



**advocate for rural wireless telecommunications providers
Washington, DC**

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Via Electronic Delivery

Rick Kaplan
Senior Counsel for Transactions
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Consolidated Review of Verizon Wireless – SpectrumCo – Cox, Verizon Wireless – Leap Wireless, and Verizon Wireless – T-Mobile Transactions, WT Docket Nos. 12-4 and 12-175, ULS File Nos. 0004942973, et. al.

Dear Mr. Kaplan:

On Wednesday, August 15, 2012, Verizon Wireless filed an *ex parte* with the Federal Communications Commission (“FCC” or “Commission”) that implored the Commission to refrain from imposing any conditions upon the grant of the cumulative applications.¹ Additionally, Verizon Wireless pledged to the Commission that “in order to eliminate any conceivable issue and to permit prompt approval” Verizon Wireless would voluntarily agree to adhere to two commitments. First, Verizon Wireless said it is willing to commit to build out 30 percent of the population covered by the AWS spectrum it is trying to acquire within three years and 70 percent of the population of the AWS spectrum it is trying to acquire in seven years. Second, Verizon Wireless stated that it would “continue to offer roaming arrangements for commercial mobile data services in the areas where it is acquiring AWS spectrum...on commercially reasonable terms and conditions” for a period of five years.

Verizon Wireless wants the Commission and the general public to believe that these “commitments” are magnanimous gestures that would somehow void all anticompetitive harms resulting from the transaction and recast the collective deals as beneficial to the public interest, consumers and competition in general. Nothing can be further from the truth. The Rural Telecommunications Group, Inc. (“RTG”) sees these commitments for what they truly are: carefully crafted statements that will have little to no bearing on Verizon Wireless’ behavior absent any administrative or legal oversight. In other words, these commitments are empty

¹ *In re Applications of SpectrumCo, LLC, Transferor, Cox TMI Wireless, LLC Transferor and Cellco Partnership d/b/a Verizon Wireless, Transferee for Consent to the Assignment of AWS-1 Licenses, Cellco Partnership d/b/a Verizon Wireless and Leap Wireless International, Inc. Seek FCC Consent for the Exchange of Lower 700 MHz Band A Block, AWS-1, and Personal Communications Service Licenses, Cellco Partnership d/b/a Verizon Wireless and T-Mobile License, LLC Seek FCC Consent to the Assignment of Advanced Wireless Service Licenses, Ex Parte of Verizon Wireless, WT Docket Nos. 12-4 and 12-175, ULS File Nos. 004942973, et.al. (filed August 15, 2012).*



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promises because they will not alter Verizon Wireless' actions with respect to its network deployment schedule in the vast majority of its service territory nor its willingness to give competition a fair shake.

With respect to Verizon Wireless' build-out commitment, it should be noted up front that there are 176 Economic Areas ("EAs") in the United States, and that deploying services to 70% of *the population* in seven years' time only applies to those EAs where Verizon Wireless is acquiring AWS spectrum. Furthermore, Verizon Wireless' commitment is to cover population, and not land area. Knowing full well that by concentrating deployment exclusively on urban population centers and their adjacent suburbs, Verizon Wireless could easily fulfill this low bar and exclude new LTE coverage to rural markets. Ignoring rural markets is what Verizon Wireless does best, and its continuing course of spectrum warehousing in rural markets should not be tolerated. The bottom line is that this commitment is merely giving the sleeves off of Verizon Wireless' vest because it is only committing to build out to populated urban areas. The ultimate losers at the end of this grand façade are rural Americans and those mobile wireless consumers who work or travel through rural markets. The rural AWS spectrum at stake in these three transactions will be held hostage and will never be fully utilized – just as Verizon Wireless has failed to deploy the AWS spectrum it has currently held since 2006 as well as its Personal Communications Services spectrum in rural and remote areas all across America.

The roaming commitments promised by Verizon Wireless are nebulous and heavily conditioned and must be discounted as such. Verizon Wireless is aggressively appealing the data roaming order, and if it is successful, it would nullify whatever "teeth" the transaction-specific commitment holds after just five years. Furthermore, unlike the data roaming order, the proposed commitment in the *ex parte* is limited only to those markets where AWS spectrum is being acquired. Additionally, and perhaps most importantly, Verizon Wireless only commits to "continuing" to reach commercial roaming arrangements with other requesting carriers. This precise use of words would easily allow Verizon Wireless to balk when asked by carriers with whom it does not previously have a roaming agreement to enter into WiFi roaming arrangements because Verizon Wireless has no prior agreements to "continue" in the future. Finally, were Verizon Wireless allowed to acquire the AWS licenses currently held by SpectrumCo, Cox, Leap and T-Mobile, it would all but have a monopoly on the B and F Blocks licenses in the AWS Band. Given that position, Verizon Wireless will undoubtedly pursue a "limited" LTE Band Class that is useful only to Verizon Wireless and that would in turn encumber competitors from acquiring mobile devices that can be interoperable. Put differently, this is a strategic work-around to the roaming commitment itself: if there are no interoperable devices in the marketplace that LTE competitors can purchase, any obligations, commitments or rights to LTE roaming are not worth the paper they are written on.

This is not the first time Verizon Wireless has approached the FCC at the 11th hour with voluntary commitments used to gain approval for a company takeover or major license acquisition. RTG opposed such tactics in 2008 when Verizon Wireless sought to remove ALLTEL from the competitive landscape. Almost four years later, the absence of ALLTEL is a



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painful reminder that once you remove an existing competitor or potential competitor, it is next to impossible to re-establish any semblance of meaningful competition. Rural America and wireless competition in general received a massive body blow the last time Verizon Wireless made promises in an attempt to curry favor and get a deal approved. If these skimpy, carefully worded conditions are all that Verizon Wireless must agree to in order to get this deal approved, then this will be the knockout punch that takes wireless competition down for good.

The FCC must impose conditions on these collective transactions that go well beyond what the United States Department of Justice has stipulated, especially with respect to spectrum concentration. Specifically, RTG urges the Commission to: (1) review the transaction with a lowered, and more appropriate, spectrum screen; (2) compel Verizon Wireless to divest spectrum (and not just AWS spectrum) in all markets where it exceeds a re-imposed spectrum aggregation limit that equals approximately one-quarter of all the commercial, licensed CMRS spectrum in a given market; (3) obligate Verizon Wireless to offer voice and data roaming, including roaming on unlicensed spectrum such as WiFi, for a period of time significantly longer than five years and irrespective of the outcome of the legal challenge posed by Verizon Wireless to the Commission's current data roaming rules; and (4) prohibit Verizon Wireless from utilizing mobile devices that are developed using only a sub-set of a current band class or that only use a sub-set of the license blocks within a particular CMRS license band so as not to repeat the band class balkanization that has erupted in the Lower and Upper 700 MHz Band. Even with such conditions imposed on Verizon Wireless, there is no guarantee that small and rural competitors can effectively compete against a carrier with the market size and revenue share of Verizon Wireless, but at least such conditions will offer stability and predictability and a less tilted playing field in the near term. In addition, there must be a process imposed to audit and monitor the impact of these transactions and the conditions so that harm or potential harm to competition and consumers can be dealt with quickly and effectively. Along these lines, the FCC should implement a complaint resolution process that will not overly burden complainants and that will result in swift resolution of complaints. Allowing complaints to languish beyond 90 days will only serve to benefit Verizon Wireless and will disserve the public interest.

True competition for voice, data /broadband and video is important for all Americans and the Commission needs to take bold steps to assure competition going forward.

Should you have any questions or require additional information, please do not hesitate to contact me.

Respectfully submitted,

Rural Telecommunications Group, Inc.

By: /s/ Caressa D. Bennet
Caressa D. Bennet
General Counsel



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cc: Chairman, Hon. Julius Genachowski
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Charles Mathias
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