



Competitive Carriers Association
Rural • Regional • Nationwide®

May 2, 2014

Via ECFS

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

Re: EX PARTE NOTICE

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

Dear Ms. Dortch:

Competitive Carriers Association (CCA) strongly supports the Federal Communications Commission's effort to accelerate innovation, expand consumer choice, and stimulate competition among wireless broadband providers. Without safeguards against excessive spectrum concentration in the 600 MHz incentive auction, the two nationally dominant carriers have the incentive and ability to prevent competitive carriers from acquiring the low-band resources they need to compete.¹ CCA appreciates the Commission's proposal to reserve blocks for competitive carriers who actively participate in the auction and seek access to this spectrum. Building on this proposal, CCA again urges the Commission to account for nationwide market power in determining eligibility for reserve spectrum, and describes in further detail below its proposed eligibility criteria for the reserve blocks of 600 MHz spectrum.

Under the current FCC proposal, eligibility for the reserve blocks of 600 MHz spectrum rests upon an evaluation of local spectrum concentration only.² National spectrum concentration is not considered. CCA has previously explained that expanding the eligibility

¹ *Ex Parte* Submission of the United States Department of Justice, WT Docket No. 12-269, at 20 (filed Apr. 11, 2013) ("It is therefore appropriate both to identify local markets and to identify the nature of nationwide competitive effects affecting local markets.")

² *Ex Parte* Letter from Trey Hanbury, Counsel to Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-269; GN Docket No. 12-268, at 2 (filed Apr. 24, 2014).

criteria to consider both local *and* national spectrum concentration would allow smaller carriers without market power to have full access to all spectrum blocks in their home markets.³

CCA’s proposed eligibility standard would require carriers to exceed a one-third, low-band spectrum-concentration screen at *both* the local and national levels before becoming ineligible to bid for reserve spectrum. Specifically, an auction participant would become ineligible to bid on reserve spectrum only where it holds: (a) more than one-third of the suitable and available spectrum below 1 GHz on a population-weighted nationwide basis;⁴ *and* (b) more than one-third of the suitable and available spectrum below 1 GHz on a population-weighted Partial Economic Area (PEA) basis.⁵ Only those carriers exceeding *both* standards would face an eligibility limit.

³ Comments of Competitive Carriers Association, WT Docket No. 12-269 at 9-14 (filed Nov. 28, 2012); Reply Comments of Competitive Carriers Association, WT Docket No. 12-269 at 3-11 (filed Jan. 7, 2013).

⁴ The nationwide element of the test requires a nationwide weighted average of below-1 GHz spectrum for each operator using the following formula:

$$\text{Nationwide Sub 1 GHz Spectrum (MHz)} = \frac{\sum_{i=1}^n (\text{Sub 1 GHz MHz in County}_i * 2010 \text{ Pops in County}_i)}{\sum_{i=1}^n 2010 \text{ Pops in County}_i}$$

where *n* is the number of counties nationwide. As shown in the formula above, the total below-1 GHz spectrum holdings (in megahertz) are determined on a per county basis for each carrier. The total below-1 GHz spectrum in each county is then multiplied by the 2010 population of that county to determine county-level MHz-POPs. The county-level MHz-POPs are then summed to provide the total nationwide MHz-POPs. Finally, this sum is divided by the total nationwide POPs (*i.e.*, the sum of the pops in each county included in the first three steps). If the result of this calculation exceeds the threshold for any carrier, then the national element of the test is met for that carrier.

⁵ For the local element of the test, a weighted average of below-1 GHz spectrum is calculated for each bidder at the PEA level:

$$\text{Sub 1 GHz Spectrum (MHz) in PEA}_j = \frac{\sum_{i=1}^m (\text{Sub 1 GHz MHz in PEA}_j \text{ County}_i * 2010 \text{ Pops in PEA}_j \text{ County}_i)}{\sum_{i=1}^m 2010 \text{ Pops in PEA}_j \text{ County}_i}$$

where *m* is the number of counties in PEA. That is, for each carrier and given PEA, the total below-1 GHz spectrum holdings (in megahertz) are determined on a *per county* basis in each county in the PEA. The total below-1 GHz spectrum in each county in the PEA is then multiplied by the 2010 population of that county to get county-level MHz-POPs. The county-level MHz- POPs for each county in the PEA are then summed to give the total MHz- POPs in the PEA. Finally, this sum is divided by the total PEA population, which is the sum of the population of each county in the PEA. If the result of this calculation exceeds the threshold for any carrier, then the local element of the test is met for that carrier.

To avoid any ambiguity, CCA proposes that the threshold for both elements of the eligibility test be set at 45 megahertz. This value represents one third of the total below-1 GHz spectrum currently suitable and available for broadband use and includes: 48 megahertz of Lower 700 MHz spectrum; 22 megahertz of Upper 700 MHz spectrum; 50 megahertz of cellular spectrum; and 14 megahertz of specialized mobile radio spectrum. These values total 134 MHz and one third of this amount, rounded to the nearest megahertz, is 45 megahertz.

A dual national and local eligibility requirement would more accurately reflect the national and local market power analysis conducted by both the FCC and the Department of Justice while still allowing AT&T and Verizon to bid on reserve blocks of spectrum in areas where they do not hold excessive low-band spectrum in that market. This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's Rules. Kindly contact me with any questions or concerns.

Sincerely,

/s/ Rebecca Murphy Thompson

Rebecca Murphy Thompson
General Counsel