

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| International Bureau Invites Comment on |) | IB Docket No. 11-109 |
| NTIA Letter Regarding LightSquared |) | |
| Conditional Waiver |) | |
| |) | |
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COMMENTS OF RCA—THE COMPETITIVE CARRIERS ASSOCIATION

RCA—The Competitive Carriers Association ("RCA")¹ submits these comments in response to the above captioned request by the Federal Communications Commission ("FCC" or "Commission") seeking input on a February 14, 2012 letter by the National Telecommunications and Information Administration ("NTIA")² regarding potential interference effects of communications equipment that LightSquared Subsidiary LLC ("LightSquared") seeks authority to operate. In light of the tremendous competitive benefits that LightSquared's proposed network would bring to the wireless industry and consumers, RCA urges the Commission to explore all reasonable options to preserve LightSquared's ability to bring its planned services to the market.

¹ RCA is an association representing the interests of more than 100 competitive wireless carriers, including many rural and regional carriers providing commercial services to subscribers throughout the nation. Most of RCA's members serve fewer than 500,000 customers.

² See Public Notice, *International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver*, DA 12-214, IB Docket No. 11-109 (released Feb. 15, 2012).

I. BASED ON THE CURRENT COMPETITIVE LANDSCAPE, THE FCC MUST ENSURE COMPETITIVE CARRIERS MUST HAVE AN ALTERNATIVE PATH TO 4G

LightSquared’s proposed network offers competitive carriers a cost-efficient alternative means of 4G deployment.³ As noted in the National Broadband Plan, mobile wireless service is critical to the goal of bringing high-speed Internet connectivity to all Americans.⁴ Yet at this critical juncture, as mobile data use continues to skyrocket,⁵ deployment of 4G facilities and services remains out of reach for much of the industry, particularly those serving rural communities that stand to benefit most from these services.⁶ This is due to the anticompetitive practices of Verizon and AT&T, which have leveraged their control of the device and roaming market and superior spectrum positions to anticompetitive ends. Chairman Genachowski accurately stated that spectrum is the “invisible infrastructure that sustains our wireless communications.”⁷ Without sufficient usable spectrum, carriers’ ability to innovate and remain relevant in a fast-changing industry is severely compromised. With its 100 percent wholesale business model, LightSquared offers competitive carriers another option for entering the LTE ecosystem.

The National Broadband Plan set a goal of identifying 500 MHz for mobile broadband use within 10 years.⁸ Of that total, the FCC recommended marking 300 MHz—including WCS, AWS, D block, Mobile Satellite Service (“MSS”) (L-band, Big LEO, and S-band), and broadcast

³ Reply Comments of Rural Cellular Association, IB Docket No. 11-109, File No. SAT-MOD-20101118-00239, at 4–6 (filed Aug. 15, 2011) (“RCA Reply Comments”).

⁴ Connecting America: The National Broadband Plan, at 9–10 (“National Broadband Plan”).

⁵ Julius Genachowski, Chairman, Fed. Comm’n Comm’n, Remarks as Prepared for Delivery: CTIA Wireless 2011 (Mar. 22, 2011) (“[A]nalysts forecast a 35X increase in mobile broadband traffic over the next 5 years. Cisco has projected a nearly 60X increase between 2009 and 2015.”).

⁶ See RCA Reply Comments at 3–6.

⁷ Julius Genachowski, Chairman, Fed. Comm’n Comm’n, Prepared Remarks of Chairman Julius Genachowski, Broadband Acceleration Conference (Feb. 9, 2011).

⁸ National Broadband Plan at 84.

TV spectrum—available by 2015.⁹ But as LightSquared points out, auction of the D block spectrum was not successful¹⁰ and Congress recently reallocated it to public safety.¹¹

Meanwhile, additional AWS spectrum is still being prepared for auction. Though it plans to next week, the FCC has not yet started a proceeding on flexible terrestrial use of the MSS in the 2 GHz band.¹² WCS licensees have yet to announce deployment plans, and auction of broadcast spectrum remains years away.¹³ In addition to the 700 MHz lower A Block spectrum, LightSquared’s 40 MHz of LTE-capable L-Band spectrum represents a near-term means to much-needed additional spectrum for mobile broadband use. With no certainty as to when incentive auctions of reclaimed broadcast spectrum may take place, LightSquared stands as one of the most attractive alternative pathways to 4G for smaller carriers seeking a nationwide footprint and enhanced speeds without the means to build out their own nationwide networks.

As RCA has previously noted,¹⁴ Verizon and AT&T (the “Big Two”) dominate the market and wield that clout to foreclose competition. Be it through spectrum warehousing,¹⁵ control over roaming negotiations, dominant provision of backhaul service, or monopsony

⁹ *Id.*

¹⁰ Questions for Mr. Jeffrey J. Carlisle, Executive Vice President, Regulatory Affairs and Public Policy, LightSquared, U.S. House of Representatives Committee on Science, Space, and Technology, Impact of the LightSquared Network on Federal Science Activities, at 2 (Sept. 8, 2011) (“Carlisle Q&A”).

¹¹ Middle Class Tax Relief and Job Creation Act of 2012, H.R. 3630, 112th Cong. § 6101 (2012).

¹² Commission Meeting Agenda, Federal Communications Commission, FCC to Hold Open Commission Meeting Wednesday, March 21, 2012, Mar. 14, 2012.

¹³ Carlisle Q&A at 2. Commissioner McDowell recently stated that a “realistic time frame for completion of the entire [incentive auction] process would be the better part of a decade due to the unique complexities present here.” Howard Buskirk, *TV Spectrum Auction Unlikely to Start Anytime Soon, McDowell Says*, Communications Daily, Mar. 15, 2012, at 1.

¹⁴ Comments of RCA—The Competitive Carriers Association, WT Docket No. 11-186 (filed Dec. 5, 2011).

¹⁵ *Id.* at 10–12.

control of the device market,¹⁶ the Big Two hold the keys to most of the vital inputs for mobile wireless operations. From that position of power, these two behemoths have already established a sizable lead in the transition to LTE. Verizon boasts 203 4G LTE markets at this time.¹⁷ AT&T has announced it will expand its LTE coverage to a total of 40 markets by early summer.¹⁸

Meanwhile, the ongoing fight for interoperability in the 700 MHz band has been a major focus for RCA. While an NPRM on interoperability in the lower 700 MHz spectrum will be taken up at the Commission's March Open Meeting, 700 MHz A Block spectrum holders continue to sit on the sidelines while the Big Two dominate the LTE market. Relatedly, despite Commission action on the issue, procurement of data roaming agreements also remains exceedingly difficult, with carriers experiencing "continued foot-dragging, including unnecessary delays and stonewalling tactics by large, nationwide carriers."¹⁹ These concerns are all the more pressing in light of the proposed acquisition by Verizon of 122 AWS licenses from SpectrumCo and Cox, as that transaction threatens to further diminish the number of potential roaming partners and increase the buying power of the Big Two. With that store of LTE-capable spectrum potentially off the market, access to additional 4G spectrum is severely jeopardized. For many smaller carriers, LightSquared offers an excellent option for 4G deployment.

Resolution of interoperability and data roaming are crucial issues for smaller carriers, but the

¹⁶ *Id.* at 12–14.

¹⁷ Verizon Wireless, News Center: LTE Information Center, <http://news.verizonwireless.com/LTE/Overview.html>.

¹⁸ News Release, AT&T Wireless, AT&T 4G LTE Coming Soon to Bryan-College Station (Mar. 12, 2012), <http://www.att.com/gen/press-room?pid=22569&cdvn=news&newsarticleid=34021&mapcode=wireless-networks-general|mk-att-wireless-networks>.

¹⁹ Comments in Support of the Blanca Telephone Company Petition for Reconsideration, WT Docket No. 05-265, at 3 (filed Dec. 16, 2011).

Commission could maximize their competitive benefit by providing competitive carriers access to additional, usable spectrum. The Commission should resolve this proceeding in a manner that sustains LightSquared's ability to implement its business plan in a meaningful way, thus preserving its promise of an additional 4G pathway for competitive carriers.

II. LIGHTSQUARED SHOULD BE AFFORDED FLEXIBILITY IN MOVING FORWARD WITH ITS BROADBAND NETWORK

With regard to the findings by the NTIA and the subsequent proposal by the FCC to block LightSquared from deploying its proposed network, RCA finds the FCC's proposed actions too sweeping. Blocking LightSquared would reward only the Big Two and a GPS industry that has had a decade to address receiver interference issues.²⁰ Instead of working with LightSquared to resolve the concern, the GPS industry waited until the eleventh hour to raise the issue, and now fail to compromise or accommodate use of a tax-payer owned resource for the benefit of the American consumer.²¹

The inequity of the situation is striking, particularly in light of the thwarted public interest benefits that would follow from action on these proposals. In addition to billions of dollars invested by LightSquared into this venture, the company has exhibited good faith participation in the FCC and NTIA proceedings. To accommodate the concerns of the GPS industry, LightSquared agreed to millions of dollars in additional testing and proposed a modified "middle ground" proposal that would limit initial operations to the lower 10 MHz of their spectrum with reduced power levels.²² This stands in stark contrast to the outright refusal of the GPS industry to make concessions or even entertain the possibility of filtering technology.

²⁰ Comments of LightSquared Subsidiary LLC, WT Docket No. 11-186, IB Docket No. 11-109, at 11-15 (Dec. 5, 2011).

²¹ *Id.* at 13.

²² Recommendation of LightSquared Subsidiary LLC, IB Docket No. 11-109 (filed June 30, 2011).

Even worse, the GPS industry has gone so far as to ask the Commission to remove MSS L-band spectrum entirely from terrestrial mobile broadband use.²³ In essence, the GPS industry has asked for guard bands totaling dozens of megahertz of broadband-capable spectrum to insulate its operations, a result that is plainly inefficient and completely unacceptable in light of the nation's broadband goals.

Despite the refusal of the GPS industry to consider minimizing interference, the FCC recently hosted a workshop on receiver performance and its impact on spectral efficiency.²⁴ Additionally, the recently enacted Middle Class Tax Relief and Job Creation Act of 2012 contains provisions acknowledging the role of receiver performance in ensuring spectral efficiency.²⁵ Indeed, the NTIA letter itself “recognizes the importance that receiver standards could play as part of a forward-looking model for spectrum management even beyond the immediate issue of GPS.”²⁶ The FCC should not idly stand-by while the GPS industry holds hostage much needed usable 4G broadband spectrum.

The Commission should look to all reasonable alternatives that would preserve LightSquared's viability while urging rapid action on the issue of receiver performance. In light of LightSquared's significant investment—based on Commission encouragement²⁷—the FCC should work with the company to identify suitable spectrum for its planned 4G network. The

²³ Comments of the U.S. GPS Industry Association, IB Docket No. 11-109, File No. SAT-MOD-20101118-00239, at 61 (Aug. 1, 2011).

²⁴ Public Notice, Office of Engineering and Technology, Wireless Telecommunications Bureau, and Office of Strategic Planning Announce Workshop on “Spectrum Efficiency and Receiver Performance,” Mar. 9, 2012.

²⁵ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, §6408 (2012).

²⁶ Letter of Lawrence E. Strickling, Assistant Sec'y for Commc'ns & Info. & Adm'r, Nat'l Telecomm.s & Info. Admin., to Julius Genachowski, Chairman, Fed. Commc'ns Comm'n, at 7 (Feb. 14, 2012).

²⁷ Eliza Krigman, *LightSquared's Savior: Ted Olson?*, Politico Pro, Mar. 13, 2012, <http://www.politico.com/news/stories/0312/73930.html>.

FCC itself has recognized the significant potential benefit of LightSquared's proposed network, particularly for users in rural areas.²⁸ Commission action that would prohibit LightSquared from building and deploying a 4G network would only empower the duopolistic Big Two, harm consumers, and potentially portend a chilling effect on future investment in the industry. In the interest of competition, the FCC must allow LightSquared to pursue 4G network deployment that would retain its ability to pursue a wholesale business model. If the Commission finds that GPS interference concerns warrant modification of LightSquared's planned network, it should help to identify suitable solutions for LightSquared's deployment.

III. CONCLUSION

As the FCC noted, LightSquared's entry could "be a catalyst for market-changing developments" for the industry.²⁹ RCA agrees, and for the reasons stated above, respectfully urges the Commission to afford LightSquared the flexibility it needs to adjust its business plan, continue deployment of its nationwide 4G network, and bring the benefits of high-speed mobile broadband to more Americans.

Respectfully submitted,

/s/

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²⁸ LightSquared Subsidiary LLC, Request for Modification of its Authority for an Ancillary Terrestrial Component, Order and Authorization, SAT-MOD-20101118-00239, Call Sign: S2358, DA 11-133, ¶ 7 (rel. Jan. 26, 2011).

²⁹ SkyTerra Communications, Inc., Transferor and Harbinger Capital Partners Funds, Transferee, Applications for Consent to Transfer of Control of SkyTerra Subsidiary, LLC, Memorandum Opinion and Order and Declaratory Ruling, IB Docket No. 08-184, FCC File Nos.: ITC-T/C-20080822-00397, SAT-T/C-20080822-00157, SES-T/C 20080822-01089, SES-T/C-20080822-01088, 0003540644, 0021-EX-TU-2008 and ISP-PDR-20080822-00016, DA 10-535, ¶ 62 (rel. Mar. 26, 2010).