



The Competitive Carriers Association

Rural Cellular Association

805 15th Street NW, Suite 401

Washington, DC 20005

Office: (202) 449 -9866 • Fax: (866) 436 -1080

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Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: CC Docket No. 01-92
WC Docket No. 10-90
WC Docket No. 07-135
WC Docket No. 05-337
GN Docket No. 09-51
WT Docket No. 11-18
WT Docket No. 11-65
WT Docket No. 06-150
RM-11592
RM-11497**

Dear Ms. Dortch:

On October 6, 2011, Steven K. Berry, President and CEO of RCA; Tim Donovan, VP of Legislative Affairs of RCA; Rebecca M. Thompson, General Counsel of RCA; Alexander Maltas of Latham & Watkins, counsel to RCA; and I met with Rick Kaplan, Chief of the Wireless Telecommunications Bureau; Roger Noel, Chief of the Mobility Division; Nese Guendelsberger, Chief of the Spectrum & Competition Policy Division; and Joel Taubenblatt, Senior Counsel in the Spectrum & Competition Policy Division, to discuss the potential effect of interoperability and device exclusivity on 700 MHz build-out, spectrum aggregation concerns of the AT&T/T-Mobile and AT&T/Qualcomm transactions and the harmful effect of a phase down of wireless CETC support.

I. Interoperability/Device Exclusivity

A. 700 MHz Build-Out

Consistent with its prior advocacy,¹ RCA asked the Commission to move forward with efforts to implement a pro-consumer and pro-competition policy of interoperability within the 700 MHz band. As 700 MHz build-out deadlines loom, it becomes more important than ever to address this longstanding concern. Along with the interference issues at Channel 51² and the continuing anticompetitive practice of device exclusivity³, lack of interoperability in the 700 MHz band means that competitive carriers lack a fertile ecosystem that would allow them to bring the benefits of 4G technologies to their customers. As RCA explained, carriers require a clear and promising business proposition in order to move forward with build plans.

RCA expressed its support for the efforts of other wireless industry participants to bring some clarity to the outstanding interference issues between Channel 51 broadcasters and Lower 700 MHz licensees.⁴ RCA also noted that carrier members are ready and willing to launch their networks but anticompetitive market practices stall these efforts. RCA members have indicated that they would be able to commence operations within 18 months after interoperability across the 700 MHz band becomes a reality and enables them to procure appropriate devices. In light of the challenges faced by 700 MHz licensees, RCA encouraged the Commission to clarify how it will implement potential penalties for failure to meet its build-out requirements.

B. AT&T/T-Mobile

With regard to the AT&T/T-Mobile merger, RCA applauded the Commission's decision to consolidate consideration of the transaction with the AT&T/Qualcomm acquisition. AT&T's

¹ *In re* Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DTV Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and to Promote Voluntary Agreements to Relocate Broadcast Stations From Channel 51; Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, *Comments of Rural Cellular Association*, RM-11626; RM-11592 (Apr. 27, 2011) at 4–5; *In re* Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DTV Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and to Promote Voluntary Agreements to Relocate Broadcast Stations From Channel 51; Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, *Reply Comments of Rural Cellular Association*, RM-11626; RM-11592 (May 12, 2011) at 4–6; Letter of Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 06-150; WT Docket No. 05-265; PS Docket No. 06-229; GN Docket No. 09-51; RM-11592 (Feb. 24, 2011) (including summary of economic study by Dr. Raul Katz); Letter of Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in RM-11592; WT Docket No. 06-150; PS Docket No. 06-229; GN Docket No. 09-51; PS Docket No. 07-114 (Aug. 18, 2010) (including paper by Peter Cramton).

² See *In re* Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DTV Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and to Promote Voluntary Agreements to Relocate Broadcast Stations From Channel 51, *Petition For Rulemaking And Request For Licensing Freezes By CTIA - The Wireless Association® And Rural Cellular Association*, RM-11626 (Mar. 15, 2011) at 4–7.

³ See *In re* Rural Cellular Association, Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers and Handset Manufacturers, RM-11497 (May 20, 2008) at 2–5.

⁴ See Letter of Brian M. Josef, Assistant Vice President, Regulatory Affairs, CTIA–The Wireless Association®, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 06-150; RM-11592 (Sept. 19, 2011) at 1; Letter of Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 06-150; RM-11592 (Sept. 1, 2011) at 1.

extensive spectrum holdings afford it a tremendous marketplace advantage and the public interest is best served by assessing these transactions in a holistic manner.

C. AT&T/Qualcomm

Regarding the AT&T/Qualcomm transaction, full interoperability across the 700 MHz band remains the best outcome for carriers, public safety and consumers. But with the elimination of interference from Qualcomm operations—and as a means to expedite 700 MHz build-out—RCA discussed the possibility of collapsing Band 17 into the originally contemplated Band 12.

RCA also noted that in no more than twelve months, 2G and 2.5G smartphone compatibility could become obsolete. As 3G becomes the default technology on smartphones, competitive carriers will face an untenable level of difficulty in procuring the devices desired by ever more data-hungry consumers.

II. Universal Service Reform

RCA discussed several ways to improve universal service reform. RCA explained how uncertainty surrounding transition to a standalone Mobility Fund has delayed existing deployment plans, threatens to put future broadband investment on hold, and adversely impacts potential new entrants. RCA continues to push for a sufficient amount of support, use of a cost model with success-based portability⁵ and opposes the use of reverse auctions in a reformed universal service fund (USF).⁶ But in the near-term, the business concerns of RCA's carrier members also require immediate focus on the potential phase down of current high-cost support. The FCC elimination of high-cost support without a delineated replacement mechanism creates uncertainty for competitive wireless carriers. RCA described how this uncertainty has and will continue to harm wireless carriers and the consumers they serve, while providing wireline carriers a competitive head start.

RCA also discussed its ongoing concern with the proposed \$300 million allocation for a wireless fund.⁷ A recent CTIA study showed that at minimum \$1 billion in annual costs would be required to build out infrastructure for a single next-generation technology.⁸ RCA could support an \$800 million Mobility Fund with a sufficient amount for annual operating expenses if the FCC applied appropriate eligibility requirements.⁹ In addition to the amount of the Mobility Fund, RCA

⁵ Letter of Steven K. Berry, President & CEO, RCA, and Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in WC Docket No. 10-90 *et al.* (Aug. 3, 2011) at 5–8 [hereinafter *ABC Plan Letter*].

⁶ *In re* Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime, *Comments of The Rural Cellular Association*, WC Docket Nos. 10-90, 07-135, 05-337; GN Docket No. 09-51; CC Docket No.01-92 (Apr. 18, 2011) at 5–6, 9, 17–19 [hereinafter *CAF NPRM Comments*]; *In re* Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime, *Reply Comments of The Rural Cellular Association*, WC Docket Nos. 10-90, 07-135, 05-337; GN Docket No. 09-51; CC Docket No.01-92 (May 23, 2011) at 10–16 [hereinafter *CAF NPRM Reply*].

⁷ *In re* Universal Service Reform Mobility Fund, *Comments of Rural Cellular Association*, WT Docket No. 10-208 (Dec. 16, 2010) at 9–11; *In re* Universal Service Reform Mobility Fund, *Reply Comments of Rural Cellular Association*, WT Docket No. 10-208 (Jan. 18, 2011) at 4–5.

⁸ See CTIA – The Wireless Association, U.S. Ubiquitous Mobility Study, Sept. 21, 2011, at 20.

⁹ Letter of Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in WC Docket No. 10-90 *et al.* (Sept. 27, 2011) at 2.

expressed its opposition to the use of anticompetitive reverse auctions¹⁰ and its support for a forward-looking cost model, coupled with portability.

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's Rules.

Sincerely,

/s/

In-Sung Yoo
Assistant Regulatory Counsel

cc: Rick Kaplan
Roger Noel
Nese Guendelsberger
Joel Taubenblatt

¹⁰ See *CAF NPRM Comments* at 5–6, 9, 17–19; *CAF NPRM Reply* at 10–16; *In re Mobility Fund*; Connect AmericaFund; A National Broadband Plan for Our Future; High-Cost Universal Service Support, *Comments of Cellular South, Inc.*; *NE Colorado Cellular, Inc. d/b/a Viaero Wireless*; *Rural Cellular Association*; *Westlink Communications, LLC*, WT Docket No. 10-208; WC Docket Nos. 10-90, 05-337; GN Docket No. 09-51 (Dec. 16, 2010) at 4–23.