



The Competitive Carriers Association

Rural Cellular Association

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January 19, 2012

Via ECFS

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

Re: WT Docket No. 05-265; WT Docket No. 06-150; WT Docket No. 11-18; WT Docket No. 11-186; WT Docket No. 12-4; RM-11497; RM-11592

Dear Ms. Dortch:

On January 17, 2012, Steven Berry, Tim Donovan and I met with Amy Levine, Special Counsel and Legal Advisor to Chairman Julius Genachowski. We discussed the urgent need for an interoperability rule, a possible extension of time for 700 MHz Lower A block licensees that would have built out their spectrum but for the lack of interoperability, the Verizon – SpectrumCo and Verizon – Cox transactions, and Congressional proposals to authorize incentive auctions.

RCA once again urged that the FCC immediately initiate a rulemaking on interoperability, as it has promised in its Order approving the AT&T/Qualcomm transaction.¹ RCA praised the FCC for acknowledging that lack of “interoperability in the 700 MHz band raises important public interest concerns.”² RCA agrees that restoring interoperability in the Lower 700 MHz band will encourage affordability and availability of 4G LTE devices, enhance competition by facilitating widespread deployment of broadband services and consumer choice, and create greater roaming opportunities between 700 MHz licensees.³ RCA requested that the FCC keep these statements in mind when drafting its NPRM and proposing rules.

With respect to the technical issues, the record in the Qualcomm proceeding has confirmed that the interference concerns are myths.⁴ As such, RCA requested that the FCC incorporate all documents

¹ *In re* Application of AT&T Inc. and Qualcomm Incorporated For Consent To Assign Licenses and Authorizations, *Order*, WT Docket No. 11-18 (Dec. 22, 2011) [hereinafter AT&T/Qualcomm Order].

² AT&T/Qualcomm Order at ¶ 70.

³ *Id.*; see also Letter of Rebecca M. Thompson, General Counsel, RCA, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Dec. 13, 2011).

⁴ Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Dec. 15, 2011); Letter of Michele C. Farquhar, Counsel to Vulcan Wireless, Hogan Lovells, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18, RM-11592 (Dec. 14, 2011). Even AT&T has agreed not to oppose interoperability in the lower 700 MHz spectrum if there are no interference concerns with Channel 51 and the E Block. Letter of Joan Marsh, Vice President – Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, filed in WT Docket No. 11-18 (Dec. 22, 2011) at 1.

filed in the AT&T – Qualcomm proceeding, as well as the Good Faith Purchasers Alliance Petition, into the record upon release of the interoperability NPRM. RCA is confident the forthcoming rulemaking will prove interoperability is both technically possible and desirable and, therefore, must be implemented before the end of 2012 if competitive carriers are to remain viable.

While a rulemaking addressing interoperability in the Lower 700 MHz band is an essential first step, RCA also discussed the need for a limited extension of the interim build-out deadline for Lower 700 MHz A block licensees. Without access to interoperable devices and network equipment, licensees in the Lower 700 MHz A block have been significantly hindered in planning for, securing financing for, and purchasing the necessary equipment and infrastructure for building out the Lower 700 MHz A block spectrum in their geographic areas. In the years since the 700 MHz auction, Lower 700 MHz A block licensees have faced substantial and unforeseen difficulties in deploying that spectrum for wireless services, largely because of the lack of device interoperability in the Lower 700 MHz band. Due to circumstances beyond Lower 700 MHz A Block licensees' control, a limited extension of the FCC's interim build-out requirement is warranted.

RCA also discussed the proposed Verizon – SpectrumCo and Verizon – Cox transactions and the detrimental effect these transactions could have on competitive carriers, both individually and particularly when viewed together. This transaction would result in an unprecedented spectrum consolidation into the hands of the largest carriers and further increase Verizon Wireless and AT&T's duopoly power. RCA urged the FCC to revise its spectrum screen downward, due to the change in the 2010 Department of Justice guidelines that removed the two-year period for timeliness of availability of spectrum.⁵ Such a change calls into question whether all of the spectrum currently utilized by the Commission in its determination of the spectrum screen is actually "suitable spectrum for the near term."⁶ RCA also recommended reviewing this transaction under a spectrum screen that takes into account a market that includes four nationwide competitors.

Finally, RCA discussed Congressional proposals to extend the FCC's existing auction authority and authorize incentive auctions. RCA expressed support for the FCC's existing auction authority, which provides the FCC with flexibility to structure auctions that support the public interest and promote competition.⁷ RCA is opposed to efforts that would restrict the FCC's existing authority in any legislative package to extend spectrum auction authority.⁸

⁵ See Horizontal Merger Guidelines, issued by the U.S. Department of Justice and the Federal Trade Commission, August 19, 2010, at § 9.1.

⁶ AT&T/Qualcomm Order at ¶ 38, ft.nt. 117.

⁷ Letter from Atlantic Tele-Network, Bluegrass Cellular, Cincinnati Bell Wireless, Cricket Communications, C Spire Wireless, GCI Communication Corp., NorthwestCell, Sprint Nextel, US Cellular, RCA – The Competitive Carriers Association; to the Hon. Jay Rockefeller and Kay Bailey Hutchison, Senate Commerce Committee, and the Hon. Fred Upton and Henry Waxman, House Energy & Commerce Committee (Dec. 13, 2011).

⁸ Letter from RCA et al., to the Hon. Harry Reid, Mitch McConnell, Jay Rockefeller, and Kay Bailey Hutchison, United States Senate, and the Hon. John Boehner, Nancy Pelosi, Fred Upton, and Henry Waxman, U.S. House of Representatives (Dec. 16, 2011).

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

Sincerely,

/s/

Rebecca Murphy Thompson
General Counsel

cc: Amy Levine