



NEW AMERICA
FOUNDATION

March 11, 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;

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

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

Dear Ms. Dortch:

On March 7, 2014, on behalf of the nonprofit groups affiliated with the Public Interest Spectrum Coalition (PISC), Michael Calabrese of the New America Foundation, Harold Feld of Public Knowledge, Mark Cooper of Consumer Federation of America, Michael Scurato of the National Hispanic Media Coalition and Todd O’Boyle of Common Cause, met with Chairman Tom Wheeler and various members of his staff and bureau staff.¹

The public interest advocates initially described the growing consensus that unlicensed spectrum is both a complement to licensed and increasingly central to the wireless economy, generating more than \$200 billion in economic activity each year in the U.S. alone, according to a recent study. The PISC representatives asserted that Wi-Fi offload has been the single biggest factor in avoiding the feared “spectrum crisis” and noted a European Commission study in August projecting that roughly 80 percent of mobile device traffic in western Europe will be over Wi-Fi by the end of 2016.

¹ FCC staff attending included Renee Gregory, Legal Advisor to the Chairman; Gary Epstein, Chair of the Incentive Auctions Task Force and Special Advisor to the Chairman; Howard Symons, Vice Chair of the Incentive Auctions Task Force; Roger Sherman, Acting Chief of the Wireless Telecommunications Bureau; Julius Knapp, head of the Office of Engineering and Technology; John Leibovitz, Deputy Chief of WTB and spectrum advisor to the Chairman; Gigi Sohn, Special Counsel for External Affairs; and Sagar Doshi, Special Assistant to the Chairman.

Despite the growing importance of unlicensed spectrum for the economy and a steady stream of positive statements, expanding access to unlicensed spectrum does not seem to be the priority at the Commission that it should be. Continued uncertainty and lack of actual action on pro-unlicensed items, particularly with respect to ensuring adequate unlicensed access to TV Band spectrum post-incentive auction, 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. Eventually, this capital and those jobs will move overseas where other countries are pursuing next generation unlicensed more aggressively.

With respect to expanding unlicensed access in the 5 GHz band (GN Docket No. 13-49), the advocates noted their strong support and appreciation for the Commission's efforts to 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, while also incorporating safeguards to protect the incumbent satellite service from its hypothetical interference concerns. The PISC representatives also expressed their support for the FCC's proposals to open other portions of the 5 GHz band and noted they will be active in advocating solutions to any remaining issues in the proceeding.

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*. The advocates noted that Broadcom, Google, Microsoft and other industry players maintain that if the band plan and repacking policies do not ensure at least four channels of 6 megahertz of unlicensed access in every market, including the most populated metro markets, the Commission will be killing off many emerging unlicensed use cases and the economic and social benefits that rely on low-band spectrum. A diverse ecosystem of both low-band and high-band spectrum will be necessary to extend the benefits of unlicensed spectrum. The PISC representatives noted that among these important benefits are lower barriers of entry for minority communities and small business ventures that find themselves on the wrong side of the digital divide today. More ubiquitous and affordable wireless broadband connectivity also promotes civic engagement and democracy.

The PISC representatives stated that although there are several alternative ways to ensure that a minimum 24 megahertz of unlicensed access is achieved by the incentive auction band plan and repacking post-auction, the Commission will need to make it a conscious goal. These policies should include unlicensed access to the anticipated duplex gap and to the guard band at the lower end of the LTE band in a manner that accommodates a 6 MHz unlicensed channel. We noted that although the record establishes that an 18 MHz duplex gap would be technically reasonable, recent filings by Broadcom conclude that a duplex gap as narrow as 12 megahertz could still accommodate a productive 6 Mhz channel for low-power unlicensed use consistent with existing White Space rules. Accomplishing this was a hard-fought compromise anticipated

in the Spectrum Reform Act of 2012 and the clear intent of Congressional compromise. We stated that although some carrier interests assert that a 35-by-35 MHz band plan for LTE is the preferred allocation above Channel 37, even if this proves feasible it would definitely preclude national markets for unlicensed innovation and for investment and mass deployment of 802.11af chips, devices and applications in particular.

Finally, with respect to the 3.5 GHz band proceeding (Docket No. 12-354), a PISC representative briefly reiterated PISC's support for the "Citizen's Broadband Service" concept proposed in the NPRM and in the *Revised Framework* Public Notice, which is based on the three-tier Spectrum Access System recommended by the President's Council of Advisors on Science and Technology (PCAST). 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.

Respectfully submitted,

/s/

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