



Chairman Julius Genachowski
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

In the Matter of Policies Regarding Mobile Spectrum Holdings

Re: WT Docket No. 12-269

November 20, 2012

Dear Chairman Genachowski and Commissioners McDowell, Clyburn, Rosenworcel and Pai:

On behalf of the Internet Innovation Alliance (IIA), we appreciate the opportunity to offer comments on the Federal Communication Commission's (FCC) Notice of Proposed Rulemaking (NPRM) focusing on FCC policies regarding mobile spectrum holdings. In summary, IIA believes the existing unpredictable, non-public process for changing spectrum screens undermines economic growth by failing to provide investors with the transparency, predictability and flexibility needed to properly consider wireless broadband investments. While freeing more spectrum for mobile broadband use remains the most important new policy priority, creating an open and predictable process for evaluating the amount of spectrum carriers will be allowed to possess is essential to promoting investment and growth in commercial mobile services.

1. Uncertainty Is Undermining Economic Growth & Job Creation.

One of the greatest challenges facing today's innovators, entrepreneurs and investors is uncertainty. Businesses have roughly \$2 trillion idled on their balance sheets,¹ capable of more productive immediate and long-term investment, but they lack visibility into future consumer demand and global growth. Given Europe's ongoing sovereign debt crisis, China's slowing growth, increasing protectionism in the developing world and immediate risks that the American economy will go "off the fiscal cliff," potential employers are understandably reluctant to hire. Absent greater investment and new jobs,

consumers are more cautious. A vicious economic cycle churns, and growth stalls.

Much uncertainty results from public policy. What will tax rates be in 2013? Where will government invest, and where will it pull back? Will banks lend more to small businesses and would-be homeowners, and what standards will govern their extensions of credit? What changes in business organization will coming health care and environmental obligations demand? Thousands of small enterprises polled by the National Federation of Independent Businesses this summer ranked “uncertainty over business conditions” and “uncertainty over government regulations” as the second and fourth most serious problems facing business owners,ⁱⁱ while Harvard Business School’s March 2012 sweeping survey of American competitivenessⁱⁱⁱ found “regulatory uncertainty” as a primary “impediment to investing and creating jobs in the U.S.”

Uncertainty is even impacting investment in fast-growing broadband networks, notwithstanding their extraordinary success with consumers. Network providers across all platforms must assess new regulations, both those adopted and those proposed, when considering how to deploy resources. A legislative framework crafted in the pre-broadband era provides scant guidance and all too often invites regulatory adventurism. With respect to this NPRM, the unpredictability of how the FCC may apply its spectrum screen analysis makes it more challenging for companies to invest and do business.

2. Mobile Broadband Offers Extraordinary Potential to Drive Sustained Economic Recovery and Innovation.

Of course despite past and future uncertainty, the mobile broadband marketplace has proved to be one of the greatest economic engines powering America’s current economic recovery efforts. Over the past three years, American smartphone adoption has increased from 16.9%^{iv} to 54.9%.^v Americans have downloaded 35 billion Apple apps,^{vi} watched more than 37 billion online content videos last month alone^{vii} and signed up for social media by the hundreds of millions. Wireless network providers have invested an average of \$65 billion each year over the past four years in capital equipment and network capacity,^{viii} with companies such as IIA Member AT&T planning to invest billions of more dollars in additional capital expenditures over the next three years to bring high-speed 4G LTE services to approximately 300 million American consumers by year-end 2014.^{ix} There is, however, no certainty that this level of financial commitment will continue at current levels without regulatory certainty in the marketplace.

Mobile broadband networks are even more impactful than the service provider jobs they create and capital expenditures they make. Broadband makes businesses more productive and helps entrepreneurs reach new markets and invent new products. The mobile app economy today supports 466,000 jobs, up from zero in 2007.^x At a time when exit polls reveal three out of five Americans are most concerned about the economy,^{xi} mobile broadband may be our nation’s strongest hope for future growth and stability.

3. Government Policy in 2013 Should Focus on Making More Spectrum Available for Private Use and Providing Greater Certainty for Investors.

While this NPRM offers an important step, there is no substitute for reallocating more federal government spectrum to consumer broadband use. The biggest single barrier to growth and proliferation of our broadband economy is spectrum scarcity. Exponentially-expanding usage and ever-denser-content threaten to swamp network capacity. Rather than continuing to tweak the rules that govern how best to divide insufficient spectrum among an arbitrary number of market participants, policy makers should first focus on finding more spectrum for all carriers.

Fixed quantities of spectrum – resulting from insufficient allocations to commercial broadband or policy maker limits on wireless aggregation – directly challenge the growth of new applications and services that demand greater bandwidth. One of the reasons we have had such extraordinary growth in the broadband economy is thanks to investments and aggregations made in the 1990s and 2000s. Wireless carrier consolidation and repeated auction of public airwaves enabled the spectrum aggregation required to support increasingly robust nationwide wireless data services – and all the advantages delivered for consumers. Over the years, combinations in the wireless market enabled carriers to amass bigger footprints and gain the capacity to carry mobile apps, real-time social media and streaming video. These actions helped accelerate more investment, innovation, and new opportunities for start-ups across the country.

Our nation gained from this trend. During this decade of steady spectrum aggregation, prices per message, per minute and per megabit all fell substantially, while the number and sophistication of available wireless services has increased. Today consumers enjoy intense competition among device-makers, online retailers and wireless service providers, all without government direction, intervention or controls.

Today's wireless marketplace is highly competitive, with nine out of ten consumers having a choice of five or more service providers in local markets across the nation.^{xii} We also are aware that pending secondary market transactions before the Commission, and others likely to go before the FCC Commissioners for consideration near term, could dramatically change the wireless broadband marketplace into the future if approved, including the spectrum holdings of the four national carriers.

Future spectrum screen analyses should acknowledge such competitiveness, in addition to recognizing differential values of spectrum with varying propagation characteristics. Criterion should not disqualify or impair any carriers from participating in the upcoming Incentive Auctions or future auction of new spectrum. And clarity – both in the screen and knowledge that it will not unexpectedly change in mid-stream – should be sought to encourage more robust secondary markets.

Spectrum screen decisions by the Commission should be made through the regular rulemaking process including the provision of notice, the issuance of proposed rules, an opportunity for interested parties to comment and judicial appeal from the final promulgated rule. Such a process assures that the rules will not be changed after carriers have made substantial investments in reliance on current screens. That certainty, which the present spectrum screen change process lacks, will stimulate investment and promote planned and orderly growth to the market for mobile services.

The IIA appreciates this ability to share these recommendations, and we look forward to additional opportunities to provide input on this proceeding.

Sincerely,



Rick Boucher
Former Congressman (D-VA) and Honorary Chairman, Internet Innovation Alliance



Bruce Mehlman
Co-Chairmen, Internet Innovation Alliance



Jamal Simmons

ⁱ <http://blogs.reuters.com/david-cay-johnston/2012/07/16/idle-corporate-cash-piles-up/>

ⁱⁱ <http://www.nfib.com/press-media/press-media-item?cmsid=60847>.

ⁱⁱⁱ <http://www.hbs.edu/competitiveness/pdf/hbscompsurvey.pdf> p. 18.

^{iv} http://blog.nielsen.com/nielsenwire/online_mobile/with-smartphone-adoption-on-the-rise-opportunity-for-marketers-is-calling/

^v http://blog.nielsen.com/nielsenwire/online_mobile/two-thirds-of-new-mobile-buyers-now-opting-for-smartphones/

^{vi} <http://www.statista.com/statistics/20149/number-of-downloads-from-the-apple-app-store/>

^{vii}

http://www.comscore.com/Insights/Press_Releases/2012/11/comScore_Releases_October_2012_U.S_Online_Video_Rankings

^{viii} <http://www.ustelecom.org/news/press-release/broadband-investment-posted-42-gain-66-billion-2010-investment-totals-11-trillion>

^{ix} <http://www.att.com/gen/press-room?pid=23506&cdvn=news&newsarticleid=35661>

^x <http://www.technet.org/new-tech-net-sponsored-study-nearly-500000-app-economy-jobs-in-united-states-february-7-2012/>

^{xi} <http://www.cnn.com/2012/11/06/politics/exit-polls/index.html>

^{xii} Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, including Commercial Mobile Services, WT Docket No. 10-133, *Fifteenth Report*, 26 FCC Rcd 9664, 9669 (2011).