

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Application of Cellco Partnership d/b/a)	WT Docket No. 12-4
Verizon Wireless and SpectrumCo, LLC)	
For Consent To Assign Licenses)	
)	
Application of Cellco Partnership d/b/a)	
Verizon Wireless and Cox TMI Wireless, LLC)	
For Consent To Assign Licenses)	

COMMENTS

As the Applicants have demonstrated, the SpectrumCo-Cox license assignments will advance the public interest in numerous ways; Verizon Wireless' transaction with T-Mobile only enhances those public interest benefits. Approval of the SpectrumCo-Cox transactions, along with the Verizon Wireless/T-Mobile spectrum exchange, will underscore the effectiveness of the Commission's secondary markets policies. In particular, these transactions will further rationalize the respective companies' spectrum holdings. In addition, the T-Mobile transaction further undermines spectrum aggregation claims made by some parties in the SpectrumCo-Cox proceeding.

I. COMMISSION APPROVAL OF THE SPECTRUMCO-COX AND T-MOBILE TRANSACTIONS WILL DEMONSTRATE THAT SECONDARY MARKET POLICIES WORK EFFECTIVELY.

The Commission has championed reliance on secondary market transactions like those at issue here to "permit spectrum to flow more freely among users and uses in response to

economic demand.”¹ The SpectrumCo-Cox and T-Mobile transactions demonstrate that the secondary market for spectrum can work to efficiently put existing spectrum into the hands of parties that can put it to use to serve customers and to expand and enhance 4G LTE mobile broadband services – but only if the Commission promptly approves transactions like these.

While it is critical for the government to continue its ongoing efforts to make additional spectrum available for commercial use, the Commission correctly has recognized that secondary market transactions such as these are equally important to allow wireless providers to put existing spectrum to work to help address skyrocketing consumer demand for mobile broadband services. The National Broadband Plan recognized this marketplace role by declaring that “[s]econdary markets provide a way for some network providers to obtain access to needed spectrum for broadband deployment.”² Consistent with this assessment, in December 2011 the Commission approved the spectrum-only deal between Qualcomm and AT&T, finding that the transaction “support[s] our goal of expanding mobile broadband deployment throughout the country.”³ And in January, Chairman Genachowski cited secondary market transactions as one of the key tools “[t]o meet th[e] demand” for more spectrum dedicated to commercial mobile broadband use.⁴ As evidence of this dynamic secondary market, the Verizon Wireless/T-Mobile

¹ *Fostering Innovation and Investment in the Wireless Communications Market*, Notice of Inquiry, 24 FCC Rcd 11322, 11331 n.27 (2009); see also *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 19 FCC Rcd 17503, 17505 ¶ 1 (2004), cited in Application of Cellco Partnership d/b/a/ Verizon Wireless and SpectrumCo LLC for Consent to Assign Licenses, WT Docket No. 12-4, File No. 0004993617, Ex. 1 at 16-19 (Dec. 16, 2011) (“Verizon Wireless/SpectrumCo Application”).

² FCC, *Connecting America: The National Broadband Plan* at 83 (Recommendation 5.7).

³ *AT&T Inc. and Qualcomm Inc.*, Order, 26 FCC Rcd 17589, 17628 ¶ 95 (2011).

⁴ Julius Genachowski, Chairman, FCC, Remarks at the 2012 Consumer Electronics Show at 5 (Jan. 11, 2012), available at <http://www.fcc.gov/document/chairman-genachowski-2012-consumer-electronics-show>.

spectrum swap is the *seventh* deal that T-Mobile has entered into for the outright acquisition or exchange of spectrum since the AT&T/T-Mobile transaction was withdrawn last November, just over seven months ago.

The Applicants previously explained that the SpectrumCo-Cox transactions show how secondary markets enable wireless providers to acquire spectrum to meet their customers' growing needs for high capacity wireless broadband services, and put spectrum that is not currently being used to serve customers to work efficiently to benefit consumers. The recently announced T-Mobile transaction further emphasizes this point. As addressed below, that transaction involves both intra-market swaps to increase spectrum contiguity so that the parties can use their spectrum more efficiently and net transfers in other markets that will provide the parties with added spectrum depth where their customers need it, with an overall net transfer of spectrum to T-Mobile.

Notably, approval of the SpectrumCo-Cox transactions will effectuate a necessary precondition to allow the Verizon Wireless/T-Mobile spectrum swap to proceed. The Verizon Wireless/T-Mobile transaction includes 47 licenses (covering all or portions of 98 cellular market areas ("CMAs")) that Verizon Wireless proposes to acquire from SpectrumCo, Cox, and Leap Wireless.⁵ As a result, the Verizon Wireless/T-Mobile transaction is contingent upon regulatory approval of these prior-filed transactions.⁶ In addition, Verizon Wireless previously has announced that it will conduct a public sale process of all of its Lower 700 MHz spectrum

⁵ *Wireless Telecommunications Bureau Seeks Comment on the Impact on the Verizon Wireless-SpectrumCo and Verizon Wireless-Cox Transactions of the Applications of Verizon Wireless and T-Mobile to Assign AWS-1 Licenses*, Public Notice, WT Docket No. 12-4, at 1 (rel. June 26, 2012) ("Notice").

⁶ *Applications of Cellco Partnership d/b/a Verizon Wireless and T-Mobile License LLC for Consent to Assign Licenses*, WT Docket No. 12-175, File No. 0005272585, Ex. 1 at 1-2 & n.2 (June 25, 2012) ("Verizon Wireless/T-Mobile Public Interest Statement").

licenses, contingent on approval of the SpectrumCo-Cox applications.⁷ That process is well underway. The company has retained two financial advisors to manage the sale process and already has distributed an offering memorandum to 59 entities that have executed non-disclosure agreements, up from the 36 entities that had previously been reported to the Commission.⁸ The Commission's role in granting the SpectrumCo-Cox applications and enabling these secondary-market opportunities is crucial to moving all of these transactions forward.

II. THE VERIZON WIRELESS/T-MOBILE TRANSACTION FURTHER ENHANCES THE PUBLIC INTEREST BENEFITS OF THE SPECTRUMCO-COX TRANSACTIONS.

The Applicants have proven that spectrum aggregation claims raised in this proceeding are meritless and that the SpectrumCo-Cox assignments benefit the public interest, irrespective of the separate Verizon Wireless/T-Mobile transaction. The June 26th *Notice*, however, seeks comment specifically on “any impact of those newly filed applications on the spectrum aggregation issues raised in the context of this docket.”⁹ The Verizon Wireless/T-Mobile assignments offer additional public interest benefits and further undercut opponents' spectrum aggregation claims.

First, as noted above, the spectrum that Verizon Wireless and T-Mobile seek to swap – including some spectrum Verizon Wireless must acquire first from SpectrumCo and Cox – will further rationalize each provider's spectrum holdings by providing additional spectrum in markets where the carriers have significant needs and by improving spectrum contiguity, and thus efficiency, for both providers. Specifically:

⁷ News Release, Verizon Wireless to Conduct Spectrum License Sale (Apr. 18, 2012), *available at* <http://news.verizonwireless.com/news/2012/04/pr2012-04-18f.html>.

⁸ Letter from Kathleen Grillo, Verizon, to Rick Kaplan, FCC, WT Docket No. 12-4, at 1-2 (May 22, 2012).

⁹ *Notice at 2.*

- In 76 CMAs, the Verizon Wireless/T-Mobile transaction involves intra-market swaps of equal amounts of AWS spectrum. These one-for-one spectrum swaps *will not* result in any change in the aggregate spectrum held by each party, but they *will* increase the amount of contiguous spectrum held by Verizon Wireless and T-Mobile and will allow each to use its spectrum more efficiently than is possible with non-contiguous spectrum, enhancing capacity and data-throughput in both networks.
- In 125 CMAs, the transaction involves a net transfer of AWS spectrum from Verizon Wireless to T-Mobile – 10 MHz in 111 CMAs and 20 MHz in the other fourteen. The transaction will allow T-Mobile to deploy LTE in a number of additional markets and provide added spectrum to support LTE service in a number of others.
- In 17 CMAs, the transaction involves a net transfer of AWS spectrum to Verizon Wireless – 10 MHz in 14 CMAs and 20 MHz in the other three – in western markets where the company holds no AWS spectrum and has demonstrated a need for additional spectrum resources in the near term.¹⁰

Taken together, these transactions will put the SpectrumCo-Cox spectrum to use in an efficient manner to further expand mobile broadband services.

Second, the Verizon Wireless/T-Mobile transaction further weakens opponents' spectrum aggregation claims, as the spectrum exchange will result in the net transfer of spectrum capacity *from* Verizon Wireless *to* T-Mobile. Even before the proposed swap was announced, the Applicants demonstrated that Verizon Wireless will remain below the spectrum screen in the overwhelming majority of SpectrumCo-Cox markets: 121 of the 136 markets, accounting for 2,531 of the 2,577 counties and approximately 281.8 million of the 287 million POPs covered by the SpectrumCo-Cox licenses.¹¹ The remaining 15 markets – amounting to 18 CMAs – would be only marginally above the screen: in eight of these CMAs, the spectrum screen would be exceeded by four MHz or less, and in 14 CMAs the overage would be nine MHz or less.¹² *The T-Mobile transaction will reduce Verizon Wireless holdings such that the number of above-*

¹⁰ Verizon Wireless/T-Mobile Public Interest Statement at 1-2.

¹¹ *See generally* Joint Opposition to Petitions to Deny and Comments, WT Docket No. 12-4, at 42-46 (Mar. 2, 2012) (“Verizon Wireless/SpectrumCo/Cox Joint Opposition”).

¹² *See id.* at 46.

screen SpectrumCo-Cox CMAs will drop from 18 to four.¹³ Only 187,000 POPs of the approximately 287 million POPs covered by the Spectrum-Cox licenses – just 0.06% – will be in markets above the screen.

With the Verizon Wireless/T-Mobile transaction, 2,568 of the 2,577 counties covered in the SpectrumCo-Cox transactions will be below the screen – in other words, only nine counties (as compared to 46 counties without the T-Mobile transaction) will have overages:

- In one CMA (Minnesota 8-Lac qui Parle (CMA489)), the AWS assignments to T-Mobile will eliminate the overage in one county (Lac qui Parle) and reduce the overage from 14 to four MHz in three other counties (Lincoln, Lyon, and Yellow Medicine).¹⁴
- The other six counties are in three CMAs that are not involved in the Verizon Wireless/T-Mobile exchange; three of these counties are above the screen by four MHz or less and the other three are over by between nine and 12 MHz.¹⁵

As the Applicants have previously demonstrated, in each of these counties, there are eight or more other “in screen” spectrum holders that are either competing today, could enter the market to compete, or could assign their spectrum to others seeking to compete.¹⁶ Therefore, there will be no adverse competitive effects resulting from these transactions.

Finally, some opponents of the SpectrumCo-Cox assignments will no doubt respond to the *Notice* with recycled arguments about a “spectrum gap” between Verizon Wireless and AT&T or others in the industry.¹⁷ But, as noted, the Verizon Wireless/T-Mobile transaction will

¹³ See Verizon Wireless/SpectrumCo Application, Ex. 1 at 27-33 & Ex. 7.

¹⁴ Applications of Cellco Partnership d/b/a Verizon Wireless and T-Mobile License LLC for Consent to Assign Licenses, WT Docket No. 12-175, File No. 0005272585, Ex. 2 (Verizon Wireless Aggregation) at 15 (June 25, 2012).

¹⁵ See Verizon Wireless/SpectrumCo Application at Ex. 7. Those three CMAs are: Minnesota 11-Goodhue (CMA492), Missouri 9-Bates (CMA512), and Texas 7-Fannin (CMA658).

¹⁶ See Verizon Wireless/SpectrumCo/Cox Joint Opposition at 46-47 & Ex. 5; see also Verizon Wireless/T-Mobile Public Interest Statement at 6-7.

¹⁷ See Letter from S. Derek Turner, Free Press, to Marlene H. Dortch, FCC, WT Docket Nos. 12-4 & 12-175 (June 29, 2012).

result in a net transfer of spectrum to T-Mobile – a total of approximately 390 million MHz*POPs.¹⁸ And, to the extent these parties claim that Verizon Wireless’ willingness to engage in a spectrum swap with T-Mobile shows that it “warehouses” spectrum,¹⁹ those claims are meritless. Verizon Wireless has exhaustively demonstrated that it faces spectrum shortages as soon as 2013 in many markets, with more shortages by 2015 and beyond, notwithstanding the substantial investment in network enhancements the company expects to undertake going forward.²⁰ This is true both in the eastern portion of the United States where it holds AWS spectrum, and in western U.S. markets where it currently holds no AWS spectrum. The combination of the SpectrumCo-Cox and T-Mobile transactions helps to meet customers’ near term demands for greater capacity by adding spectrum depth in critical markets and by significantly increasing the contiguity of Verizon Wireless’ spectrum holdings to allow it to use the AWS spectrum more efficiently. In fact, the transaction with T-Mobile further underscores Verizon Wireless’ pressing need for additional spectrum in western markets where it currently lacks any AWS holdings.

¹⁸ Verizon Wireless/T-Mobile Public Interest Statement at 1.

¹⁹ See Letter from Joel Kelsey, Free Press, to Marlene H. Dortch, FCC, WT Docket No. 12-4 (June 26, 2012).

²⁰ See Declaration of William H. Stone, Verizon, at 9-13 (Dec. 16, 2011), attached as Ex. 3 to Verizon Wireless/SpectrumCo Application; Supplemental Declaration of William H. Stone, Verizon, at 10-15, 19-25 (Mar. 1, 2012), attached as Ex. 2 to Verizon Wireless/SpectrumCo/Cox Joint Opposition; see also Letter from John T. Scott, III, Verizon Wireless, to Marlene H. Dortch, FCC, WT Docket No. 12-4, at 2 (Apr. 30, 2012).

CONCLUSION

For the foregoing reasons, the Commission should promptly approve the instant spectrum license assignments as consistent with the public interest, irrespective of the proposed Verizon Wireless/T-Mobile transaction, and find that the latter transaction only further advances the public interest.

Respectfully Submitted,

/s/

John T. Scott, III
Michael P. Samsok
Katharine R. Saunders
VERIZON
1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 589-3760

Michael E. Glover
Of Counsel

Attorneys for Verizon Wireless

Michael H. Hammer
Brien C. Bell
WILLKIE FARR & GALLAGHER LLP
1875 K Street, NW
Washington, DC 20006
(202) 303-1000

Attorneys for SpectrumCo

J.G. Harrington
Christina H. Burrow
Michael Pryor
DOW LOHNES PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036
(202) 776-2000

Attorneys for Cox Wireless

July 10, 2012