸ The question is not whether broadcasters are entitled to a fixed amount of spectrum because they are subject to certain requirements – they are not – but rather how to utilize a scarce public resource in the most efficient manner possible, for the greatest public benefit. In pursuing this objective, the Commission should consider every option.

This brings me to my final point. The Commission has recognized a number of options for enhancing efficient use of the broadcast TV bands without threatening the viability of today’s broadcasters. Whether through incentive auctions, repacking, channel sharing, or moving to a low-power architecture, broadcasters have a significant number of options available to them. We hope that going forward, Mr. Smith will consider all of these options, taking none off the table. We believe that Mr. Smith’s dour prognosis reflects unfounded concerns and ignores the realities of today’s market and consumer demand, and that by reasonably considering the methods previously mentioned, broadcasters have an opportunity to be part of a solution that retains their current broadcast operations and future viability.

I thank the Chairman and Commissioners for their efforts to provide a foundation for the United States’ continued global leadership in mobile broadband, and strongly urge the Commission to continue its important steps to reallocate spectrum, including broadcast TV spectrum, for mobile broadband usage as part of the National Broadband Plan. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Steve Largent". The signature is written in a cursive, flowing style.

Steve Largent
President and CEO
CTIA – The Wireless Association®

⁸ “With more than 651,000 subscribers served per MHz of spectrum allocated, U.S. carrier efficiency far surpasses that of other carriers in the OECD’s top ten countries by GDP.” *Ex Parte* Communication from Christopher Guttman-McCabe, CTIA—The Wireless Association, GN Docket No. 09-51 at 16 (filed Sept. 29, 2009).