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May 8, 2014

Via Electronic Filing

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

Re: ***Notice of Ex Parte Presentation: Policies Regarding Mobile Spectrum Holdings, WT Docket No. 12-269; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268***

Dear Ms. Dortch:

On May 6, 2014, Lawrence R. Krevor, Vice President, Legal and Government Affairs – Spectrum, Gardner Foster, Senior Counsel, Legal and Government Affairs, and the undersigned of Sprint Corporation (“Sprint”), and Kostas Liopiros of the Sun Fire Group LLC, consultant to Sprint, met with Acting General Counsel Jonathan Sallet, William Scher, and Bill Richardson of the Office of General Counsel, regarding the above-captioned proceedings.

During the meeting, Sprint emphasized that the overwhelming weight of the record demonstrates the varying competitive utility of different bands for mobile broadband, illustrating the necessity of distinguishing among bands contained in the screen. In that vein, Sprint described a potential refinement to its spectrum weighting proposal in the form of a three-tier “low/mid/high” band weighting approach. Building on the fundamental principles of Sprint’s original proposal¹ (and reflecting previous Commission determinations about the mix of spectrum bands carriers needed to cost-effectively compete), this simplified weighting approach supports a more logical competition-based screen than the Commission staff proposal.

As the attached slides (copies of which were circulated at the meeting) reflect, the Commission staff recommendation yields a screen that would provide AT&T on average with nearly three times the spectrum screen headroom it enjoys today. Analogously, the proposal would almost double Verizon’s average headroom. By contrast, Sprint’s headroom would, on

¹ *Sprint’s Competition-Based Framework for A Weighted Wireless Broadband Spectrum Screen, attached to Letter from Lawrence Krevor, Vice President, Sprint Corp., to Marlene H. Dortch, Secretary, FCC, Docket No. 12-269 (Feb. 11, 2014).*

average, be eliminated, thereby subjecting even “routine” or *de minimis* future Sprint spectrum transactions to detailed competitive analysis. Accordingly, Sprint expressed concern that Commission adoption of the staff proposal, despite the voluminous record in this proceeding, would signal that the Commission has concluded that the only carrier with dominant national market power is Sprint. This, of course, is preposterous and directly at odds with the weight of the record.

Over one and a half years after the Commission specifically sought ideas for distinguishing among commercial spectrum bands given past Commission recognition of their disparate technical characteristics, the staff proposal not only proposes to retain the broken screen, but effectively exacerbates its chief defect by, among other things, not adequately accounting for the significant encumbrances associated with broadband deployment of high-band spectrum.² As Sprint explained, the record herein conclusively demonstrates that material differences among low-, mid-, and high-band spectrum significantly affect the cost, timeliness and even feasibility of deployment and operation of a particular band in a broadband network – directly affecting the competitive ability of an operator in the downstream market.³ The proposed screen would yield results that are grossly inconsistent with past Commission precedent and competitive determinations (including Commission statements in recent transactions).⁴ Above all, the staff proposal is inconsistent with the Commission’s underlying rationale for the spectrum screen: assisting the Commission in identifying market power that arises from excessive concentration of critical spectrum inputs.

A three-tiered weighted screen would correct the proposed screen’s indifference to the relative utility of – and the impact on competition from using – a variety of spectrum bands in wireless broadband networks. Such an approach, Sprint explained, would repair the spectrum screen’s effectiveness as a diagnostic tool, while nonetheless giving all four nationwide operators reasonable ‘headroom’ under the screen.

² As Sprint explained, the staff proposal continues to overlook the vast record detailing the extensive encumbrances associated with deployment of BRS and EBS channels.

³ Despite the efforts of certain parties to make unsubstantiated claims, again and again, suggesting parity between “total economic costs” associated with particular bands, Sprint and other parties have submitted evidence empirically demonstrating that the costs to acquire, deploy, and operate particular spectrum bands do not come close to convergence. *See, e.g., The Imperative for a Weighted Spectrum Screen: Low-, Mid-, and High-Band Frequencies Are Not Freely Substitutable Market Inputs*, attached to Letter from Lawrence Krevor, Vice President, Sprint Corp., to Marlene H. Dortch, Secretary, FCC, Docket No. 12-269, at 8-13 (Apr. 4, 2014); CostQuest Associates Economic Research & Analysis, T-Mobile USF Mobile Model Report (Oct. 1, 2012), attached to T-Mobile Ex Parte Letter, GN Docket No. 12-268, WT Docket No. 12-269 (Jan. 29, 2014).

⁴ *Compare Application of AT&T Inc. and Qualcomm Incorporated for Consent to Assign Licenses and Authorizations*, 26 FCC Rcd 17589, ¶ 45 (2011) (“At the national level, AT&T and Verizon have the most substantial spectrum holdings.”), and *Staff Analysis and Findings, Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign and Transfer Control of Licenses and Authorizations*, 26 FCC Rcd 16184, ¶ 17 (2011) (“[B]y combining [AT&T and T-Mobile], the proposed transaction would result in an increase in both subscriber and spectrum concentration that is unprecedented in its scale.”), with *Applications of SoftBank Corp., Starburst II, Inc., and Sprint Nextel Corporation, and Clearwire Corporation for Consent to Transfer Control of Licenses and Authorizations*, 28 FCC Rcd 9642, ¶ 42 (2013) (“We note that *even if we were to consider as relevant the competitive effects of Sprint’s entire post-transaction holdings in the 2.5 GHz band, we would not find the proposed transactions to likely result in competitive harm.*”) (emphasis added).

May 8, 2014

Page 3

Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed with your office. Please let me know if you have any questions regarding this filing.

Respectfully submitted,

/s/ Rafi Martina

Rafi Martina

Attorney

Legal and Government Affairs

Sprint Corporation

Attachment

cc: (via e-mail)
Jonathan Sallet
William Scher
Bill Richardson

Estimated Holdings Under Existing Spectrum Screen

Existing Screen Revised 1/31/2014	Sprint	AT&T	T-Mobile	Verizon
Threshold (MHz)	151	151	151	151
Exceeds Screen - Counties	0	178 (5.5%)	0	2 (0.1%)
Exceeds Screen - Population	0	16.9M (5.4%)	0	42K (0%)
Avg MHz	110.6	122.3	70.6	102.3
Avg MHz (Top 100 CMA)	112.9	126	77.3	104.9
Headroom (Top 100 CMA)	38.1 MHz	25.0 MHz	73.7 MHz	46.1 MHz

Estimated Holdings Under Staff Proposal

Staff Proposal (Updated with 1Q14 data)	Sprint	AT&T	T-Mobile	Verizon
Threshold (MHz)	194.0	194.0	194.0	194.0
Exceeds Screen - Counties	797 (24.7%)	0 (0%)	0 (0%)	0 (0%)
Exceeds Screen - Population	205.8 M (65.6%)	0 (0%)	0 (0%)	0 (0%)
Avg MHz	187.8	122.2	70.7	102.6
Avg MHz (Top 100 CMA)	202.9	125.4	77.5	104.9
Headroom (Top 100 CMA)	-8.9 MHz	68.6 MHz	116.5 MHz	89.1 MHz



Estimated Holdings Under Possible Three-Bucket Approach

	Sprint	AT&T	T-Mobile	Verizon
< 1 GHz weighted at 1.5	187.0	187.0	187.0	187.0
1-2.2 GHz weighted at 1.0	0 (0%)	37 (1.1%)	0 (0%)	2 (0.1%)
> 2.2 GHz weighted at 0.5 (Updated with 1Q14 data)	0 (0%)	5.5 M (1.8%)	0 (0%)	0.04 M (0.01%)
Threshold (MHz)	126.3	138.7	73.7	125.6
Avg MHz	134.4	144.1	81.4	128.2
Exceeds Screen – Counties	52.6 MHz	42.9 MHz	105.6 MHz	58.8 MHz
Exceeds Screen – Population				
Avg MHz (Top 100 CMA)				
Headroom (Top 100 CMA)				

