

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	Docket No. 12-268
Opportunities of Spectrum Through Incentive	)	
Auctions	)	

**REPLY COMMENTS OF LEAP WIRELESS INTERNATIONAL, INC.  
AND CRICKET COMMUNICATIONS, INC.**

Leap Wireless International, Inc. and Cricket Communications, Inc. (together, “Leap”), hereby submit reply comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued in the above-captioned proceeding.<sup>1</sup>

**INTRODUCTION AND SUMMARY**

The record demonstrates widespread support for many of the proposals set forth in Leap’s opening Comments. A broad cross section of commenters agree that the Commission’s auction rules should promote the participation of an array of wireless carriers and ensure insofar as possible that firms of all sizes have a meaningful opportunity to acquire spectrum. Although the combination of a reverse auction, clearing mechanism, and forward auction inevitably will generate complexities, the Commission should strive to implement auction rules that are as clear and simple as possible. Leap also encourages the Commission to allow adequate time between the reverse and forward auctions to enable all carriers to assess and evaluate potential bidding options and, if necessary, to secure financing. The Commission also should move forward with

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<sup>1</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, Docket No. 12-268 (rel. Oct. 2, 2012) (“NPRM”).

its parallel spectrum aggregation proceeding so that it can apply more accurate and more functional eligibility criteria to the auction process. And the Commission can promote participation by carriers and increase competition by implementing an effective bidding credit program.

In addition, there is substantial consensus on many of the Commission's specific band plan proposals. For example, there is broad consensus that the Commission should employ 5 MHz building blocks, and significant agreement that Economic Areas are an efficient geographic unit in which to assign reclaimed broadcast spectrum. There also is agreement among many commenters that the Commission's band plan should maximize the availability of paired spectrum licenses. The record also strongly supports the view that the Commission should ensure interoperability across the entire 600 MHz band to avoid the problems that have afflicted the Lower 700 MHz band.

Finally, there is virtually unanimous agreement that the Commission should prioritize the clearing of Channel 51. Indeed, in Leap's view, the Commission emphatically should reject any auction design proposal and band plan that does not guarantee the nationwide clearing of Channel 51. The Commission should take immediate steps to clear Channel 51 even prior to the auction, but it also should implement rules that ensure the eventual clearing of Channel 51 through the auction process.

## **DISCUSSION**

### **I. THE RECORD ESTABLISHES THE CRITICAL IMPORTANCE OF CRAFTING RULES THAT OFFER CARRIERS OF ALL SIZES MEANINGFUL OPPORTUNITIES TO PARTICIPATE IN THE FORWARD AUCTION**

The record in this proceeding strongly confirms that the Commission should design and implement its auctions in a manner that guarantees that small, midsize, and regional wireless carriers have the opportunity to acquire scarce spectrum. MetroPCS correctly argues that

“access to additional spectrum resources ... will enable competitive carriers to better compete with the largest carriers.”<sup>2</sup> In short, the incentive auction process presents a critical opportunity for the Commission to enable competitive carriers to acquire a universally-needed input, and the Commission should guarantee that all carriers have a meaningful opportunity to acquire that input.

The record reveals substantial support for certain specific steps that the Commission can take to ensure a fair and level playing field in this regard. Many commenters agree with Leap that the Commission can strongly promote the public interest by guaranteeing interoperability across the entire 600 MHz band, to prevent the fragmentation that has occurred in the Lower 700 MHz band.<sup>3</sup> Commenters also broadly agree that the Commission should move forward with its spectrum aggregation proceeding to develop a more accurate spectrum screen that can be applied to the broadcast incentive auction.<sup>4</sup> Leap has advocated that the Commission implement a weighting formula that accounts for the differences in propagation characteristics and device ecosystems among spectrum bands.<sup>5</sup> Leap urges the Commission to adopt that formula, and apply it to the incentive auction. Many competitive carriers and associations also agree that the Commission should employ some form of bidding credit mechanism to incentivize participation by smaller and regional carriers.<sup>6</sup> The Commission should continue to focus on these and other

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<sup>2</sup> MetroPCS Comments at 2.

<sup>3</sup> *See, e.g.*, Competitive Carriers Association (“CCA”) Comments at 16, MetroPCS Comments at 28, T-Mobile Comments at 21, Cellular South Comments at 8.

<sup>4</sup> *See* CCA Comments at 8, Sprint Nextel Comments at 2, Cellular South Comments at 5.

<sup>5</sup> *See* Reply Comments of Leap Wireless International, Inc. and Cricket Communications, Inc., WT Docket No. 12-269 (filed Jan. 7, 2013).

<sup>6</sup> *See* CCA Comments at 11, MetroPCS Comments at 26,

proposals that will ensure a meaningful opportunity for carriers of all sizes to participate in the auction.

There is virtually unanimous agreement among wireless carriers regarding some of the specific proposals in the NPRM. For example, carriers of all sizes, including AT&T and Verizon, endorse the NPRM's proposal to use 5 MHz building blocks.<sup>7</sup> Carriers also broadly agree that EAs are an effective geographic size that will promote participation by an array of carriers.<sup>8</sup> The Commission should seize upon such consensus and adopt these proposals.

With respect to auction mechanics, the Commission must recognize that there are significant risks that the auction rules inadvertently will be biased in favor of the largest carriers, and the Commission therefore must take proactive steps to counter such biases. As U.S. Cellular notes, combinatorial bidding procedures would add significant complexity to an already complex process, and in doing so would disadvantage small, midsize, and regional carriers.<sup>9</sup> The Commission therefore should reject combinatorial or package bidding procedures. Leap also agrees with MetroPCS that open bidding, as opposed to blind bidding, is pro-competitive and will enable more efficient allocation of spectrum.<sup>10</sup> Furthermore, in light of the inherent complexity of the auction process, Leap encourages the Commission to allow adequate time between the reverse and forward auctions, to allow carriers of all sizes to analyze the results of the reverse auction, assess potential bidding strategies, and, if necessary, secure financing. With respect to all aspects of the auction design, the Commission should proceed with caution,

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<sup>7</sup> See AT&T Comments at 3, Verizon Comments at 15, CCA Comments at 12, Cellular South Comments at 6, MetroPCS Comments at 19, T-Mobile Comments at 14.

<sup>8</sup> See CCA Comments at 14-15, MetroPCS Comments at 18, AT&T Comments at 54, Verizon Comments at 44, Cellular South Comments at 8.

<sup>9</sup> U.S. Cellular Comments at 51-55; *see also* CCA Comments at 18, MetroPCS Comments at 13-14.

<sup>10</sup> MetroPCS Comments at 11-13.

develop and disclose in advance as many details as possible about the auction mechanics, and keep a constant eye towards ensuring that the auction rules do not inadvertently bias the auction in favor of the largest carriers.

## **II. THE RECORD CONFIRMS THAT CLEARING CHANNEL 51 IS STRONGLY IN THE PUBLIC INTEREST**

The entire wireless industry is united in proclaiming the significant public interest benefits that would flow from the prompt clearing of Channel 51.<sup>11</sup> As AT&T put it, “*any sound band plan ... would provide for repacking of Channel 51 TV stations whether Channel 51 is designated for mobile broadband uses or not.*”<sup>12</sup> Interference concerns involving Channel 51 have proven to be a significant impediment to deployment of wireless services in the Lower 700 MHz A Block. Small, midsize, and regional carriers have borne the brunt of the problem as the principal license holders of Lower 700 MHz A Block spectrum. But now carriers of all sizes recognize that the auction and repacking process gives the Commission a rare opportunity to promote the availability of wireless services in both the 600 MHz and 700 MHz bands by clearing Channel 51.

Verizon proposes various steps that the Commission can take to facilitate the immediate clearing of Channel 51, even prior to the incentive auction.<sup>13</sup> Leap agrees that the Commission can and should continue to work to speed the clearing of Channel 51, and should ensure that Channel 51 licensees who agree to cease operations or vacate the spectrum retain the ability to participate in the future incentive auction. But to guarantee that the clearing of Channel 51 becomes a reality, the Commission should implement auction rules that ensure the clearing of

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<sup>11</sup> See, e.g., AT&T Comments at 36-37, Verizon Comments at 37-38, CCA Comments at 13-14, MetroPCS Comments at 28-30, U.S. Cellular Comments at 59-60.

<sup>12</sup> AT&T Comments at 36-37.

<sup>13</sup> See Verizon Comments at 37-38.

