

April 24, 2014

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: *Ex Parte Notice*

GN Docket No. 12-268: *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*
WT Docket No. 12-269: *Policies Regarding Mobile Spectrum Holdings*

Dear Ms. Dortch:

On April 22, 2014, Steve Berry, Rebecca Thompson, Tim Donovan and Sean Spivey, with Competitive Carriers Association (“CCA”), and Trey Hanbury of Hogan Lovells US LLP, representing CCA, held two meetings with Federal Communications Commission (“Commission”) officials. The first meeting was with Roger Sherman, Jim Schlichting, and Michael Janson of the Wireless Telecommunications Bureau. The second meeting was with Brendan Carr, Legal Advisor to Commissioner Ajit Pai. (Mr. Spivey did not participate in the meeting with Mr. Carr.) On April 23, Ms. Thompson, Mr. Spivey and Mr. Hanbury met with Erin McGrath, Legal Advisor to Commissioner Michael O’Rielly, and, on April 24, Mr. Berry, Ms. Thompson, Mr. Spivey and Mr. Hanbury met with Renee Gregory, Legal Advisor to Chairman Wheeler.

CCA praised the Commission’s proposed incentive auction rules for striking a reasonable balance between one-time revenue objectives and the long-term benefits of increased competition. The proposed rules appear to recognize that low-frequency spectrum is critical for providing increased coverage in urban and rural areas. The rules also appear to recognize that after-the-fact divestitures, standing alone, would heighten regulatory uncertainty and allow dominant carriers to pick-and-choose their competitors. CCA’s carrier members are excited about the opportunity to participate in and bid on spectrum the incentive auction. Competitive carriers are willing to pay their fair share for access to critical low-band spectrum resources and explained how relatively modest changes to the rules could enhance auction revenues and result in more robust competition following the auction.

First, CCA proposed that the Commission focus on low-band spectrum aggregation in the national market as well as the local markets when determining eligibility for reserved blocks in a partial economic area (“PEA”) geographic license area. Specifically, CCA recommended that to determine eligibility for the reserved blocks, the Commission examine whether a bidder holds more than one-third of the low-band spectrum on a nationwide, population-weighted basis *and* whether a bidder holds more than one-third of the low-band spectrum on a PEA-wide, population-weighted basis. CCA explained that only carriers with a high concentration of nationwide low-band spectrum holdings *and* a high concentration of PEA-specific low-band spectrum holdings will possess the market power sufficient to warrant ineligibility to bid on the reserved blocks. Establishing a two-part test to secure eligibility for the reserved spectrum—one in which *both* national low-band spectrum concentration and local low-band spectrum concentration measurements must be surpassed before limiting an auction participant to only the unreserved blocks—would help ensure that small and rural carriers without market power continue to have full access to all spectrum blocks in their home markets.¹ With its unique propagation characteristics and economic efficiencies, this spectrum is critical for rural deployment. Just as important, however, is that access to this spectrum ensures competitive carriers are part of an ecosystem for roaming and equipment.

Second, CCA recommended, in the base case of 70 MHz of spectrum for auction, that the Commission expand the amount of reserve spectrum from 30 MHz to 40 MHz. Allowing the dominant carriers each to acquire 20 MHz of unreserved spectrum will cement Verizon and AT&T’s national market power and control over access to critical inputs—in particular, low-band spectrum—needed to operate a competitive service. Alternatively, an expanded pool of reserve spectrum will help mitigate price and quantity uncertainty for competitive carriers that are least able to tolerate this uncertainty. Expanding the pool of reserve spectrum will also stimulate competitive bidding between the two dominant carriers for unrestricted spectrum, and increase the likelihood of larger auction revenues.

Third, CCA supported the recommendation that the Commission avoid package bidding in the 600 MHz incentive auction. The primary rationale for package bidding is to limit the alleged exposure risk of a bidder acquiring less than all of the territories or spectrum necessary to deploy wireless broadband in an economic fashion. But with numerous fungible blocks available for acquisition, the exposure risk associated with the 600 MHz incentive auction is very limited. Even if some limited exposure risk exists, individual bidders’ inability to overcome free rider problems to express the true value they place on component blocks of a package greatly outweighs this perceived impairment. Putting aside complexity, package bidding has the potential to lead to the inefficient allocation of spectrum resources from individual bidders that

¹ Notably, this dual test would leave the ability of the two dominant carriers to access reserved blocks unchanged: in those areas where Verizon and AT&T are eligible to bid on the reserved blocks under the PEA-based test, they would remain eligible to bid on the reserved blocks under a dual nationwide/PEA based test.

value the assets most highly to a package bidder that values the asset at a lower price, but with none of the attendant collective action and communications problems associated with individual bidders.

Finally, with respect to the transaction screen, the representatives discussed the ways in which a failure to distinguish between mid- and high-band spectrum has the potential to accelerate consolidation in the wireless sector by providing the two dominant carriers with even more latitude for additional acquisitions than they already have.

Consistent with section 1.206(b)(2) of the Commission's rules, please associate this letter with the above-referenced dockets.

Respectfully submitted,

/s/ Trey Hanbury

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