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Chairman Julius Genachowski

Federal Communications Commission

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The Middle Class Tax Relief & Job Creation Act of 2012 passed by Congress earlier this year provides the Federal Communications Commission authority to conduct voluntary incentive auctions in which unused or underutilized spectrum used by TV broadcasters can be turned over to the government and auctioned off to wireless carriers. I strongly urge the FCC to craft reasonable service rules for these auctions that either prohibit AT&T and Verizon the dominant carriers from participating or making the spectrum awarded proportional instead of winner takes all. As such I have been actively participating in FCC proceedings regarding the Verizon Wireless SpectrumCo and Cox deals, promoting device carrier interoperability in regard to 700 MHz spectrum and AWS Service Rules. I have made my concerns clear about spectrum warehousing and how the largest 2 carriers have tried to warehouse spectrum to deprive smaller carriers of spectrum needed to stay competitive.

I have also participated in the FCC proceeding against the AT&T T-Mobile merger that was rightly denied last year by both the U.S. Justice Department on antitrust grounds and the Federal Communications Commission plus the proceeding into the

AT&T Qualcomm 700 MHz Spectrum Transfer that was conditionally approved after the merger's rightful denial. Along with this letter I am filing as a submission for the record documents I've submitted to prior proceedings dealing with spectrum. Verizon's proposed 700 MHz spectrum sale that they say they will undertake on the condition regulators approve their applications for SpectrumCo LLC and Cox Communications AWS spectrum should not be entertained at the least. Apart from the spectrum concentration concerns they seek to address by selling this spectrum the joint operating entity agreements with the cable companies involved are collusive and anti-competitive.

Furthermore, the cable companies have acknowledged that this is an integrated transaction and there was never any talk of selling the spectrum without the collusive marketing agreements to resell each other's services on a wholesale basis. Much like the AT&T T-Mobile merger if these deals are approved Verizon Wireless and the cable cartel can dictate technology standards to consumer electronics manufacturers including phone manufacturers and companies manufacturing the equipment cable companies provide to their customers to supply digital cable TV, digital phone and high speed Internet services.

That being said even when one examines the spectrum concentration concerns wireless carrier T-Mobile USA and others have pointed out problems with the Lower 700 MHz A and B block spectrum Verizon proposes to sell including interference issues and an inability to use it to roll out a national footprint. Then there is the matter of interoperability or lack thereof and the FCC has opened a proceeding into the matter (12-69), which would be further threatened if Verizon's 700 MHz sales

were to occur. This raises serious questions about the viability of auctioning off TV spectrum for wireless carriers. It's worth asking just how valuable this TV spectrum is for wireless carriers?

I urge the Federal Communications Commission to enact service rules for upcoming voluntary incentive spectrum auctions that protect and promote wireless competition by either excluding industry giants AT&T and Verizon Wireless from participating or if Congress forbids this make the awards proportional not winner takes all so smaller carriers have a chance at winning spectrum. Ideally if Congress has allowed the FCC to craft what rules it feels is in the public interest AT&T and Verizon should be excluded as they have more than enough spectrum already despite their claims of spectrum shortages.

They just need to invest more in their wireless networks to improve network capacity and use the spectrum they are sitting on (i.e. any spectrum unused or under-utilized) instead of claiming a spectrum shortage to try and kill off competition. When AT&T Mobility was trying to merge with T-Mobile USA they made a number of material misrepresentations to the Commission and claimed they needed T-Mobile's spectrum because of a spectrum crisis. Fortunately, the FCC saw right through AT&T's charade as an attempt to destroy competition by taking a low-cost competitor out of the wireless market. The DOJ and FCC rightly concluded in an already concentrated wireless market to allow more consolidation would be a disaster for consumers, competition and innovation.

Now smaller wireless carriers need the ability to acquire more spectrum to build out new 4G LTE networks. Sprint Nextel the third largest nationwide carrier has a 4G WiMax network it transitioned to from 3G CDMA but is now seeking to switch its 4G network to LTE while T-Mobile USA is similarly planning to transition its existing 4G HSPA+ based network to LTE next year.

Either the FCC should exclude AT&T and Verizon from participating on the grounds they have enough spectrum already and that their participation would prevent smaller carriers from acquiring sufficient new spectrum to stay competitive or make the spectrum awards as noted proportional instead of winner takes all. Also the FCC should implement policies requiring maximum efficient use of spectrum by the wireless companies acquiring this spectrum and keep in mind some companies including the broadcasters being asked to relinquish spectrum may wish to use or may already be using spectrum for mobile digital television services.

Finally, the Federal Communications Commission should make as much-unlicensed spectrum as possible available for WiFi usage. That way unlicensed spectrum can be put to good use as well particularly for wireless networks in houses, airports, restaurants, coffee shops etc that are free to access and use enabling unlimited usage of data whereas mobile broadband provided by AT&T and Verizon Wireless have data caps. In fact the Middle Class Tax Relief & Job Creation Act allows for the FCC to make unlicensed spectrum available for such WiFi networks while also providing additional new spectrum to wireless carriers building out their 4G networks.

The Middle Class Tax Relief & Job Creation Act of 2012 not only provided the needed authority to the FCC for conducting such voluntary incentive auctions it also sought to protect broadcasters not wanting to relinquish spectrum by making it clear the FCC could not force a broadcaster who is using their spectrum to give it up. In addition, the legislation notably extends the payroll tax cut for the year hence its title.

I urge the FCC to institute common sense pro consumer and pro competitive rules for its upcoming spectrum auctions. The rules should not be overly burdensome on technology or telecommunications companies generally but protect and promote competition. For too long the government has protected and supported the establishment of a near wireless duopoly for phone and Internet service that must end. Please see attached documents supporting the allocation or reallocation of spectrum to wireless carriers deserving and seriously needing the spectrum; it makes the case more spectrum is needed for such companies but at the same time urges the FCC to make sure spectrum is allocated/reallocated wisely and put to efficient use by those who acquire it.

Spectrum is the lifeblood of our wireless communications and is a finite, limited resource. Spectrum belongs to the people and is licensed to companies whether TV broadcasters, cable TV networks, radio stations and wireless carriers on the proviso they comply with the public interest. For too long they have been allowed to avoid their public interest obligations and keep our spectrum as their own. That must change. Please accept this letter and my comments in this proceeding.