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

In the Matter of	)	
Promoting Interoperability in the 700 MHz	)	WT Docket No. 12-69
Commercial Spectrum	)	RM-11592 (Terminated)
Interoperability of Mobile User Equipment Across	)	
Paired Commercial Spectrum Blocks in the 700	)	
MHz Band	)	

COMMENTS OF NTCH, INC.

NTCH, Inc. ("NTCH"), by its attorneys, hereby offers these comments regarding the critical need for interoperability in the 700 MHz band. The Commission's NPRM sought input on the reality of whether operation over a single Band Class designated by the 3GPP would result in unacceptable interference. Other filers have addressed that point at length. NTHC wishes, rather, to address briefly the economic importance of ensuring that this band is not balkanized by inconsistent Band Classes.

The problem posed by the creation of a Band Class effectively limited to Verizon and AT&T has been presented to the Commission several contexts. In considering the AT&T/Qualcomm transaction last year, the Commission was presented with the grave problem posed by the lack of handset interoperability in the 700 MHz band and the anti-competitive efforts of the Big Two (AT&T and Verizon) to preclude roaming in that band. The Commission ultimately decided not to impose interoperability conditions on AT&T in the Qualcomm transaction, but rather to open a rulemaking proceeding to consider the matter more generally. This NPRM now offers the opportunity and the mandate for the Commission to correct a gaping

hole in the functioning of market forces arising from the power of the Big Two to stifle competition.

As the deadline for 700 MHz build-outs looms closer and closer, the disadvantage that 700 MHz competitors face in the handset market becomes more immediate and more pressing. The crisis posed by the lack of handset interoperability has been aired at length in both the AT&T-Qualcomm and AT&T-T-Mobile contexts and, more recently, in connection with the proposed Verizon-SpectrumCo transaction. What the Big Two are orchestrating is a polarized marketplace where most other users of the 700 MHz band are relegated to a spectrum ghetto on the wrong side of the tracks. Roaming by the Big Two subscribers on the systems of other carriers will be impossible. Competition will suffer because subscribers to the Big Two will not be able to take their phones and switch to competitors, no matter how much better or less expensive the competing service may be. Their 700 MHz handset is effectively limits them to the Big Two, severely impeding choice and freedom to shop around. Moreover, subscribers to the Big Two will also be unable to roam in the large areas of rural America that remain unserved by Big Two. The Band Class 17 maneuver is nothing less than a calculated scheme to compel customers of the Big Two to remain with them no matter what, even at the price of the customers losing the ability to roam in many parts of the country. What is required now is decisive action to prevent smaller 700 MHz competitors from withering on the vine.

The Commission should require that licensed carriers not sell or activate any devices operating on paired spectrum in the lower 700 MHz band which are not capable of operating on *all* paired spectrum in the lower 700 MHz Band. While the Commission has limited authority to prevent manufacturers from making Band Class 17-only handsets, it has plenary authority to regulate the behavior and practices of its licensees. At the same time, licensed carriers should be

prohibited from engaging in 700 MHz equipment design and procurement practices that impede competition in that band or that exclude access to A Block spectrum by LTE wireless devices. To further ensure interoperability, at least 50% of LTE devices sold over the next two years should be operable across all 700 MHz bands, including first responder bands.

As the movement toward a powerful and non-benign duopoly in the wireless market continues, the Commission must be doubly vigilant to guard against maneuvers like the Band Class certification process attempted by the Big Two outside the Commission's usual purview. Regulatory intervention is necessary to prevent from the competitive damage and consumer abuse that will surely occur if nothing is done to correct the situation.

Respectfully submitted,

NTCH, INC.

_____/s/_____
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