

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

In the Matter of

Service Rules for Advanced Wireless  
Services in the 2000-2020 MHz and 2180-  
2200 MHz Bands

WT Docket No. 12-70

Fixed and Mobile Services in the Mobile  
Satellite Service Bands at 1525-1559 MHz  
and 1626.5-1660.5 MHz, 1610-1626.5 MHz  
and 2483.5-2500 MHz, and 2000-2020 MHz  
and 2180-2200 MHz

ET Docket No. 10-142

Service Rules for Advanced Wireless  
Services in the 1915-1920 MHz, 1995-2000  
MHz, 2020-2025 MHz, and 2175-2180 MHz  
Bands

WT Docket No. 04-356

**REPLY COMMENTS  
OF THE  
COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION  
(CCIA)**

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## **EXECUTIVE SUMMARY**

CCIA applauds the Commission's efforts to free up additional spectrum for mobile broadband use and its goals of increasing investment and competition in the mobile broadband marketplace. The record demonstrates strong support for the Commission's proposal and agreement that the Commission's plan will help it move toward achieving these important aims. Additionally, CCIA strongly urges the Commission to move expeditiously to complete its rulemaking so that DISH may begin to deploy its proposed 4G LTE mobile broadband network as quickly as possible. Delay in completing this rulemaking only further prolongs the benefits of additional spectrum, competition, investment, and innovation.

CCIA and numerous other parties have also requested the Commission revise its overly aggressive build-out schedule and overly punitive penalties for failure to meet the Commission's guidelines. The record clearly shows that the proposed schedule and penalties are inconsistent with Commission precedent and do not serve the public interest. Further, they may actually serve to discourage investment and build-out and could harm consumers.

Finally, CCIA urges the Commission to continue its work to increase the amount of spectrum for mobile broadband use by auctioning and licensing the PCS H Block. Auctioning the H Block will quickly and efficiently deploy additional spectrum for mobile broadband use, spur competition, allow smaller carriers to expand and deploy new services, and facilitate cooperation between large and small competitive providers to serve rural and underserved communities.

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The Computer & Communications Industry Association (“CCIA”),<sup>1</sup> pursuant to the Federal Communication Commission’s (“Commission”) March 21, 2012 *Notice of Proposed Rulemaking and Notice of Inquiry* (“NPRM”),<sup>2</sup> files these Reply Comments regarding the Commission’s proposed rules to increase the Nation’s supply of spectrum available for the provisioning of mobile broadband services “by removing unnecessary barriers to flexible use of spectrum currently assigned for Mobile Satellite Service (“MSS”) in the 2 GHz band.”<sup>3</sup> As CCIA Comments<sup>4</sup> demonstrate, CCIA supports the Commission’s efforts to increase the Nation’s supply of spectrum for mobile broadband use and applauds the Commission’s efforts to meet the goals set forth in the *National Broadband Plan*.<sup>5</sup> CCIA believes the Commission’s

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<sup>1</sup> CCIA is an international nonprofit membership organization representing companies in the computer, Internet, information technology, and telecommunications industries. Together, CCIA’s members employ nearly half a million workers and generate approximately a quarter of a trillion dollars in annual revenue. CCIA promotes open markets, open systems, open networks and full, fair and open competition in the computer, telecommunications and Internet industries.

<sup>2</sup> *Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*, WT Docket No. 12-70, *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, ET Docket No. 10-142, *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands*, WT Docket No. 04-356, *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 12-32 (Mar. 21, 2012) (“2 GHz NPRM”)

<sup>3</sup> *Id.* at 3 ¶ 1.

<sup>4</sup> WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of the Computer & Communications Industry Association, at 1 (May 17, 2012) (“Comments of CCIA”).

<sup>5</sup> See FEDERAL COMMUNICATIONS COMMISSION, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN 84-85, 87-88 (2009) (“NATIONAL BROADBAND PLAN”) (recommending the Commission make 500 megahertz of spectrum available for broadband use within the next ten years, of which 300 MHz should be available for mobile use within five years, and accelerate terrestrial deployment in 90 megahertz of MSS).

proposal to allow terrestrial services in the 2 GHz band and to grant AWS-4 spectrum licenses to DISH Network (“DISH”) so that it may deploy its planned 4G LTE mobile broadband network will help the Commission take steps toward meeting the goals of the *National Broadband Plan* and to increase competition in the mobile broadband marketplace.<sup>6</sup> The record supports CCIA’s conclusions.<sup>7</sup>

In its Comments CCIA urged the Commission to adopt a less aggressive build-out schedule and less punitive penalties than those proposed by the Commission in its *NPRM*, as they would not serve the Commission’s goal of promoting competition in the wireless market,<sup>8</sup> and will harm consumers, investment, and innovation in the mobile broadband market.<sup>9</sup> CCIA’s objections to the Commission’s proposed construction timetable and penalties are well-supported in the record.<sup>10</sup>

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<sup>6</sup> Comments of CCIA, at 2-5.

<sup>7</sup> See, e.g., WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of the Consumer Electronics Association, at 6 (May 17, 2012) (“Comments of CEA”); Comments of CTIA – The Wireless Association, at 6 (May 17, 2012) (“Comments of CTIA”); Comments of DISH Network Corp., at 4 (May 17, 2012); Comments of Sprint-Nextel, at 3 (May 17, 2012).

<sup>8</sup> See *Implementation of Section 6002(b) of the Omnibus Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Services*, WT Docket No. 09-66, *Fourteenth Report*, FCC 10-81, 5 ¶ 1 (May 20, 2010) (“[p]romoting competition is a fundamental goal of the Commission’s policymaking.”).

<sup>9</sup> Comments of CCIA, at 5-10.

<sup>10</sup> See WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of Alcatel-Lucent, at 3, 16 (May 17, 2012); Comments of AT&T, at 11-13 (May 17, 2012); Comments of DISH Network Corp., at 5, 18-25; Comments of CTIA, at 3, 16-17; Comments of Globalstar, Inc., at 7 (May 17, 2012); Comments of the National Telecommunications Cooperative Association, at 3 (May 17, 2012) (“Comments of NTCA”); Comments of Nokia

CCIA also urged the Commission to expedite its rulemaking process so that licensees can begin deployment of its planned 4G LTE mobile broadband network as soon as possible.<sup>11</sup> Other parties have also requested that the Commission take quick action.<sup>12</sup>

Finally, CCIA asks the Commission to heed the requests of several parties to move quickly to license the PCS H Block spectrum. As with the 40 MHz of 2 GHz spectrum, licensing and auctioning the H Block spectrum will provide additional, needed spectrum for the provisioning of mobile broadband services, and facilitate greater competition, investment, and innovation in the mobile marketplace. Several parties advocate this course of action and CCIA joins them.<sup>13</sup>

**I. THE COMMISSION SHOULD COMPLETE ITS RULEMAKING TO LICENSE TERRESTRIAL MOBILE SERVICES IN THE 2 GHZ BAND TO THE CURRENT MSS LICENSEE**

CCIA applauds the Commission's efforts to make additional spectrum available for the provisioning of mobile broadband services via its proposed rules to license terrestrial mobile services in the 2 GHz band to the current MSS licensee, DISH Network.<sup>14</sup> As CCIA argued in

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Siemens Networks, at 5 (May 17, 2012); Comments of RCA – The Competitive Carriers Association, at 6 (May 17, 2012) (“Comments of RCA”).

<sup>11</sup> Comments of CCIA, at 10.

<sup>12</sup> *See, e.g.*, WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of the CEA, at 2, 6; Comments of DISH Network Corp., at 38; Comments of Globalstar, Inc., at 4-5; Comments of Sprint-Nextel, at i; Comments of Verizon Wireless, at 4-5 (May 17, 2012).

<sup>13</sup> *See, e.g.*, WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of RCA, at 5; Comments of Sprint-Nextel, at i,3; Comments of United States Cellular Corp., at 2-3 (May 17, 2012).

<sup>14</sup> *2 GHz NPRM*, at 10 ¶ 19.

its Comments, the proposed rules would help achieve two of the Commission's goals: making more spectrum available for mobile broadband, and increasing mobile competition.<sup>15</sup> The record supports its conclusions.

The record shows that numerous companies and trade associations support the Commission's plan to allow terrestrial deployment in the 2 GHz band.<sup>16</sup> As DISH asserts, "[t]he Commission's proposal to modify DISH's MSS/ATC authority represents an important step toward putting 40 MHz of wireless broadband spectrum to use for American consumers as quickly as possible."<sup>17</sup> And several parties, including Alcatel-Lucent, the Consumer Electronics Association, CTIA – The Wireless Association, and Sprint-Nextel, write that the Commission's proposal will help it achieve the goals of the *National Broadband Plan* to make 300 MHz of spectrum available for mobile broadband services by 2015 and 500 MHz available by 2020.<sup>18</sup>

In addition to helping the Commission achieve its goal of increasing the amount of spectrum available for mobile broadband use, the proposed rules will also help facilitate additional and much-needed competition in the mobile marketplace. Many parties in this proceeding have argued that freeing 40 MHz of 2 GHz spectrum for terrestrial use will further competition. The National Rural Telecommunications Cooperative notes that that the market

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<sup>15</sup> Comments of CCIA, at 2-5.

<sup>16</sup> See, e.g., WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of Alcatel-Lucent, at 2; Comments of COMPTTEL, at 1 (May 17, 2012); Comments of DISH Network Corp., at 2; Comments of Motorola Mobility, Inc., at 1-2 (May 17, 2012); Comments of New America Foundation, Public Knowledge, and Consumers Union, at 1 (May 17, 2012) ("Comments of Public Interest Organizations").

<sup>17</sup> Comments of DISH Network Corp., at 38.

<sup>18</sup> Comments of Alcatel-Lucent, at 2; Comments of the CEA, at 6; Comment of CTIA, at 6; Comments of Sprint-Nextel, at 3.

entry by DISH and other new competitors is “essential to spur nationwide competition in the domestic wireless industry.”<sup>19</sup> DISH asserts that it is ready to be that new competitor, as the Commission’s proposal will “usher in a new, dynamic competitor.”<sup>20</sup> COMPTTEL agrees, touting that the Commission’s plan would potentially further competition by promoting the arrival of a fifth nationwide mobile voice and data carrier, and one that is independent of the incumbent local exchange carriers. And COMPTTEL goes further; it points out that such a development is not only beneficial for consumers, but also important for the development of competition in upstream and downstream markets such as special access and backhaul.<sup>21</sup> The Rural Cellular Association (“RCA”) also observes that DISH’s planned network would give competitive carriers a new partner to work with to negotiate data roaming and wholesale agreements, allowing these smaller carriers to be more competitive.<sup>22</sup>

In addition to increasing competition and expanding the amount of spectrum available for mobile broadband use, many parties have written about additional public interest benefits of the Commission’s plan. For instance, the Telecommunications Industry Association details the increases in jobs and U.S. gross domestic product that will likely flow from the Commission’s work to bring additional spectrum online for mobile services.<sup>23</sup> And Alcatel-Lucent points out

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<sup>19</sup> WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of the National Rural Telecommunications Association, at 2 (May 17, 2012) (“Comments of NRTA”).

<sup>20</sup> Comments of DISH Network Corp., at 2.

<sup>21</sup> Comments of COMPTTEL, at 2, 6.

<sup>22</sup> Comments of RCA, at 3.

<sup>23</sup> See WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of the Telecommunications Industry Association, at 5 (May 17, 2012) (“Comments of TIA”).

that increasing the spectrum available for mobile broadband by 40 MHz will “fuel continued innovation and investment to benefit consumers and the Nation’s economy.”<sup>24</sup>

The record clearly demonstrates the public interest benefits of the Commission’s proposal to allow DISH to deploy its planned 4G LTE mobile broadband network using its 2 GHz spectrum. CCIA urges the Commission to approve its proposed rules.

**II. THE COMMISSION SHOULD REJECT REQUESTS TO UNDULY CONDITION THE AWS-4 SPECTRUM LICENSES IT GRANTS IN THE 2 GHZ BAND AS SUCH CONDITIONS WILL REDUCE DISH’S ABILITY TO BECOME A COMPETITIVE ALTERNATIVE TO THE INCUMBENT NATIONAL CARRIERS**

The Commission should reject suggestions of undue conditions on AWS-4 spectrum licenses in the 2 GHz band. Conditions on terrestrial spectrum licenses granted to DISH that go beyond the existing obligations of carriers holding similar quantities and types of spectrum could make it more difficult for DISH to compete with the existing nationwide carriers, lessening the benefits of additional competition, and could delay DISH’s deployment. At the very least,

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(citing Wendy Wigan, *Betting on Wireless Broadband Access to Push the U.S. Forward*, <http://www.educause.edu/blog/wwigen/BettingonWirelessBroadbandAcce/207128>; Robert Crandall, William Lehr, and Robert Litan, Brookings Institute, *The Effects of Broadband Deployment on Output and Employment: A Cross-sectional Analysis of U.S. Data*, 6 ISSUES ECON. POL’Y, July 2007, at 2, 12; Alan Pearce and Michael S. Pagano, *Accelerated Wireless Broadband Infrastructure Deployment: The Impact on GDP and Employment*, 18 MEDIA L. & POL’Y 11, 11-12 (Spring 2009); ROGER ENTNER, *THE INCREASINGLY IMPORTANT IMPACT OF WIRELESS BROADBAND TECHNOLOGY AND SERVICES ON THE U.S. ECONOMY* 4 (2008)) (noting that “[s]pectrum reallocations between 1994 and 2000 lead to a 250% increase in investment and a 300% increase in jobs in the mobile market . . . [A] mere 1% increase in broadband deployment – could mean the creation of as many as 300,000 new jobs.” Estimates show that new wireless broadband investments of \$17.4 billion will increase U.S. GDP by \$126.3-184.1 billion and create between 4.5-6.3 million jobs within twenty-four months of the investment, and that “accelerated deployment of wireless broadband technologies and applications will generate productivity gains of almost \$860 billion by 2016.”).

<sup>24</sup> Comments of Alcatel-Lucent, at 4.

additional conditions would put DISH at a competitive disadvantage compared to its well-established national competitors.

Several parties in this docket have suggested the Commission apply conditions to any grant of AWS-4 terrestrial licenses to DISH. For instance, New America Foundation, Public Knowledge, and Consumers Union (collectively, “Public Interest Organizations”) support granting DISH modified terrestrial spectrum licenses if the Commission requires DISH’s compliance with wholesale and data roaming obligations akin to those imposed on LightSquared.<sup>25</sup> T-Mobile has proposed similar conditions.<sup>26</sup>

CCIA opposes requiring DISH abide by conditions similar to those placed on LightSquared. Whereas LightSquared’s business model proposes to deliver a wholesale mobile broadband access via a nationwide network to new and existing providers serving retail customers, DISH has indicated that it intends to provide retail mobile voice and broadband services. Thus, wholesale obligations are not appropriate here as they were in the instance of LightSquared.

With regard to additional data roaming, further obligations beyond those required to comply with the Commission’s 2011 *Data Roaming Order*<sup>27</sup> are unwarranted for a new entrant, DISH. Unlike other providers, DISH has no track record of refusing to negotiate data roaming

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<sup>25</sup> Comments of Public Interest Organizations, at 7-13.

<sup>26</sup> See WT Docket No. 12-70, ET Docket No. 10-142, WT Docket No. 04-356, Comments of T-Mobile USA, Inc., at 15-17 (May 17, 2012).

<sup>27</sup> See *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-264, *Second Report & Order*, FCC 11-52 (Apr. 7, 2011) (“*Data Roaming Order*”) (requiring facilities-based providers of commercial mobile data services to offer data roaming arrangements to other such providers on “commercially reasonable terms and conditions.”).

agreements with smaller carriers.<sup>28</sup> Also, DISH plans to launch a nationwide network with its 40 MHz of 2 GHz spectrum, far less than that held by market leaders Verizon Wireless and AT&T.<sup>29</sup> To effectively compete against Verizon Wireless and AT&T, DISH will need flexibility to provide services to consumers across all of its spectrum holdings. Requiring DISH to comply with obligations above and beyond those imposed on incumbent carriers will only disadvantage DISH and make it a less effective competitive alternative, reducing the public interest benefits that would arise from more robust competition.

Similarly, re-assigning 20 MHz of DISH's spectrum as T-Mobile proposes<sup>30</sup> is also impractical. DISH seeks to inject much-needed competition into the mobile broadband marketplace and is well-placed to enter the market as the fifth national mobile provider.<sup>31</sup> Verizon Wireless and AT&T each hold over 75 population-weighted MHz of spectrum.<sup>32</sup> Expecting DISH to be an effective national competitor with only 20 MHz of spectrum is unrealistic. Thus, CCIA urges the Commission to reject proposals to impose overly burdensome conditions on its proposed grant of AWS-4 terrestrial spectrum. Such conditions will impede

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<sup>28</sup> See *Id.* at 15-16 ¶¶ 25-27 (noting that many carriers have reported to the Commission on the difficulties they have had in reaching data roaming agreements with the two largest mobile broadband carriers, AT&T and Verizon Wireless).

<sup>29</sup> See WT Docket No. 10-133, *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, Fifteenth Report*, FCC 11-103, at 168, Table 28 (June 24, 2011) ("*Fifteenth Report*") (showing that Verizon Wireless holds 83.4 population-weighted MHz (without counting the additional 20-30 MHz of AWS-1 spectrum Verizon Wireless has proposed to purchase from SpectrumCo and Cox TMI Wireless LLC) and AT&T holds 76.8 population-weighted MHz.).

<sup>30</sup> Comments of T-Mobile, at 7, 17-23.

<sup>31</sup> Comments of COMPTTEL, at 2.

<sup>32</sup> *Fifteenth Report*, at 168, Table 28.

DISH's efforts to provide the most robust challenge to the incumbent carriers, will impede its ability to attract investment, limit the services it can offer and deliver to consumers, and reduce future competition by limiting DISH's ability to revitalize the competitive landscape of the mobile broadband market.

### **III. THE RECORD DEMONSTRATES THAT THE COMMISSION SHOULD REVISE ITS PROPOSED BUILD-OUT SCHEDULE AND PENALTIES FOR FAILURE TO MEET THE BUILD-OUT REQUIREMENTS**

As CCIA argued in its Comments, the Commission's proposed build-out schedule and penalties for failure to meet the build-out schedule are overly aggressive and punitive.<sup>33</sup> Not only are the proposed schedule and penalties draconian, but if imposed they could have unintended adverse consequences on DISH's ability to deliver the public interest benefits that its planned network promises.

The record clearly shows that the Commission's proposed build-out timetable and penalties are overly burdensome. As DISH notes, the proposed performance requirements are "arguably more stringent than those adopted for all other terrestrial services . . . ." <sup>34</sup> AT&T argues that the penalties are "too draconian and inconsistent with the requirements applicable to other comparable services."<sup>35</sup> CTIA and Nokia Siemens write that in the past the Commission has found the appropriate balance of the need for performance requirements and flexibility for licensees to meet those requirements.<sup>36</sup> But here, the Commission appears poised to depart from

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<sup>33</sup> Comments of CCIA, at 5-10.

<sup>34</sup> Comments of DISH Network Corp., at 5.

<sup>35</sup> Comments of AT&T, at 13.

<sup>36</sup> Comments of CTIA, at 17; Comments of Nokia Siemens, at 5.

its well-functioning precedents.<sup>37</sup> And numerous other parties agree that the Commission's construction timetable and penalties are too severe.<sup>38</sup>

The Commission's proposed build-out schedule and penalties are overly aggressive and would punish even a good faith effort by DISH (should it be awarded the AWS-4 terrestrial licenses as proposed) to comply with the Commission's guidelines. As CCIA argued in its Comments, these harsh penalties could have the adverse and unintended consequence of harming the licensee's customers.<sup>39</sup> Other parties in this docket also recognize the potential deleterious impact that the Commission's proposed build-out schedule and penalties could have on consumers. AT&T writes that, "[t]erminating a license for failure to meet a performance benchmark – especially for missing an interim benchmark by only a *de minimus* amount, as is possible under the Commission's proposal – would cut off service to users, strand investment and disserve the public interest."<sup>40</sup> And other parties, including Alcatel-Lucent, CTIA, DISH,

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<sup>37</sup> Comments of CTIA, at 17; *See* Comments of DISH Network Corp., at 18-19 (citing 47 C.F.R. §§ 27.13(g), 27.14(a); 47 C.F.R. § 27.14(h), (i), (p).) (asserting that "the contemplated AWS-4 seven-year buildout schedule is among the shortest in the Commercial Mobile Radio Services." AWS-1 licensees holding licenses issued prior to December 31, 2009 are required to provide "substantial service" within 15 years, "700 MHz C Block licensees have 10 years to cover 75 percent of the population in each license area," and Wireless Communications Service licensees "have been afforded a 19-year buildout schedule as a result of the Commission's extension and modification of their substantial service requirements.").

<sup>38</sup> *See, e.g.*, Comments of Alcatel-Lucent, at 16; Comments of AT&T, at 13; Comments of CTIA, at 3, 16; Comments of DISH Network Corp., at 18-25; Comments of RCA, at 6.

<sup>39</sup> Comments of CCIA, at 9.

<sup>40</sup> Comments of AT&T, at 13.

and RCA agree that the proposed construction schedule and penalties have the potential to cause damage to consumers.<sup>41</sup>

In addition to the potential of stranding consumers, the build-out timetable and penalties could have other damaging effects. For instance, the requirements are so stringent that licensees may find it difficult to raise the necessary capital for deployment.<sup>42</sup> The build-out schedule and penalties are intended to provide incentives for a licensee to build out its network, but they actually would have the perverse effect of making it more difficult for the licensee to build its network.

Additionally, as Globalstar argues, penalties should not be so severe that they discourage investment in mobile broadband networks.<sup>43</sup> As DISH points out, the potential penalties for failure to meet the Commission's timeline are incredibly punitive and "may hinder scalable, efficient, long-term investment in technologies and infrastructure."<sup>44</sup> Hindering investment in and deployment of mobile broadband services on the 2 GHz spectrum would defeat the purpose of the Commission's rulemaking, fail to utilize the 40 MHz for mobile broadband use, and create no additional competition in the super-concentrated mobile marketplace. Thus, the Commission must re-think its proposed build-out requirements and penalties and work with prospective licensees to develop a timetable that will serve the public interest.

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<sup>41</sup> See Comments of Alcatel-Lucent, at 16; Comments of CTIA, at 16; Comments of DISH, at 25; Comments of RCA, at 6.

<sup>42</sup> Comments of AT&T, at 11-12.

<sup>43</sup> Comments of Globalstar, Inc., at 7.

<sup>44</sup> Comments of DISH Network Corp., at 5.

#### **IV. THE COMMISSION SHOULD COMPLETE ITS RULEMAKING AS SOON AS POSSIBLE**

The Commission should move expeditiously to approve its proposal so that DISH can begin its terrestrial deployment in the 2 GHz band. In its Comments CCIA argued that the Commission should move quickly to finalize its proposed rule as soon as possible, and that any delay would stall DISH's entry into the mobile broadband market, keeping valuable spectrum from being deployed for its highest value use and postponing the benefits of an additional national competitor.<sup>45</sup>

The record demonstrates significant support for CCIA's position that the Commission should move quickly. DISH argues that expeditious action is necessary "so that the spectrum can actually be deployed and new competitive services can be provided to the American people."<sup>46</sup> And other parties agree that the Commission should move quickly,<sup>47</sup> particularly in light of the pressing need for additional spectrum.<sup>48</sup> The Commission should heed this advice and complete its rulemaking as soon as possible.

#### **V. THE COMMISSION SHOULD LICENSE AND AUCTION THE PCS H BLOCK SPECTRUM**

Several parties in this proceeding, including the RCA, Sprint-Nextel, and U.S. Cellular, have urged the Commission to free up even more spectrum for mobile broadband use by

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<sup>45</sup> Comments of CCIA, at 10

<sup>46</sup> Comments of DISH Network Corp., at 8, 38.

<sup>47</sup> Comments of Sprint-Nextel, at i; Comments of Verizon Wireless, at 4-5.

<sup>48</sup> Comments of the CEA, at 2, 6; Comments of Globalstar, Inc., at 4-5.

auctioning the PCS H Block spectrum.<sup>49</sup> And others have highlighted how the H Block could be used, provided the Commission adopts protections for incumbent PCS operators.<sup>50</sup> As the Commission is aware, there is great demand for additional spectrum for mobile broadband use.<sup>51</sup> Increasing the amount of spectrum in the marketplace has the potential to increase investment and innovation in mobile networks, devices, and applications, but also to stimulate much-needed competition in the mobile broadband market. CCIA believes the Commission should utilize every opportunity to increase the amount of spectrum for mobile broadband services, and thus should move to license and auction the PCS H Block spectrum.

There are great benefits of adding the PCS H Block spectrum into the existing PCS bands. First, licensing the H Block would facilitate or effectuate the last natural expansion for the PCS band.<sup>52</sup> And as Sprint points out, the H Block is the only auction-ready spectrum cleared of incumbent licensees and ready for immediate licensing and deployment.<sup>53</sup> Thus, licensing and auctioning the PCS H Block would further help the Commission meet the goals of the *National Broadband Plan* to license additional spectrum for mobile broadband use.

Second, licensing the H Block would facilitate greater competition in the mobile broadband market. As RCA remarks, the licensing the PCS H Block would allow carriers to build on their existing infrastructure investments and incorporate H Block frequencies into

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<sup>49</sup> See Comments of RCA, at 5; Comments of Sprint-Nextel, at i, 3, Comments of United States Cellular Corp., at 2-3.

<sup>50</sup> See Comments of Motorola Mobility, Inc., at 4-7.

<sup>51</sup> *2 GHz NPRM*, at 6-8 ¶¶ 10-12.

<sup>52</sup> Comments of RCA, at 12.

<sup>53</sup> Comments of Sprint-Nextel, at i, 3.

present operations, providing additional capacity and enabling smaller carriers “to offer new and expanded services quickly and efficiently.”<sup>54</sup> Thus, deployment within the H Block could help small and rural carriers to serve additional customers and expand their coverage and capacities, allowing them compete more effectively with their larger competitors. And Sprint-Nextel argues that auctioning the H Block spectrum will promote competition by helping carriers meet their customers’ needs with increased capacity and expanded roaming opportunities.

Finally, auctioning off the H Block could help expand broadband to underserved Americans. As, RCA explains, licensing the H Block will encourage major carriers to work with regional and rural carriers that receive H Block licenses, which will create opportunities for roaming and other efforts to expand mobile broadband deployment, particularly in rural and underserved areas.<sup>55</sup> Sprint-Nextel echoes these sentiments, claiming that competitive national carriers would have strong incentives to work with regional and rural carriers to develop the auctioned H Block spectrum quickly and efficiently.<sup>56</sup>

The potential benefits of auctioning the PCS H Block spectrum are great. Such action will help deploy additional spectrum for mobile broadband; lead to greater competition, both from small and mid-sized carriers, as well as larger carriers; and enable deployment of mobile services to underserved and rural Americans. While introducing any new services creates a potential for interference, the potential for interference and actual harm from interference are two entirely different things. While some parties have described the potential for interference as a

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<sup>54</sup> Comments of RCA, at 12.

<sup>55</sup> Comments of RCA, at 12.

<sup>56</sup> Comments of Sprint-Nextel, at i.

result of H Block licensing,<sup>57</sup> these same comments provide the Commission with a roadmap for the emissions limits, power limits, and other interference-mitigation techniques that can bring the H Block to market for the benefit of consumers without causing harmful interference to incumbent PCS operators. CCIA urges the Commission to finalize its work with licensees and identify an equitable solution that not only allows consumers to finally enjoy the benefits of rapid broadband deployment in the H Block, but also ensures that there is adequate interference protection to PCS incumbents from operations in the H Block.

## **CONCLUSION**

CCIA urges the Commission to move quickly and adopt its proposed rules to grant DISH AWS-4 spectrum licenses so that it may begin work to deploy its planned 4G LTE mobile broadband network. The Commission should expedite this rulemaking and should not place unwarranted conditions on the licenses.

The Commission should also move to license and auction the PCS H Block spectrum.

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<sup>57</sup> See, e.g., Comments of AT&T, at 7-9; Comments of Motorola Mobility, Inc., at 3-4; Comments of TIA, at 14-15.

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