



NEW AMERICA
FOUNDATION

February 20, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Oral *Ex Parte* Presentation

Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268;

Policies Regarding Mobile Spectrum Holdings, GN Docket No. 12-269

Commercial Operations in the 3550-3650 MHz Band, GN Docket No. 12-354

Operation of Part 15 Devices in the UNII Band, GN Docket No. 13-49

Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, GN Docket No. 13-185

Dear Ms. Dortch:

On February 18, 2014, Michael Calabrese of the New America Foundation and Harold Feld of Public Knowledge, on behalf of the Public Interest Spectrum Coalition (PISC), met with Commissioner Jessica Rosenworcel and her Legal Advisor David Goldman.

The public interest advocates initially described the growing consensus that unlicensed spectrum is both a complement to licensed and central to the wireless economy, generating on the order of \$100 billion in economic activity each year in the U.S. alone. The advocates mentioned the rapidly increasing share of mobile device data traffic that is off-loaded over Wi-Fi, noting for example a European Commission study in August projecting that roughly 80 percent of mobile device traffic in Western Europe will go over Wi-Fi by the end of 2016. Wi-Fi offload demonstrates the fallacy as well of the supposed "spectrum crisis" that is in fact premised on, if anything, the difficulty of clearing and repurposing exclusively licensed spectrum.

Despite this current and growing importance of unlicensed spectrum for the economy and a steady stream of positive statements from the Commission, the advocates expressed concern that expanding access to unlicensed spectrum does not actually seem to be a priority at the

Commission. The continued uncertainty and lack of actual action on any pro-unlicensed item makes it increasingly harder for investors, entrepreneurs and developers to believe that the FCC is serious about developing next generation businesses and technologies in this country.

With respect to the incentive auctions proceeding (Docket No. 12-268), the PISC representatives emphasized that the public interest is best served by band plan, auction and repacking policies that strike a balance between broadcast stations, licensed mobile operators *and ensuring at least 24 MHz of unlicensed access in every market nationwide*. Broadcom, Google, Microsoft and other industry players have noted that if the band plan and repacking policies do not ensure at least 24 MHz of unlicensed access in every market, including big cities, the Commission will be killing off many emerging unlicensed use cases and economic and social benefits that rely on low-band spectrum. We acknowledged that although last year's Spectrum Act imposed certain statutory guideposts, the Commission can and should promote competition and innovation by ensuring markets of national scope and scale for unlicensed chips, devices and services.

The PISC representatives noted that although there are several alternative ways to ensure the minimum 24 MHz of unlicensed access going forward, the staff needs to make it a conscious goal. We referenced five primary policies identified in PISC's incentive auction comments, which were filed by New America Foundation, Consumer Federation of America, Public Knowledge and the National Hispanic Media Coalition in January 2013 (the "January 2013 Comments").

These policies include an unlicensed and *contiguous* duplex gap, as well as a guard band, that are both technically reasonable and sufficiently wide to accommodate a 6 MHz unlicensed channel. Accomplishing this was a hard-fought compromise anticipated in the Spectrum Reform Act of 2012. Another critical policy choice is to maintain the two designated channels for wireless microphones, but open them for shared unlicensed use, subject to protecting microphone reservations via the TV Bands Database. These could be the first two available channels below the new LTE band. Channel 37 should also be open to shared, unlicensed use subject to TV Bands Database-enforced exclusion areas sufficient to protect radio astronomy and WMTS.

The PISC representative also conveyed their belief that the H Block and AWS-3 auctions likely to be held prior to the incentive auctions will raise sufficient revenues to alleviate any concern that the statutory allocation to FirstNet should influence the design of the incentive auction. We noted that as the Commission decides how to allocate AWS-3 auction revenue between the 1755-1780 MHz and 2155-2180 MHz bands, it would reasonable attribute a far larger share of the proceeds to the latter band, which is not heavily encumbered with Federal users that need to be cleared over the course of a potentially lengthy transition period.

With respect to the 3.5 GHz band proceeding (Docket No. 12-354), we reiterated PISC's support for the "Citizen's Broadband Service" concept proposed in the NPRM and *Revised Framework* Public Notice. Enabling small cell band sharing is the most pro-consumer means of meeting exploding mobile data demand. PISC's comments and reply comments strongly supported the proposed 3-tier access model for federal spectrum sharing based on last year's PCAST recommendations. Most critically, the Commission's proposed 3-tier model – governed by a neutral Database mechanism (Spectrum Access System) – provides a framework for sharing additional Federal bands beyond 3.5 GHz. PISC supports reserving, at least initially, a majority of the 3550-3700 MHz band for General Authorized Access (GAA) and no less than 50 MHz in any local market.

With respect to expanding unlicensed access in the 5 GHz band (GN Docket No. 13-49), the advocates expressed strong support for the view that the Commission should move immediately to an initial order that would expand unlicensed access to the U-NII-1 band for outdoor use at full Part 15 power.

Respectfully submitted,

/s/

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