

TESTIMONY OF

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Hearing on
“Legislative Hearing to Address Spectrum and Public Safety Issues”

Before the
House Subcommittee on Communications & Technology

Testimony of Christopher Guttman-McCabe
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Good morning Chairman Walden, Ranking Member Eshoo, and members of the Subcommittee. On behalf of CTIA, thank you for the chance to speak to you this morning about the discussion draft released earlier this week. CTIA believes the draft Spectrum Innovation Act represents a positive first step toward addressing the looming spectrum crisis and ensuring that America's wireless industry remains the world's leader in wireless broadband.

As this represents the third time in the last 18 months that CTIA has visited with the Subcommittee on this subject, I will not belabor the urgent need to make additional spectrum available. You have seen the studies and heard our pitch, which has been echoed by many others in the wireless and high-tech industries, academia, and government. The Subcommittee record shows that commercial demand for spectrum is real and pressing, and we are pleased that you are responding. We look forward to supporting you in this effort, which can help us maintain U.S. leadership in this critical industry, as well as stimulate the sort of innovation, economic growth and job creation that our country so desperately needs.

The 2010 National Broadband Plan (NBP) recognized the need for additional spectrum to be made available for wireless broadband services and called for making 300 MHz available over five years and 500 MHz available over 10 years. As we read the discussion draft, we are pleased that it begins the process of addressing the spectrum demand targets below 3 GHz articulated in the NBP and provides opportunities for licenses to be made available in configurations that would be optimal for high-speed wireless broadband services.

We support authorizing the Federal Communications Commission to conduct incentive auctions to facilitate the repurposing of bands currently used for broadcast television and other services for wireless broadband. Implementation of an incentive auction regime helps move us toward a less constrained market in which it is more likely that spectrum can be put to its highest and best use. The outstanding propagation characteristics associated with the broadcast bands in particular make them ideal for licensed wireless broadband services. On this basis, we believe they would be highly valued by bidders in the forward auction regime described by the discussion draft.

Testimony of Christopher Guttman-McCabe
Before the House Subcommittee on Communications and Technology
July 15, 2011

We also strongly support the discussion draft's effort to make the frequencies between 1755 MHz and 1780 MHz available for commercial use and to pair that band with the frequencies between 2155 MHz and 2180 MHz. From our perspective, a symmetrical pairing of 1755-1780 MHz – which is already allocated globally for mobile broadband services - with 2155-2180 MHz represents the ideal use of these bands, which would be internationally harmonized. As Coleman Bazelon of the Brattle Group pointed out in his April 2011 analysis of the AWS-3 band¹, the presence of international synergies would reduce the uncertainty associated with creating devices and software for use in those bands, with the likely effect that such a pairing would be highly valued by bidders and could command (according to Bazelon) \$12 to \$15 billion at auction.

Auction valuations may be enhanced by adoption of provisions such as those in Section 105 (A)(i) and (A)(ii). The 700 MHz C block experience demonstrates clearly that the imposition of regulatory encumbrances reduces competition at auction and the revenue derived from auction. In the case of the 700 MHz C block auction, the western regional license (covering most of the western United States) sold for significantly less than the unencumbered B block license covering metropolitan Los Angeles and Anaheim, illustrating that regulatory impositions have costs. Extrapolated over the entirety of the 700 MHz auction, this resulted in billions of dollars in lost revenue to the Treasury. Similarly, we would caution against imposition of any sort of wholesale obligations, as it was only after the FCC's mandatory wholesale rules were lifted that the MVNO market began to grow and flourish.

CTIA also supports the provisions in Section 205 of the discussion draft. Making additional spectrum available to licensees only makes sense if there is path to building the infrastructure necessary to make use of that spectrum. Section 205 recognizes the importance of facilities deployment and we support efforts to remove barriers to improving wireless service to the nation's citizens. Despite the strong demand for wireless services and the FCC's November 2009

¹ Coleman Bazelon, The Brattle Group, "The Economic Basis of Spectrum Value: Pairing AWS-3 with the 1755 MHz Band is More Valuable than Pairing it with Frequencies from the 1690 MHz Band," April 11, 2011. Available at http://www.brattle.com/_documents/UploadLibrary/Upload938.pdf.

Testimony of Christopher Guttman-McCabe
Before the House Subcommittee on Communications and Technology
July 15, 2011

tower siting “shot-clock” order, zoning delays throughout the country hamper wireless deployment.

Commendably, the discussion draft seeks to address these delays by balancing the legitimate use of zoning authority with wireless carriers’ need to expand coverage, improving capacity and more efficiently utilizing spectrum by upgrading to Fourth Generation (“4G”) and future technologies. Moreover, expediting collocation by additional carriers on towers that have already been approved in the zoning process better serves our nation’s citizens, maximizes the use of existing towers, and in no way threatens the proper exercise of zoning authority. The draft appropriately seeks to ensure that localities do not unnecessarily stall critical tower siting decisions.

Further, we support steps to provide for cost-based fees for accessing easements and rights-of-way on Federal lands as well as steps to streamline and standardize the application and contracting process through Master Contracts for property owned by the Federal Government. This makes particular sense given that the Federal Government owns 650 million acres (nearly one-third of the U.S. land area) and the General Service Administration owns or leases space in 8,600 buildings. It is our hope that efforts to provide much-needed uniformity, certainty, timeliness, and accountability will result in greater and more expeditious buildout of wireless facilities that will unlock even greater innovation in the wireless ecosystem.

Finally, while it is not part of the discussion draft, we urge the Subcommittee to include in any bill it moves on this subject additional language that makes improvements to the spectrum relocation process created by the Commercial Spectrum Enhancement Act (CSEA). Adoption of the template included in the Spectrum Relocation Improvement Act, which was reported on a voice vote by the Subcommittee on Communications, Technology and the Internet during the 111th Congress, will help ensure that bands reallocated from federal to commercial use are made available in a timely manner and reduce the risks to auction participants by increasing the amount and quality of information available to bidders before an auction of federally-encumbered spectrum.

Testimony of Christopher Guttman-McCabe
Before the House Subcommittee on Communications and Technology
July 15, 2011

As we have noted in previous testimony, the CSEA represented an improvement in the previous framework for relocating government users, but the AWS-1 relocation process taught us some valuable lessons that should be incorporated into the discussion draft so that future relocations proceed more smoothly and predictably. Addressing these issues in the same legislation that authorizes repurposing of federal frequencies will promote certainty at auction (with the likely consequence of higher bids) and promote the more rapid deployment of additional wireless broadband services. Conversely, a failure to make adjustments in the relocation process will increase bidder risk and make it more likely that bidders would account for this risk by discounting what they might be willing to pay to acquire licenses in these otherwise highly desirable bands.

While we believe there is a great deal to commend about the discussion draft, there are areas of concern where we think the draft can be strengthened.

First, Section 101 appears to back-load the auction of additional spectrum, deferring auctions for as long as ten years. The NBP identified a need for 300 MHz over the next 5 years because of an anticipated near-term need. For this reason, we urge the Subcommittee to accelerate the reallocation and auction of the 1755-1780 MHz band. Failure to make the 1755-1780 MHz band or other sub-3GHz bands available in the near term will exacerbate the spectrum crunch and encourage consequences that policymakers might find sub-optimal. Providing for spectrum to become available at more predictable intervals throughout the 10-year window established by the discussion draft will promote certainty for providers and maximize the benefit to the government. It also will ensure that the U.S. keeps pace with our international trading partners, many of which have recently made, or will soon make, additional spectrum available in their markets.

We also are concerned that Section 101(c) could inadvertently establish a bias toward shared use of government spectrum other than the 1755-1780 MHz band. While the sharing approach is clearly an NTIA priority based on Administrator Strickling's recent testimony before the Subcommittee, CTIA's carrier members consider cleared, licensed spectrum that is

Testimony of Christopher Guttman-McCabe
Before the House Subcommittee on Communications and Technology
July 15, 2011

internationally-harmonized and in sufficient block sizes to support mobile broadband applications to be the "gold standard." To the extent that Section 101(c) gives NTIA considerable discretion to promote spectrum sharing rather than spectrum clearing, we believe it creates disincentive for NTIA to clear two key bands - 1670-1710 MHz and 1780-1800MHz - for commercial use.

While spectrum-sharing may be more convenient for federal users, shared spectrum is of far less potential value than cleared spectrum to wireless companies (a reality that would undoubtedly be reflected at auction through lower bids). CTIA's strong preference would be that Congress reallocate the identified bands below 3 GHz for exclusive commercial use. Barring that, a more stringent test to determine whether some portions of these bands might need to be shared on a geographic basis to protect federal systems critical to our national security may be warranted.

With respect to the incentive auction provisions - Sections 102 and 103 - we urge you to consider two important points. First, we are concerned that the draft may confer upon LPTV stations relocation rights that could substantially complicate repacking and incentive auction efforts by requiring the FCC to reserve spectrum in the VHF band for these stations. As secondary users, LPTV stations affected by repacking should not be able to lay claim to new spectrum.

Second, preventing the FCC from reassigning a TV licensee to another channel except as provided by the discussion draft would undermine ongoing efforts to clear Channel 51. This would harm wireless providers which bid in the 2008 auction and are anxious to resolve Channel 51 interference issues so that they can turn-up service in their 700 MHz band spectrum. This matter is the subject of an ongoing FCC proceeding pursuant to a request for rulemaking filed jointly by CTIA and the Rural Cellular Association and we counsel against any action that would prevent the Commission from resolving the issue.

Testimony of Christopher Guttman-McCabe
Before the House Subcommittee on Communications and Technology
July 15, 2011

We believe that addressing these issues will enhance the ability of wireless providers to access additional spectrum, invest in new networks, create jobs and stimulate the economy. We also are confident that addressing these issues as we have suggested would have a positive impact on the score associated with the legislation and provide near- and long-term benefits to the American taxpayer.

In closing, let me reiterate a point I made to you when I testified last month – that making spectrum available will pay dividends not just for the wireless industry, but also for the broader American economy. Auction revenues, substantial as they may be, are only part of the equation, as providers will have to spend billions of dollars post-auction to bring spectrum won at auction to market. This will require investment, both in infrastructure and in jobs, two things our economy can't get enough of at this time. Additionally, the more rapid deployment of high-speed wireless broadband service will encourage innovation and productivity, not just in the telecom sector, but across the economy. These are positive benefits that every member of the Subcommittee should support.

Thank you again for the opportunity to appear today. We anticipate providing specific editorial suggestions to the Subcommittee in the coming days and we look forward to working with you to move forward with this effort. I look forward to your questions.