



Competitive Carriers Association  
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July 7, 2014

**Via ECFS**

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

**RE: EX PARTE PRESENTATION**

**AU Docket No. 14-78:** *Auction of Advanced Wireless Services Licenses, Comment Sought on Competitive Bidding Procedures for Auction 97*

**GN Docket No. 13-185:** *Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands*

**RM-11395:** *Petition of DirectTV Group, Inc. and EchoStar, LLC for Expedited Rulemaking to Amend Sections 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver*

Dear Ms. Dortch,

On July 2, 2014, Rebecca Murphy Thompson and C. Sean Spivey on behalf of Competitive Carriers Association ("CCA"), Scott Bergmann and Brian Josef on behalf of CTIA – The Wireless Association® ("CTIA") and Jill Canfield on behalf of NTCA – The Rural Broadband Association ("NTCA") (collectively the "Wireless Industry Representatives") met with Margie Wiener, Brian Regan, Craig Bomberger, Valerie Barrish, Bill Huber and Linda Sanderson of the FCC's Wireless Telecommunications Bureau to discuss targeted steps the Commission should take to maximize participation in the upcoming auction of AWS-3 spectrum (Auction 97) and ensure that the auction is a success.

During the meeting, Wireless Industry Representatives voiced concerns about the timing of several pre- and post-auction events. Specifically, the Commission's anti-collusion rules become effective as of the deadline for potential bidders to submit short-form applications to participate in

the auction.<sup>1</sup> This year, CCA and CTIA will host industry events during the second week of September (September 7-10 and 8-11, respectively), as will NTCA during the fourth week (September 21-24). These conferences provide opportunities for wireless carriers to discuss business opportunities and policy issues in an open forum. Our respective members take the FCC's anti-collusion rules very seriously. As the FCC itself has recognized, the anti-collusion rules may place significant limitations upon an auction participant's ability to pursue certain business opportunities. Business negotiations and policy discussions at these conferences could be dampened if the anti-collusion rules for Auction 97 were in effect. Wireless Industry Representatives urged the Commission to set the short-form application deadline no earlier than September 24, 2014, which would give the Commission 50 days to process applications prior to the auction start date. This time frame is consistent with previous short-form application deadlines. For example, the time between short-form applications and the auction of AWS-1 spectrum (Auction 66) was 50 days,<sup>2</sup> and the time between applications and the auction of 700 MHz spectrum (Auction 73) was 52 days.<sup>3</sup> Providing more time between now and the short-form application deadline also will have the advantage of providing carriers with more time to conduct proper due diligence and explore financing opportunities, which will enhance participation.

Similarly, it is currently unknown whether post-auction payments will be due in late 2014 or early 2015. As Wireless Industry Representatives have noted, past auctions have typically lasted between one and two months, with the Commission then issuing a Public Notice announcing the close of the auction and setting the down payment and final payment deadlines, typically 10 and 20 business days following the Public Notice, respectively.<sup>4</sup> The Commission should provide bidders with explicit certainty by announcing that post-auction payments will be due in early 2015, and has the authority to do so.<sup>5</sup> Such certainty will enable all potential bidders the ability to make the necessary financial arrangements to ensure their ability to participate in Auction 97.

Wireless Industry Representatives further urged the Commission to provide a limited waiver to its "former defaulter" rule. Section 1.2106(a) of the Commission's rules requires applicants who have previously been in default on any Commission license or have previously been delinquent on any non-tax debt owed to any Federal agency to submit an upfront payment equal to 50 percent more than that set for a particular license.<sup>6</sup> As Wireless Industry

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<sup>1</sup> See 47 C.F.R. § 1.2105(c)

<sup>2</sup> *Auction of Advanced Wireless Services Licenses, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction 66*, AU Docket No. 06-30, Public Notice, 21 FCC Rcd 4562, 4581-82 (WTB 2006).

<sup>3</sup> *Auction of 700 MHz Band Licenses, Notice and Filing Requirements, Minimum Opening Bids, Reserve Prices, Upfront Payments, and Other Procedures for Auctions 73 and 76*, AU Docket No. 07-157, Public Notice, 22 FCC Rcd 18141, 18159 (WTB 2007).

<sup>4</sup> See *Ex Parte* Letter from Scott Bergmann, Vice President, Regulatory Affairs, CTIA and Jill Canfield, Director – Legal & Industry and Assistant General Counsel, NTCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-185 at 1 (filed May 14, 2014).

<sup>5</sup> See *id.*

<sup>6</sup> 47 C.F.R. § 1.2106.

Representatives have previously pointed out, the rule applies regardless of the size of the default or the amount of time that has passed since the indiscretion.<sup>7</sup> To remedy an overbroad application of the rule, Wireless Industry Representatives urged the Commission to promptly grant a limited, temporary waiver of the rule, while considering a more permanent revision through a rulemaking proceeding.<sup>8</sup>

Finally, Wireless Industry Representatives asked the Commission to adopt a lower minimum acceptable bid percentage, specifying that each subsequent bid should increase between 10 and 20 percent rather than up to 30 percent, as the Commission has proposed. Wireless Industry Representatives noted that such flexibility could benefit large and small bidders alike, as they would accelerate pricing at a reasonable rate and foster greater price discovery. In addition, a lower upper bound for minimum acceptable bid increases would empower auction participants to bid more closely up to the full value they assign to the license.

Pursuant to Section 1.1206 of the Commission's Rules, this *ex parte* presentation is being filed electronically with the Office of the Secretary.

Sincerely,

*/s/ Rebecca Murphy Thompson*

Rebecca Murphy Thompson  
General Counsel  
Competitive Carriers Association

*/s/ Scott Bergmann*

Scott Bergmann  
Vice President, Regulatory Affairs  
CTIA – The Wireless Association®

*/s/ Jill Canfield*

Jill Canfield  
Director, Legal and Industry & Assistant  
General Counsel  
NTCA – The Rural Broadband Association

cc (via email): Ms. Margie Wiener  
Mr. Brian Regan  
Ms. Valerie Barrish  
Mr. Craig Bomberger  
Mr. Bill Huber  
Ms. Linda Sanderson

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<sup>7</sup> See *Ex Parte* Letter from Rebecca Murphy Thompson, General Counsel, CCA, *et al.* to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-185, *et al.* at 2-3 (filed May 30, 2014).

<sup>8</sup> See *id.* at 3; see also *DirectTV Group, Inc. and EchoStar, LLC Petition for Expedited Rulemaking to Amend Sections 1.2105 and 1.2106 of the Commission's Rules and/or for Interim Conditional Waiver*, RM-11395, Public Notice (rel. Aug. 22, 2007).