

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

In the Matter of)	
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)	
Auctions)	

COMMENTS OF FREE PRESS

Matthew F. Wood, Policy Director
Jennifer V. Yeh, Policy Counsel
Free Press
1025 Connecticut Avenue,
Suite 1110
Washington, DC 20036
202-265-1490

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EXECUTIVE SUMMARY

At the current crossroads that this proceeding represents, we must attempt to balance the spectrum demands of broadcasters, mobile carriers that use licensed spectrum, and the incumbents, innovators, and individuals alike that benefit from unlicensed uses. The Commission must preserve open spectrum in the reconstituted 600 MHz and TV bands because it serves as a platform for these unlicensed uses, generating substantial innovation and economic growth. While some in this proceeding may dismiss the many benefits of unlicensed uses in favor of a shortsighted focus on auction revenues, doing so would set the country behind in the broadband race and harm the development of our digital economy. Ultimately, how to balance these demands is a policy decision that has to be made, and the Spectrum Act clearly delegates that decision to the Commission.

The Commission has thus far demonstrated a strong commitment to preserving open spectrum for unlicensed uses, and Free Press urges the Commission to use its authority and discretion to fulfill that commitment in this proceeding. Satisfying competing demands for spectrum need not be a zero-sum game. In fact, the Commission can both accommodate demands for additional mobile spectrum while also creating a space for unlicensed use. Specifically, we urge the Commission to adopt sizable guard bands to maximize protection against interference for both broadcasters and mobile providers. Doing so enhances the value of the auctioned spectrum by protecting against actual harmful interference, and also diminishes the specter of potential interference that has dampened deployment in other recently auctioned bands.

Moreover, we urge that the Commission set aside the guard bands for unlicensed use because doing so recognizes the economic gains from exploring innovation and new technologies in such spaces. As the Commission itself has recognized, unlicensed platforms have produced substantial economic benefits. Failing to preserve this platform in the lower frequency 600 MHz band would risk prospects for increased productivity and robust growth in the economy at large. The stakes are high, and it is exceedingly important for the Commission to exercise its discretion to set aside sizable guard bands for unlicensed use.

Lastly, Free Press urges the Commission to consider its mandate to promote competition and protect against excessive concentration of spectrum when designing the incentive auction. While we do not call for any specific intra-auction rules or preliminary determinations of bidder eligibility in these initial comments, Free Press urges the Commission to apply the rules of general applicability we proposed in the spectrum holdings proceeding to assess any spectrum acquisitions.

I. The Spectrum Act Grants The Commission Broad Discretion in Balancing the Spectrum Needs of Broadcast, Mobile, and Unlicensed Use.

A. The Spectrum Act Grants The Commission Legal Authority to Set Aside Guard Bands For Unlicensed Use.

When Congress passed the Spectrum Act in 2012, authorizing the Commission to conduct “incentive auctions” of voluntarily relinquished broadcast television spectrum,¹ Congress specifically delegated authority to the Commission to create sizable guard bands for unlicensed use. Specifically, the Spectrum Act grants the Commission

¹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6401 *et seq.*, 126 Stat. 222 (2012) (“Spectrum Act”).

discretion to balance the spectrum needs of broadcast, mobile broadband, and unlicensed uses.² Rather than require that the Commission auction all repurposed spectrum, the Spectrum Act specifically empowers the Commission to set aside spectrum for guard bands that may be reserved for unlicensed use. Free Press submits that the Commission should exercise this authority to achieve the benefits outlined in Part II below.

Contrary to any suggestions otherwise, the Spectrum Act does not require the Commission to auction all repurposed spectrum, as the law recognizes and preserves the commitment to unlicensed use in several ways. First, the Spectrum Act authorizes the Commission to use “relinquished or other spectrum to implement band plans with guard bands” and provides that it may “permit the use of such guard bands for unlicensed use.”³ Second, the Act preserves the Commission’s authority to retain white spaces in the broadcast band for unlicensed use.⁴ Third, the Act mandates that the Commission explore unlicensed use in the 5 GHz band.⁵ These various provisions addressing the Commission’s authority to set aside spectrum for unlicensed use preserve the Commission’s discretion and, more importantly, reject the notion that the Commission must auction all repurposed spectrum for licensed use.⁶

² See, e.g., In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Notice of Proposed Rulemaking*, GN Docket No. 12-268, 27 FCC Rcd 12357, ¶¶ 126, 151-52, 234 (2012) (“*Notice*”).

³ Spectrum Act §§ 6407(a) & (c).

⁴ See *id.* § 6403(i) (preserving FCC’s authority to implement “White Spaces” Order (FCC 08-260, adopted November 4, 2008) “in the spectrum that remains allocated for broadcast television use after the reorganization required by such subsection”).

⁵ See *id.* § 6406. Nevertheless, as explained *infra*, unlicensed use in the 5 GHz band is not an adequate substitute for reserving unlicensed spectrum in the 600 MHz band.

⁶ In fact, early House Majority versions of the bill would have required the Commission to auction all reclaimed spectrum, precluding use of this spectrum for unlicensed use. See, e.g., Memorandum From Committee on Energy and Commerce Democratic Staff re: Markup on a Discussion Draft of the “Jumpstarting Opportunity

B. The Spectrum Act Grants The Commission Broad Discretion in The Determination of Guard Band Size.

In addition to delegating authority to the Commission to set aside repurposed spectrum for unlicensed use, the Act provides broad deference to the Commission in determining the appropriate size of guard bands where such use may occur. In determining the size of guard bands, the Commission must ensure that the bands are “no larger than is technically *reasonable* to prevent harmful interference between licensed services outside the guard bands.”⁷ In crafting this provision, Congress reportedly considered and rejected a further limitation on the Commission’s discretion—rejecting language mandating that the guard bands be no larger than “technically *necessary*”⁸ in lieu of the current language requiring technical reasonableness. In adopting a standard of reasonableness rather than necessity, Congress explicitly delegated broad discretion to the Commission in the determination of guard band size, and the Commission’s determination must be upheld unless it is “arbitrary, capricious, or manifestly contrary to the statute.”⁹

By adopting a standard of reasonableness, the Spectrum Act left the determination of guard band size to the Commission,¹⁰ and this “clearly bespeaks [Congress’s] intent[]

with Broadband Spectrum (JOBS) Act of 2011,” at 4-5 (Nov. 30, 2011), *available at* http://democrats.energycommerce.house.gov/sites/default/files/image_uploads/DemMemo_CAT_12.01.11.pdf.

⁷ Spectrum Act § 6407(b) (emphasis added).

⁸ See Stephen E. Coran, *Congress Makes Sweeping Changes to Spectrum Policy; Authorizes TV Band Incentive Auctions*, TelecomMediaTech Law Blog, Feb. 21, 2012, *available at* <http://www.telecommediatechlaw.com/broadband/congress-makes-sweeping-changes-to-spectrum-policy-authorizes-tv-band-incentive-auctions/> (last visited Jan. 22, 2013).

⁹ *Chevron, U.S.A., Inc. v. Natural Res. Def. Counsel, Inc.*, 468 U.S. 837, 844 (1984); *see also id.* at 865-66.

¹⁰ Under *Chevron*’s two-step framework, if Congress has “directly spoken to the precise question at issue,” and “the intent of Congress is clear,” then the Commission

that the [Commission] exercise discretion in determining” the size of the guard band.¹¹ Courts have repeatedly found statutory constructions using the term “reasonable”—for example, “reasonably available” or “reasonable progress”—to be ambiguous, and thus have deferred to agency interpretations, especially if the term is not separately defined in the statute.¹² In holding that the term reasonable is ambiguous, courts have discerned a Congressional delegation of broad discretion to the agency administering the statute. Thus, the Commission’s interpretation of “technically reasonable” will be upheld so long as the Commission “has considered the relevant factors and articulated a rational connection between the facts found and the choice made.”¹³

By contrast, had Congress adopted a standard of “technically necessary,” then the Commission’s discretion would have been constrained,¹⁴ as “[s]omething is *necessary* if

“must give effect to the unambiguously expressed intent of Congress.” If, however, “the statute is silent or ambiguous with respect to the specific issue,” then deference is owed to the Commission’s interpretation so long as it is “based on a permissible interpretation of the statute.” *Id.* at 842-43.

¹¹ *Sierra Club v. EPA*, 294 F.3d 155, 162-63 (D.C. Cir. 2002) (statutory term “reasonably available control measure” represented Congressional intent that the EPA exercise its discretion in determining which control measures would be deemed “reasonably available”).

¹² *E.g.*, *Natural Res. Defense Counsel v. EPA*, 571 F.3d 1245, 1253 (D.C. Cir. 2009) (“The term ‘reasonably available’ is ambiguous, and the EPA’s interpretation is a permissible construction of that statute.”); *Utility Air Regulatory Group v. EPA*, 471 F.3d 1333, 1340 (D.C. Cir. 2006) (where phrase “reasonable progress” is not defined in the statute, court defers to the “agency’s interpretation so long as it is reasonable”).

¹³ *Nat’l Ass’n of Clean Air Agencies v. EPA*, 489 F.3d 1221, 1228 (D.C. Cir. 2007) (internal quotations omitted). In fact, the review is “[h]ighly deferential” and “presumes the validity of agency action.” *Id.*

¹⁴ *See, e.g.*, *Western Air Lines, Inc. v. Criswell*, 472 U.S. 400, 419 (1985) (distinguishing objective standard of “reasonable necessity” from subjective standard of “reasonableness”).

it is *required* or *indispensable* to achieve a certain result.”¹⁵ Such a standard arguably would have required the Commission to ensure that guard bands were no larger than absolutely required to prevent interference.¹⁶ By instead adopting a standard of reasonableness, Congress intentionally left to the Commission the discretion to make the policy choices that Congress itself declined to resolve.¹⁷

In enacting the Spectrum Act, Congress thus left many decisions to the Commission, including whether to use guard bands for unlicensed use and how to determine the appropriate size of such guard bands. By reserving these judgments for the Commission, Congress left to the agency the policy choices of how to balance the spectrum needs of broadband, mobile, and unlicensed use. For the reasons discussed below, the Commission should use its discretion to maximize guard band size and utility for unlicensed use.

II. The Commission Should Reserve the Guard Bands for Unlicensed Use Because Doing So Benefits The Economy, Consumers, and Licensees.

Free Press submits that the Commission should set aside guard bands for unlicensed use because the economic advantages from unlicensed use of this spectrum far outweigh any auction proceeds that may be gained from auctioning these portions of it.¹⁸ As an initial matter, and as the Commission has correctly acknowledged, the incentive auction process likely will reduce the amount of spectrum available for unlicensed use,

¹⁵ *GTE Serv. Corp. v. FCC*, 205 F.3d 416, 422 (D.C. Cir. 2000) (vacating portions of Commission order that diverged from statute requiring necessity where Order was instead based on standards of efficiency or usefulness).

¹⁶ *See id.*; *see also AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366, 388 (1999) (standard of necessity “requires the FCC to apply *some* limiting standard”).

¹⁷ *See Chevron*, 436 U.S. at 865-66.

¹⁸ *See, e.g., Notice* ¶¶ 126, 232.

especially in central urban areas.¹⁹ Accordingly, an approach that sets aside guards bands for unlicensed use will not necessarily result in an increased amount of unlicensed spectrum (compared to the amount available in TV “white spaces” today), but will only seek to guarantee a minimum level of such spectrum in all markets and nationwide. Because unlicensed spectrum provides an extraordinary platform for innovation and growth, it is imperative that the Commission not foreclose future opportunities for development with a shortsighted approach that sacrifices this platform in exchange for supposed auction proceeds. Rather than further exacerbating the concentration of spectrum ownership in the hands of a few companies, the Commission should take this opportunity to protect and promote future innovation by maintaining its commitment to unlicensed spectrum.

A. Promoting Open Spectrum and Unlicensed Use in the 600 MHz Band Will Spur Innovation and Economic Growth.

The Commission rightly observes that unlicensed spectrum has unleashed an unanticipated stream of innovation and economic growth, providing products and connectivity that are integral to a number of sectors.²⁰ Recognizing the significant technological and economic contributions generated by unlicensed spectrum, the Commission expressed in the *Notice* its commitment to making additional spectrum available for unlicensed use on a nationwide basis. Free Press supports the Commission’s commitment to unlicensed spectrum and submits that promoting open spectrum is not only beneficial to innovation and economic growth, but also necessary to

¹⁹ *See id.* ¶ 233; *see also id.* ¶ 231 (“Currently, some urban markets do not have channels available for white space use.”).

²⁰ *E.g., Notice* ¶¶ 228-29, 231-32.

ensuring that the United States can take full advantage of opportunities in the digital economy.²¹

By drastically lowering barriers to entry, spectrum available for unlicensed use has served as “a technology platform that encourages decentralized innovation in devices and business models.”²² Not only has this platform given rise to increased methods of connectivity for existing devices and incumbent providers, but it has also created a dynamic market for unlicensed devices.²³ It is difficult to estimate the full economic advantage and benefits generated by unlicensed use, but conservative estimates place the value of economic activity in such spectrum at \$50 billion per year in 2010.²⁴

Although unlicensed use in other bands has already generated substantial innovation and economic growth, proposals to auction off all repurposed broadcast spectrum threaten to diminish this platform for further innovation and growth.²⁵ Just as the full benefits of unlicensed spectrum already realized could not have been previously anticipated, it is difficult to predict accurately the full benefits of maintaining open

²¹ See, e.g., Darrell West, Allan Friedman, & Walter Valdivia, *Smart Policy: Building an Innovation-Based Economy*, The Brookings Institution, Center for Technology Innovation, at 13 (Jan. 15, 2013), available at <http://www.brookings.edu/~media/Research/Files/Papers/2013/1/15%20technology%20innovation%20policy/15%20technology%20innovation%20policy.pdf>; Richard Thanki, *The Economic Significance of License-Exempt Spectrum to the Future of the Internet*, at 6 (June 2012).

²² Paul Milgrom, Jonathan Levin, & Assaf Eilat, *The Case for Unlicensed Spectrum*, Stanford Institute for Economic Policy Research, ¶ 24 (Oct. 24, 2011), available at www.stanford.edu/~jdlevin/Papers/UnlicensedSpectrum.pdf.

²³ See *id.* ¶ 28; Mark Cooper, *Efficiency Gains and Consumer Benefits of Unlicensed Access to The Public Airwaves*, at 7-8 (January 2012) (global market for unlicensed devices grew from “tens of millions” in 2004 to 800-900 million in 2010-11), available at www.markcooperresearch.com/SharedSpectrumAnalysis.pdf.

²⁴ Cooper, *supra* note 23, at 23-24.

²⁵ Mark Cooper, *The Consumer Benefits of Expanding Shared Use of Unlicensed Spectrum*, New America Foundation, ¶ 4 (Nov. 18, 2011).

spectrum in the 600 MHz band. The spectrum at issue in this proceeding has different characteristics from the higher frequency spectrum that has customarily been set aside for unlicensed use,²⁶ and has the potential to generate even greater innovation and connectivity because of its superior propagation and ability to deliver non-line-of-sight coverage.²⁷ While unlicensed spectrum is needed at all frequencies, it is also needed in each market and on a nationwide basis in these specific bands²⁸ in order to realize the full potential of the next wave of unlicensed developments—for example, the “Internet of things” that will be “used to extend and enhance possibilities for machine-to-machine communications.”²⁹ It is precisely for this reason that this Commission’s recent proposal to open up 195 MHz of spectrum in the 5 GHz band is a welcome development, but not an adequate substitute for setting aside unlicensed spectrum in the 600 MHz band.³⁰

Despite the overwhelming economic benefits of maintaining unlicensed spectrum, some have argued that all repurposed spectrum should be auctioned off in order to maximize auction revenues. Such an approach is shortsighted and risks setting the country behind in terms of technological innovation and economic gains. First and foremost, unlicensed spectrum generates significant economic activity (estimated at \$50 billion annually) that also contributes to tax revenues. In fact, “expansion of economic

²⁶ Thanki, *supra note 21*, at 10-11.

²⁷ *See id.* at 10-12, 17.

²⁸ Thanki, *supra note 21*, at 11-12; *see also* Cooper, *supra note 25*, ¶ 3.

²⁹ *See id.* at 11-12; Milgrom et al., *supra note 22*, ¶ 52 (“Super Wi-Fi,” which is able to penetrate walls and other obstructions, also relies on lower frequency spectrum).

³⁰ Not only are the propagation characteristics at 5 GHz different from those in the 600 MHz band, but there is no guarantee that the 5 GHz band will in fact be opened to unlicensed use in timely fashion. *See, e.g.*, Howard Buskirk, *FCC Proposal for Wi-Fi in 5 GHz Band Raising Auto Industry Concerns*, *Communications Daily* (Jan. 16, 2013) (noting that the proposal is likely to run into opposition from the automotive industry, and that the Congressionally mandated study by NTIA has not yet concluded whether the band should be available for unlicensed use).

activity associated with [unlicensed spectrum] not only generates tax revenues, but it also does so at a higher tax rate than exclusive licenses because the purchase price of the spectrum is not claimed as a business expense.”³¹ Second, setting aside some of the repurposed spectrum for unlicensed use decreases the supply of spectrum to be auctioned, which actually should result in higher auction bids³²—so that the notion of “auctioning the guard bands” could in fact *decrease* overall auction revenues. Lastly and most importantly, a shortsighted approach that focuses only on present-day auction proceeds risks harming the American economy in the long run, as exemplified by the European experience with deploying smart grid technologies.

In Europe, there is a lack of suitable sub-1 GHz spectrum for unlicensed use, which has slowed the development of European smart metering because it has had to rely primarily on power line carrier and cellular technologies. The resulting smart grid delays will impose costly consequences, estimated at \$37-56 billion based on a six-month delay, and increasing to \$154-241 billion for a delay of two years.³³ The potential costs of falling behind in the use and exploration of unlicensed spectrum far outweigh incremental auction revenues—if any— that may be gained from auctioning all repurposed spectrum.

B. Unlicensed Spectrum Provides Substantial Consumer Benefits, Including Increased Connectivity and Increased Choice.

Unlicensed use of spectrum has substantially enhanced the economic value of both fixed and mobile broadband offerings from incumbent providers. Wi-Fi allows ubiquitous and simultaneous access to fixed broadband connections, while also allowing

³¹ Cooper, *supra* note 25, ¶ 5.

³² *Id.* (“[I]f the supply of spectrum for exclusive licenses is reduced cellular providers will bid up the price of the spectrum that is auctioned.”); Milgrom et al., *supra* note 22, ¶¶ 61-62.

³³ See Thanki, *supra* note 21, at 65-72.

offload of data from mobile networks. Unlicensed spectrum is now responsible for carrying most of the world's Internet data, including at least 69% of the total Internet traffic generated through smartphones and tablets, as well as 57% of traffic generated from traditional PCs and laptops.³⁴ Not only has unlicensed spectrum helped to supplement existing fixed and broadband networks, but it is also responsible for providing broadband connections to remote and rural areas in the first instance.³⁵ And for those consumers that are unable to afford a fixed or mobile broadband connection, Wi-Fi using unlicensed spectrum serves as the major source of connectivity.³⁶

In other words, the availability of unlicensed spectrum acts as a competitive check against fixed and mobile broadband providers by providing alternative forms of access, while simultaneously enhancing the utility and value of those incumbent providers' services and devices. It not only provides additional consumer choice in all of these areas, but may also help lower prices and increase efficiencies, all to the benefit of consumers.³⁷

C. Allowing Unlicensed Use in Guard Bands Will Enhance The Value of Spectrum To Be Auctioned.

The Commission also should permit unlicensed use in the guard bands, rather than auction them, because doing so enhances the value of the auctioned spectrum by protecting it from actual harmful interference and concerns about interference. The story of the Lower 700 MHz band demonstrates the dampening effect on deployment that can arise from even the specter of interference in the absence of a guard band. Rather than making ready use of the 700 MHz "A Block" band, licensees there have faced significant

³⁴ *See id.* at 32-34.

³⁵ *See id.* at 40-41.

³⁶ *See id.* at 42.

³⁷ Milgrom et al., *supra* note 22, ¶¶ 33-35.

challenges to their own deployment,³⁸ prompting the need for a separate rulemaking to promote interoperability in that band.

Free Press, other public interest groups, and competitive carriers have refuted overblown and unsubstantiated claims regarding potential interference in that proceeding.³⁹ Yet, it is clear that the lack of a guard band between broadcast channels and spectrum reallocated to wireless broadband has played a role in reducing equipment availability for and deployment by competitive carriers holding A Block licenses. To prevent similar interoperability challenges and to enhance the value of auctioned spectrum, the Commission should implement guard bands in this proceeding and reserve such guard bands for unlicensed use.

III. The Commission Should Maximize the Size and Usefulness of the Guard Bands To Ensure Maximum Protection Against Interference and To Maximize The Economic Benefits That Flow From Unlicensed Use.

Free Press does not in these initial comments take any definitive position on the precise band plan or guard band sizes proposed by the Commission. However, we urge the Commission to be flexible in the consideration of any alternative plans that will both maximize protection against interference and also provide a large and continuous nationwide guard band for robust unlicensed use. As the Commission itself has acknowledged, there is a need for “new contiguous spectrum for unlicensed use” that will be available on a nationwide basis.⁴⁰ And as explained above, ensuring a substantial amount of nationwide unlicensed spectrum in the 600 MHz band is essential to

³⁸ *Petition for Rulemaking and Request for Licensing Freezes By CTIA – The Wireless Association and Rural Cellular Association*, RM-11626, at 3 (Mar. 15, 2011).

³⁹ *See, e.g.*, Reply Comments of Consumers Union, Free Press, New America Foundation and Public Knowledge, WT Docket No. 12-69 (July 16, 2012).

⁴⁰ Notice ¶¶ 230-34.

cultivating the next wave of technological developments, including next generation Wi-Fi and machine-to-machine connectivity.

In light of the Spectrum Act’s broad delegation of discretion to the Commission in deciding how to balance the demands of mobile, broadcast, and unlicensed needs, the Commission has both an opportunity and obligation to ensure that the guard bands are sufficiently large to protect against interference while also providing a large space for unlicensed uses and devices.

IV. The Commission Should Adopt and Apply Rules of General Applicability in the Mobile Spectrum Holdings Proceeding To Ensure That No One Carrier Captures a Disproportionate Amount of Auctioned Spectrum.

Lastly, the Commission should adopt rules of general applicability to ensure that no one carrier captures a disproportionate amount of auctioned spectrum in this or any future proceeding. Although the Spectrum Act requires that qualified bidders generally be able to participate in this and other auctions, the law recognizes that the Commission can and should continue to promote competition with its spectrum policies, and clarifies the Commission’s continuing authority “to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.”⁴¹

Given that the Commission retains its authority to craft rules of general applicability concerning spectrum aggregation, the Commission should be mindful of its duty to “promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses”⁴² when designing competitive bidding systems.

⁴¹ Spectrum Act § 6404.

⁴² 47 U.S.C. § 309(j).

Specifically, Free Press urges the Commission to adopt the frameworks proposed by Free Press in the mobile spectrum holdings proceeding and to apply those measures to auctioned spectrum in this proceeding.⁴³ Our proposed framework, grounded in antitrust theory, advances the goals of promoting competition while avoiding excess concentration.⁴⁴

V. Conclusion

Balancing the spectrum demands of broadcast, mobile, and unlicensed is not a zero-sum game. The Commission has the discretion and authority to balance all of these interests in a way that both maximizes the value of auctioned spectrum and preserves open spectrum—a platform that will continue promoting innovation and generating significant economic growth. Free Press urges the Commission to use its discretion to implement a plan that will maximize the value of auctioned spectrum while also preserving space for unlicensed use.

⁴³ See Comments of Free Press, WT Docket No. 12-269 (Nov. 28, 2012); Reply Comments of Free Press, WT Docket No. 12-269 (Jan. 7, 2013).

⁴⁴ Adopting Free Press’s proposed approach (or any alternative approach that limits the amount of spectrum any single licensee can hold in a geographic market) would not restrict bidder participation, as the Commission’s application of the framework would not occur until *after* the auction. Although the Commission has expressed concerns about providing certainty beforehand to bidders, *see Notice* ¶ 384, all qualified bidders would have certainty as to their participation, even though generally applicable spectrum aggregation limits could affect their actions after the close of the auction. There is precedent for such action. The Commission previously reviewed the approval of Verizon Wireless license applications following Auction 73 in markets where consummation would cause Verizon Wireless’ holdings to exceed the Commission’s spectrum screen. To address the Commission’s concerns, Verizon Wireless divested spectrum in CMA-552. *See In the Matter of Union Telephone Company, Cellco Partnership d/b/a Verizon Wireless, Applications for 700 MHz Band Licenses, Auction 73, File Nos. 0003371176, 0003382435, 0003382444, Memorandum Opinion And Order, 23 FCC Rcd 16787 (2008).*

Respectfully submitted,

_____/s/_____
Matthew F. Wood

_____/s/_____
Jennifer V. Yeh

Free Press
1025 Connecticut Avenue,
Suite 1110
Washington, DC 20036
202-265-1490