

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

In the Matter of	)	
	)	
AT&T Inc., Cellco Partnership d/b/a	)	WT Docket No. 13-56
Verizon Wireless, Grain Spectrum, LLC and	)	
Grain Spectrum II, LLC Seek FCC Consent	)	
to the Assignment of Advanced Wireless	)	
Services and Lower 700 MHz Band B Block	)	
Licenses and to Long-Term <i>De Facto</i> Transfer	)	
Spectrum Leasing Arrangements Involving	)	
Advanced Wireless Services and Lower 700	)	
MHz Band B Block Licenses	)	

**PETITION FOR CONDITIONS**

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Competitive Carriers Association (“CCA”) hereby petitions the Commission to adopt competitive safeguards in the event that it approves the proposed license assignments and leasing arrangements among AT&T Inc. (“AT&T”), Cellco Partnership d/b/a Verizon Wireless (“Verizon”) and Grain Spectrum, LLC and Grain Spectrum II, LLC (“Grain”) (collectively, the “Applicants”).

### **INTRODUCTION AND SUMMARY**

AT&T and Verizon have come to dominate the wireless industry by any conceivable metric—including spectrum holdings, share of subscribers, and share of revenues—and they have used their dominant position to impede competition and impair rivals’ access to critical inputs. This proposed transaction, most notably the component that would enable AT&T to acquire 39 Lower 700 MHz B Block licenses from Verizon and obtain long term leases for three additional Lower 700 MHz B Block licenses, is particularly troubling because AT&T already holds a dominant position in the Lower 700 MHz B Block. The Lower 700 MHz B Block is an especially valuable band for the provision of wireless voice and data services, and has been the crucible of interoperability problems that have plagued the Lower 700 MHz band. The proposed transaction thus would increase AT&T’s dominance over a critical spectrum band and further diminish any incentive AT&T may have to restore interoperability across the Lower 700 MHz band.

To protect competition and promote the public interest, the Commission should condition the assignment of these licenses on an interoperability mandate. In particular, the Commission should require that any devices that operate on the Lower 700 MHz B Block licenses that are the subject of this transaction be capable of operating across the entire Lower 700 MHz band. The Commission also should accelerate action in its mobile spectrum holdings proceeding to create a more meaningful spectrum screen that would appropriately weight spectrum holdings below 1

GHz to prevent band-specific aggregation, such as AT&T's dominance in the Lower 700 MHz B block. Because the competitive harms arising from this transaction are specifically linked to AT&T's dominant position in the Lower 700 MHz B Block and its acquisition of additional Lower 700 MHz B Block licenses that would increase its market power, the harms are transaction-specific and the proposed remedies advance the public interest in enhanced consumer choice, lower consumer switching costs and accelerated broadband deployment.

## DISCUSSION

### I. THE COMMISSION SHOULD EVALUATE THIS TRANSACTION AGAINST THE BACKDROP OF AT&T AND VERIZON'S DOMINANT SPECTRUM POSITIONS, ESPECIALLY AT&T'S CONTROL OF THE CRITICAL LOWER 700 MHZ B AND C BLOCKS

The Commission's recently released *16th Wireless Competition Report* again confirmed what competitive wireless carriers experience every day: the wireless industry is highly concentrated and dominated by AT&T and Verizon.<sup>1</sup> As with the last two reports, the Commission once again was unable to certify that the wireless industry is characterized by effective competition. The Commission noted that the industry's already-high concentration levels had increased yet again, with the industry's population-weighted Herfindahl-Hirschman Index ("HHI") at an all-time high of 2,873.<sup>2</sup> That HHI value is 373 points higher than the level considered "highly concentrated," and 722 points higher than the level measured in 2003 (the first year the Commission calculated HHIs).<sup>3</sup>

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<sup>1</sup> *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*, WT Docket No. 11-186, Sixteenth Report, FCC 13-14, ¶¶ 14-15 (rel. Mar. 21, 2013) ("*16th Wireless Competition Report*").

<sup>2</sup> *Id.* ¶ 59.

<sup>3</sup> *Id.*

The seeds of this new wireless duopoly have been taking root for more than a decade. As the GAO observed in a 2010 report, “[o]ver the past 10 years, consolidation in the wireless industry has generally been accomplished through a series of mergers and acquisitions,” including Cingular’s acquisition of AT&T in 2004, AT&T’s acquisition of Dobson in 2007, Verizon’s acquisition of ALLTEL in 2008, and AT&T’s acquisition of Centennial in 2009.<sup>4</sup> The GAO accordingly concluded that the “primary change in the wireless industry” over the last decade is “industry consolidation,” noting that from 2006 to 2009, AT&T and Verizon increased their subscriber market share by nearly 20 percent.<sup>5</sup>

Since then, the pace of consolidation has only increased, as AT&T and Verizon not only have acquired smaller rivals but also have engaged in significant spectrum-only transactions that have strengthened their position vis-à-vis competitive carriers. These transactions include Verizon’s 2012 acquisition of AWS-1 licenses from SpectrumCo and Cox,<sup>6</sup> AT&T’s 2012

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<sup>4</sup> U.S. Gov’t Accountability Office, GAO-10-779, Telecommunications: Enhanced Data Collection Could Help FCC Better Monitor Competition in the Wireless Industry, at 11 (2010), available at <http://www.gao.gov/new.items/d10779.pdf>; see also *Policies Regarding Mobile Spectrum Holdings*, Notice of Proposed Rulemaking, WT Docket No. 12-269, ¶ 14 (rel. Sept. 28, 2012) (“Mobile Spectrum Holdings NPRM”) (noting, in addition to these transactions, Verizon’s acquisition of Rural Cellular Corporation).

<sup>5</sup> *Id.* at 10, 13.

<sup>6</sup> See generally *Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC and Cox TMI, LLC for Consent to Assign AWS-1 Licenses*, Memorandum Opinion and Order and Declaratory Ruling, 27 FCC Rcd 10698 (2012) (“*Verizon-SpectrumCo Order*”).

acquisition of NextWave Wireless and its substantial WCS and AWS spectrum holdings,<sup>7</sup> and AT&T's 2011 acquisition of Qualcomm's nationwide Lower 700 MHz downlink spectrum.<sup>8</sup>

Today, AT&T and Verizon are duopolists in the marketplace by almost every conceivable measure. Of the approximately 332 million wireless subscribers in America, Verizon accounts for over 113 million, AT&T almost 106 million, and every other competitive wireless carrier (of which there are well over a hundred) serve the remaining 103 million.<sup>9</sup> Verizon's EBITDA margins account for 50% and AT&T's are over 40%, while the other two nationwide providers trail at 29 and 16 percent.<sup>10</sup> In all four quarters of 2011 and 2012 Verizon and AT&T added net postpaid subscribers, while the other two national carriers lost additions in each quarter (with the minor exception of Sprint in 4Q11).<sup>11</sup>

Of particular relevance to this transaction, the *16th Wireless Competition Report* confirmed that AT&T and Verizon hold dominant positions with respect to spectrum holdings below 1 GHz, including in the 700 MHz band.<sup>12</sup> The Commission has recognized that such lower frequency spectrum has "excellent propagation" characteristics relative to higher

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<sup>7</sup> See generally *Applications of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, Comcast Corporation, Horizon Wi-Com, LLC, NextWave Wireless, Inc., and San Diego Gas & Electric Company for Consent To Assign And Transfer Licenses*, Memorandum Opinion and Order, 27 FCC Rcd 16459 (2012).

<sup>8</sup> See generally *Application of AT&T Inc. and Qualcomm Incorporated for Consent to Assign Licenses and Authorizations*, Order, 26 FCC Rcd 17589 (2011) ("AT&T-Qualcomm Order").

<sup>9</sup> CCA, *Policies Regarding Mobile Spectrum Holdings* at 5 (Feb. 13, 2013), attached to Notice of Ex Parte of Competitive Carriers Association, *Policies Regarding Mobile Spectrum Holdings*, WT Docket No. 12-269 (filed Feb. 15, 2013) ("CCA Feb. 13 MSH Presentation").

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *16th Wireless Competition Report* ¶ 129.

frequency bands that “make it ideal for delivering advanced wireless services to rural areas.”<sup>13</sup> Spectrum below 1 GHz also has superior in-building penetration characteristics relative to higher bands, as both AT&T and Verizon have acknowledged.<sup>14</sup> The *16th Wireless Competition Report* identified alarming concentration in these highly valuable spectrum bands below 1 GHz: Verizon and AT&T combined control 77.9% of the 700 MHz band and 91.7% of the Cellular band, and in total control 84% of the spectrum below 1 GHz that is available for commercial wireless services.<sup>15</sup> Moreover, in 2012 AT&T and Verizon were purchasers in 70% of all secondary market transactions for spectrum below 1 GHz; and as of February 2013, that figure was an astounding 91%.<sup>16</sup>

AT&T’s dominance in the Lower 700 MHz B and C blocks is especially problematic because those blocks have been the focal point of interoperability problems in the 700 MHz band. As the Commission has recognized, “there is agreement that a unified band class across the Lower 700 MHz band has the potential to yield benefits for all licensees . . . .”<sup>17</sup> AT&T, however, is “the primary holder of Lower B and C Block licenses,”<sup>18</sup> and the division between those blocks and the Lower A Block is the source of the interoperability problem in the Lower 700 MHz band. As of February 2013, AT&T holds almost 70% of the Lower 700 MHz B Block service in the United States and its territories,<sup>19</sup> and this figure does not include additional

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<sup>13</sup> *Id.* ¶ 122 (citing *700 MHz Second R&O*, 22 FCC Rcd at 15349 ¶ 158).

<sup>14</sup> *Id.* ¶ 123.

<sup>15</sup> *Id.* ¶ 129.

<sup>16</sup> CCA Feb. 13 MSH Presentation at 8-9.

<sup>17</sup> *16th Wireless Competition Report* ¶ 351.

<sup>18</sup> *Interoperability in the 700 MHz Commercial Spectrum*, Notice of Proposed Rulemaking, WT Docket No. 12-69, ¶ 4 (March 21, 2012) (“Interoperability NPRM”).

<sup>19</sup> *See generally* Fed. Comm’n Comm’n Universal Licensing Sys.

transactions (apart from the current one) for even more 700 MHz B and C Block licenses.<sup>20</sup> CCA previously has explained how AT&T's efforts to drive separate band classes in the Lower 700 MHz band, thereby separating its Lower B and C Block holdings from the Lower A Block, have resulted in a lack of device interoperability in the band that has significantly hampered deployment in the Lower 700 MHz A Block.<sup>21</sup> AT&T's ability and incentive to impede interoperability has arisen directly from its extensive holdings in the Lower 700 MHz B and C Blocks. Through the instant transaction, AT&T now proposes to significantly increase its Lower 700 MHz B Block holdings. Such an increase would only exacerbate existing concerns regarding the lack of interoperability in the Lower 700 MHz band.

## **II. THE COMMISSION SHOULD IMPOSE APPROPRIATE CONDITIONS TO PROMOTE COMPETITION AND THE PUBLIC INTEREST**

### **A. The Commission Should Implement an Interoperability Mandate**

Given that AT&T's Lower 700 MHz B and C Block holdings already have impeded interoperability with the A Block, the Commission should not allow AT&T to significantly strengthen its position in those blocks and thereby enhance its ability to thwart interoperability. The Commission should promptly restore interoperability, but if the Commission has not acted

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<sup>20</sup> See, e.g., ULS File No. 0005580671 (filed Jan. 5, 2013) (seeking transfer of eight C Block licenses from Smith Bagley, Inc., to AT&T); *AT&T Inc. and Atlantic Tele-Network, Inc. Seek FCC Consent to the Transfer of Control and Assignment of Licenses, Spectrum Leasing Authorizations, and an International Section 214 Authorization*, WT Docket No. 13-54, Public Notice, DA 13-352 (rel. Mar. 5, 2013) (seeking transfer of three B Block and five C Block licenses); ULS File No. 0005647426 (filed Feb. 19, 2013) (seeking transfer of eight B Block licenses from PCS Partners, L.P. to AT&T); ULS File No. 0005657716 (filed Feb. 26, 2013) (seeking transfer of seven C Block licenses from Command Connect, LLC to AT&T); ULS File No. 0005660786 (filed Feb. 25, 2013) (seeking transfer of one B Block and five C Block licenses from Paul Bunyan Rural Telephone Cooperative to AT&T).

<sup>21</sup> See Comments of RCA – The Competitive Carriers Association, *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69, at 4, 12 (filed June 1, 2012).

on the pending rulemaking by the time the Commission must act on the proposed transaction, the Commission should condition approval of the license transfers on a targeted interoperability condition applicable to devices utilizing the spectrum at issue.

**1. The Commission Possesses Legal Authority to Impose an Interoperability Condition on this Transaction**

Both statutes and precedent give the Commission authority to impose conditions on transactions to alleviate harms to the public interest. Section 303(r) of the Communications Act authorizes the Commission to prescribe restrictions or conditions not inconsistent with law that may be necessary to carry out of the provisions of the Communications Act.<sup>22</sup> In the past, the Commission has conditioned transactions on the basis of its Title III authority to remedy specific harms, and to help ensure the promised public interest benefits.<sup>23</sup> For example, in the *AT&T-Qualcomm Order* the Commission placed technological conditions on AT&T's use of the Lower 700 MHz D and E Blocks: specifically, AT&T was not allowed to configure its network in such a way that would prohibit roaming by carriers using AWS or Cellular but who could not support supplemental downlink technology on the Qualcomm spectrum bonded to the primary spectrum.<sup>24</sup>

In addition, the Commission for decades has invoked its Title III authority to require device interoperability when doing so was necessary to protect and promote the public interest. In the early 1980s, the Commission adopted the analog "AMPS" compatibility standard for

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<sup>22</sup> 47 U.S.C. § 303(r).

<sup>23</sup> See *AT&T-Qualcomm Order* ¶ 57; *Applications of AT&T Inc. and Centennial Communications Corp. For Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements*, WT Docket No. 08-246, Memorandum Opinion and Order, 24 FCC Rcd 13915, 13927 ¶¶ 129-133 (2009); *Applications of AT&T Inc. and Cellco Partnership d/b/a/ Verizon Wireless*, WT Docket No. 09-104, Memorandum Opinion and Order, 25 FCC Rcd 8704, 8716 ¶¶ 95-101 (2010).

<sup>24</sup> *AT&T-Qualcomm Order* ¶ 57.

cellular systems to “facilitate competition” and ensure seamless roaming through the use of “technically compatible equipment.”<sup>25</sup> The Commission also expressly conditioned its approval of the Sirius/XM transaction on the combined entity’s development and sale of fully interoperable devices.<sup>26</sup>

In its Staff Report on AT&T’s ultimately failed attempt to acquire T-Mobile, the Commission acknowledged the “significant questions regarding the effect of the proposed transaction on AT&T’s ability to hinder or prevent the design and manufacture of interoperable handsets and devices, to the detriment of both competitors and consumers.”<sup>27</sup> Because of this and other significant harms to competition FCC staff believed would likely result from consummation of the transaction, staff recommended that the Commission designate the proposed transaction for a hearing pursuant to Section 309(e) of the Communications Act.<sup>28</sup> At that time, should it have decided to ultimately approve the transaction, the Commission would have been free to consider various conditions on the transaction urged by petitioners to mitigate the likely “increased prices for consumers, reduced incentives for innovation, and decreased

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<sup>25</sup> See *Year 2000 Biennial Review—Amendment of Part 22 of the Commission’s Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services*, Order on Reconsideration, 19 FCC Rcd. 3239, 3241-42 ¶ 8 (2004); see also *An Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems, etc.*, Report and Order, 86 FCC 2d 469, 507-08 ¶¶ 92-93 (1981).

<sup>26</sup> *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee*, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, 12364 ¶¶ 113-125 (2008).

<sup>27</sup> *Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, Staff Analysis and Findings, WT Docket No. 11-65, ¶ 121 (2011).

<sup>28</sup> *Id.* at ¶ 266.

consumer choice” Commission staff feared would have otherwise resulted from the transaction.<sup>29</sup>

Most recently, in approving Verizon’s \$3.9 billion acquisition of AWS-1 spectrum, the Commission once again recognized that “interoperability is an important aspect of future deployment of mobile broadband services,” and reserved its right to “closely examine any actions taken that may have the potential to thwart interoperability that currently exists in the AWS-1 band.”<sup>30</sup>

Therefore, the Commission’s authority to prescribe conditions to transactions which would otherwise not benefit the public interest—including interoperability conditions—is clear, and the Commission should impose such a condition on the present transaction.

## **2. The Public Interest Dictates Imposing an Interoperability Condition on this Transaction**

Over the last three years, during which competitive carriers have urged the Commission to restore interoperability in the 700 MHz, the record has consistently shown that a fully interoperable band would enhance competition, promote investment and benefit consumers. Even AT&T CEO Randall Stephenson has previously admitted that “history has shown that we have to make all of these networks . . . interoperable” and that “to the extent we can get more openness, more seamlessness, more interoperability among network providers, among apps, among OSs and devices, then the bigger we make this pie, we cause [the mobile broadband industry] to grow much faster and make it a much more pervasive part of business and

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<sup>29</sup> *Id.*

<sup>30</sup> *Verizon-SpectrumCo Order* ¶ 88.

society.”<sup>31</sup> Allowing the lack of interoperability to strand valuable spectrum and capital investment while at the same time approving AT&T’s acquisition of additional Lower 700 MHz B Block licenses will irreversibly harm the public interest. *Applicants* bear the burden of proving—by a preponderance of the evidence—that the proposed transaction (on balance) will serve the public interest, including “a deeply rooted preference for *preserving and enhancing competition* in relevant markets, *accelerating private sector deployment of advanced services*, *ensuring a diversity of license holdings*, and generally managing the spectrum in the public interest.”<sup>32</sup> Absent conditions to restore interoperability to the 700 MHz band in the markets that are the subject of this transaction, Applicants cannot meet this burden.

Competitive carriers have already invested nearly \$2 billion to acquire the Lower 700 MHz.<sup>33</sup> Restoring interoperability would unleash billions of more dollars of investment in build-outs of new, mobile, high-speed 4G LTE networks and services.<sup>34</sup> Regional carriers such as C Spire Wireless and U.S. Cellular have provided concrete data on the immediate effects harmonization of the Lower 700 MHz would have on the public interest, on the economy and on

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<sup>31</sup> Notice of Ex Parte of Competitive Carriers Association, *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69 at 1, n.3 (filed Jan. 4, 2013) (quoting Interview by Rebecca Meehan, CNBC with Randall Stephenson, CEO, AT&T Inc., at Mobile World Congress in Barcelona, Spain (Feb. 15, 2011)).

<sup>32</sup> *Sprint Nextel Corporation and Clearwire Corporation Applications for Consent To Transfer Control of Licenses, Leases, and Authorizations*, Memorandum Opinion and Order, 23 FCC Rcd 17570 ¶ 20 (2008) (emphases added).

<sup>33</sup> Notice of Ex Parte of Cellular South, Inc., *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69 at 1 (filed Jan. 14, 2013) (“C Spire Jan. 14 Ex Parte”).

<sup>34</sup> *Id.*; see also CCA, *Restoring Interoperability to the Lower 700 MHz Band* at 6 (Jan. 2, 2013), attached to Notice of Ex Parte of Competitive Carriers Association, *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69 (filed Jan. 4, 2013) (“CCA Jan. 2 Interoperability Presentation”).

consumers.<sup>35</sup> For example, C Spire has affirmed that if the Commission were to establish a date certain for full restoration a single, unified band specification for all operations in the Lower 700 MHz paired spectrum, C Spire would offer LTE services over its 700 MHz spectrum to at least 70% of the population (as well as 50% of the geography) of its existing service area by that date.<sup>36</sup> This would deliver LTE coverage to over 2.5 million POPs, predominately in small towns and rural areas.<sup>37</sup> C Spire is only one of many Lower 700 MHz A Block licensees—other, similarly-situated operators would surely follow suit.<sup>38</sup>

A unified Lower 700 MHz band would also reduce the costs to consumers to switch from one provider to another, which will further drive down costs of service and fuel competition.<sup>39</sup> Restoring interoperability is also estimated to create over 100,000 jobs in the next five years,<sup>40</sup> at a time when the telecommunications and technology industry is one of the few growing sectors in an otherwise stagnant economy.

Meanwhile, the costs of a fragmented Lower 700 MHz band continue to accrue. Competitive carriers are spending an estimated \$180 million to \$450 million in combined development costs for Band 12 device platforms.<sup>41</sup> The fact that competitive carriers have smaller scope and scale across which to spread these development costs only compounds the

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<sup>35</sup> See C Spire Jan. 14 Ex Parte; Notice of Ex Parte of United States Cellular Corporation, *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69 (filed Jan. 24, 2013) (“U.S. Cellular Jan. 24 Ex Parte”).

<sup>36</sup> C Spire Jan. 14 Ex Parte at 2.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Notice of Ex Parte of Competitive Carriers Association, *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69 at 2 (filed Jan. 31, 2013).

<sup>40</sup> CCA Jan. 2 Interoperability Presentation at 6.

<sup>41</sup> U.S. Cellular Jan. 24 Ex Parte at 2-3.

current problem.<sup>42</sup> But perhaps most importantly, in the face of the current spectrum crunch, and while the FCC, NTIA and other relevant stakeholders are all doing their part to free up as much spectrum as possible for mobile broadband use, AT&T continues to urge the Commission to strand 12 MHz of beachfront spectrum for its own financial benefit, all without any legitimate technical justification for doing so. CCA previously has warned that AT&T has strong economic incentives to create a “walled garden” around its 700 MHz B and C Block spectrum as a means of foreclosing competitors from the market,<sup>43</sup> and this transaction only validates that warning. As with AT&T’s other recent transactions, AT&T has proposed acquiring only Lower 700 MHz B and C Block spectrum, but no A Block spectrum, despite substantial evidence that there is no technical impediment to a unified Lower 700 MHz band.

The Commission should ensure that any new Lower 700 MHz B Block license acquisitions by AT&T do not further dampen competition, frustrate deployment of advanced services or result in increased spectrum aggregation. It can do so by conditioning this transaction on an obligation that any devices that operate on AT&T’s newly acquired B Block licenses must be capable of operating across the entire Lower 700 MHz band. The harms to the public interest in this context are transaction-specific because they flow from AT&T’s increased ability to thwart interoperability as a direct result of the transaction.

**B. The Commission Should Accelerate Its Mobile Spectrum Holdings Proceeding**

In addition, the Commission should act quickly to develop a more effective spectrum screen to prevent band-specific aggregation, such as AT&T’s control of the Lower 700 MHz B

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<sup>42</sup> *Id.* at 2.

<sup>43</sup> See Reply Comments of RCA – The Competitive Carriers Association, *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69, at 4 (filed July 16, 2012).

Block, which AT&T has wielded to restrict competition. The Commission has begun a proceeding to reconsider its analytical tools for evaluating mobile spectrum holdings.<sup>44</sup> The Commission should accelerate its resolution of that proceeding so that AT&T and Verizon cannot push through transactions such as this one before the new screen is implemented.

As CCA has argued, it is critical that the new screen take appropriate account of the fact that spectrum below 1 GHz has particularly beneficial and valuable properties for the deployment of wireless voice and data services.<sup>45</sup> Aggregation of spectrum below 1 GHz is particularly problematic, and band-specific aggregation, such as AT&T's control of the Lower 700 MHz B Block, also can impair competition, as the interoperability proceeding has revealed. The Commission will be better positioned to evaluate such competitive harms if it moves swiftly to update its spectrum screen in the manner proposed by CCA.

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<sup>44</sup> See Mobile Spectrum Holdings NPRM.

<sup>45</sup> See Comments of RCA – The Competitive Carriers Association, *Promoting Interoperability in the 700 MHz Commercial Spectrum*, WT Docket No. 12-69 (filed June 1, 2012).

## CONCLUSION

For the foregoing reasons, the Commission should condition any order approving the above-captioned transaction on an interoperability mandate that would require devices operating on the Lower 700 MHz B Block licenses that are the subject of the transaction to be capable of operating across the entire Lower 700 MHz band. The Commission should also act quickly to resolve its parallel mobile spectrum holdings proceeding.

Respectfully submitted,

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