



Consumer Federation of America



SHLB  
SCHOOLS, HEALTH & LIBRARIES  
BROADBAND COALITION



May 30, 2018

The Honorable Ajit Pai, Chairman  
The Honorable Michael O’Rielly, Commissioner  
The Honorable Brendan Carr, Commissioner  
The Honorable Jessica Rosenworcel, Commissioner  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re:** *Ex Parte* Letter: *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258

Dear Chairman Pai and Commissioners O’Rielly, Carr and Rosenworcel:

The Open Technology Institute at New America, Public Knowledge, Consumers Union, the Schools Health & Libraries Broadband (SHLB) Coalition, the American Library Association, the Consumer Federation of America, Next Century Cities, Tribal Digital Village Network, Free Press, Common Cause, the Benton Foundation, and the Gigabit Libraries Network (together, the Public Interest Spectrum Coalition, or PISC) write to reiterate the importance of retaining small license areas with short terms and competitive renewal for Priority Access Licenses (PALs) in the 3.5 GHz Citizens Broadband Radio Service (CBRS). The current rules for PALs, adopted

three years ago, are vital to promoting a diverse, robust and innovative 5G ecosystem; and are best suited (particularly when compared to the alternatives licensing schemes proposed in the record) to increase rural broadband deployment, make the most efficient use of 3.5 GHz spectrum, improve opportunities for competitive entry and new market participants, and promote innovative use cases.

Our groups are very concerned about reports that at least one commissioner is encouraging industry stakeholders to accept the so-called “compromise” struck between national and regional mobile carriers that would enlarge all seven PALs by using Metropolitan Statistical Areas (MSAs) in the top 306 Cellular Market Areas (CMAs) and county-based geographic area licenses in the remaining 428 CMAs.<sup>1</sup> This compromise also would reportedly either preserve no census tract PALs or, even worse, make two small-area PALs available in a second auction by reducing the General Authorized Access (GAA) spectrum available to the public and all band stakeholders.

As the record clearly demonstrates, with the exception of mobile carriers and their suppliers, every other interested industry and potential user of CBRS opposes upending the rules to create seven super-sized CMA licenses in the largest 306 markets. Commenters including rural broadband providers, utilities and port operators, the oil industry and other industrial IoT users, hotel and property management companies, schools and libraries, cities and public venues have all urged the Commission to reject the preclusive policy pushed by the mobile industry. This reflects the fact that the robust 5G wireless ecosystem of greatest benefit to the U.S. economy and consumers will provide direct spectrum access for rural broadband, industrial IoT, neutral host networks and other private LTE networks customized and deployed on a local basis by the widest range of business firms and community anchor institutions.

In contrast, a FCC decision to adopt PALs as large as CMAs, rather than census tract license areas, would be a choice to ensure that *only* large mobile carriers (and perhaps regional cable ISPs) would have a realistic chance to acquire PALs at auction. Such a choice would distort the market, reduce auction revenues, and ultimately undermine the more robust and innovative 5G ecosystem that could emerge from a proliferation of local network buildouts customized to meet the diverse needs of very different types of end users.

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<sup>1</sup> See CTIA and Competitive Carriers Association, *Ex Parte* Letter, *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258 (April 20, 2018).

Even if the Commission decides to create larger PAL areas, PISC urges the Commission to preserve the current allocation of 80 megahertz for GAA, to maintain at least four census tract PALs nationwide, and to auction no PAL larger than a county. A FCC policy aimed at redefining spectrum rights to fit the business model of very wide-area regional and national coverage networks is neither necessary nor appropriate in this band given the opposition of virtually every other stakeholder to effectively rigging the PAL auctions so that only large ISPs will have either the financial incentive or resources to win permanent and large-area PALs at auction. Mobile carrier industry proposals to eliminate small license areas, make licenses permanent, or reduce the allocation of general purpose GAA below 80 megahertz are nothing but a thinly-veiled effort to foreclose potential competition, market entry, or self-provisioning by potential customers.

Our groups also cannot support the proposal floated by rural broadband providers, together with a more representative group of industry organizations and companies, that proposed a uniform number of five county-based and two census-tract PALs nationwide, each with a seven-year term.<sup>2</sup> We recognize that this self-styled “CBRS Coalition” represents a wide variety of industries and is a good faith effort to find a compromise that will hasten productive use of the band – and that this multi-industry coalition is doing so despite the fact that a reduction from seven to two census-tract PALs will severely limit the spectrum available to their members and customers. Nonetheless, PISC cannot endorse a hybrid scheme that leaves only two of seven PALs for rural broadband and the wide variety of innovative and local uses that served as the impetus for adopting census tract PALs in 2015.<sup>3</sup>

The public interest in spurring a robust 5G ecosystem should lead the Commission to enable – and not preclude – local investment and innovation by a wide range of firms, in a wide range of locations, in customized networks for IoT, critical infrastructure, indoor venues, and other new uses. The uncompromising, all-or-nothing approach of the mobile industry in

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<sup>2</sup> CBRS Coalition, *Ex Parte* Letter, *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258 (May 9, 2018), at 2. “The CBRS Coalition includes parties from virtually every category of stakeholder in this proceeding, including industry and manufacturing, critical infrastructure, rural broadband and wireless, regional and rural mobile wireless carriers, cable, technology and equipment development, and enterprise solutions.” *Ibid.*

<sup>3</sup> As CenturyLink stated in a recent *ex parte*: “CenturyLink regrettably was unable to sign on to the proposed framework, because a minimum of 40 MHz of licensed spectrum is essential to enable effective deployment of a fixed wireless high-speed broadband service in rural areas.” CenturyLink, *Ex Parte* Letter, *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258 (May 16, 2018), at 1.

particular would largely foreclose that opportunity by unreasonably limiting the ability of schools, libraries, colleges, municipalities and tens of thousands of other localized users to compete for more than two PALs in their local area.<sup>4</sup> Any hybrid scheme along these lines should include a fairly equal number of census tracts and counties – uniformly, on a national basis – and certainly no fewer than four census-tract PALs.

As PISC groups and others stated in a joint letter a year ago,<sup>5</sup> we continue to believe that auctioning PALs with coverage areas larger than census tracts would undermine the goal of this small-cell innovation band. The current PAL rules allow rural and small ISPs, individual business facilities and venues, and public-purpose networks – including schools, libraries, college campuses and municipal services – to leverage access to *both* interference-protected *and* unlicensed (GAA) mid-band spectrum. This innovative synergy will be lost if smaller and local users cannot acquire PALs. This is particularly true for indoor use, where the opportunity loss and spectrum inefficiency that comes with auctioning very large geographic area licenses for a small-cell band would drastically impact the connectivity needs of a wide variety of enterprise, school, library and other applications that may not be well suited to commercial mobile network offerings, a reality the Commission acknowledged in its initial Spectrum Frontiers *NPRM*.<sup>6</sup>

Very large-area and expensive licenses are simply not a good fit for small-cell, high-capacity use cases, and are likely to result in spectrum lying fallow for many years, if not indefinitely, in low-density environments outside of central urban areas and well-trafficked venues.<sup>7</sup> The model proven to achieve the highest rates of spectrum re-use – and both fast and affordable connectivity indoors – is open access *by both operators and end users* to low-power

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<sup>4</sup> See, e.g., Comments of Open Technology Institute at New America and Public Knowledge, GN Docket No. 17-258 (Dec. 28, 2017), at 26, available at [https://ecfsapi.fcc.gov/file/122967958050/OTI\\_PK\\_Comments\\_CBRS\\_NPRM\\_Final\\_122817.pdf](https://ecfsapi.fcc.gov/file/122967958050/OTI_PK_Comments_CBRS_NPRM_Final_122817.pdf), at 26 (“OTI and PK Comments”).

<sup>5</sup> American Libraries Assn., et al., *Ex Parte* Letter, *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, GN Docket No. 12-354 (June 19, 2017). Groups signing the letter included R Street Institute, ALA, Center for Rural Strategies, Engine, Schools Health Libraries Broadband (SHLB) coalition, Next Century Cities, National Hispanic Media Coalition, Common Cause, Gigabit Libraries Network, Public Knowledge, Open Technology Institute at New America, Institute for Local Self Reliance, Benton Foundation, and X-Lab.

<sup>6</sup> The Commission has stated it would be “highly efficient” to allocate some spectrum to “enable flexibility to facilitate a third type of network deployment: privately deployed networks that can provide 5G communications for advanced enterprise and industrial applications not suited to unlicensed spectrum or public network services.” *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, GN Docket No. 14-177, Notice of Proposed Rulemaking (rel. October 23, 2015), at ¶ 100.

<sup>7</sup> OTI and PK Comments at 27.

and unlicensed spectrum, as currently exemplified by Wi-Fi. Much of the public interest value of the current PAL rules is that virtually any enterprise, rural ISP or public-purpose network provider can reasonably hope to acquire PALs at their location – to achieve a baseline of protected access – and then also leverage the 80 megahertz of GAA spectrum for capacity.

As the diverse and growing CBRS Alliance demonstrates, a wide variety of companies have already begun to invest based on local access to the band. Rural ISPs are already deploying base stations for use at 3650 MHz that will require only a software upgrade to deliver 100 Mbps download speeds to customers once the SAS and ESC systems are authorized and the full 150 megahertz CBRS band is available for use.<sup>8</sup> Likewise, community anchor institutions are looking into ways to use CBRS to create localized networks to improve connectivity. CBRS-fueled “neutral host” networks promise affordable in-building access points for high-traffic areas and individual venues and businesses.<sup>9</sup> This will enable individual schools, hospitals, factories, office buildings and other businesses, as well as niche connectivity providers, to deploy and operate their own private LTE networks that would be integrated with Wi-Fi offload, without being hampered by huge upfront payments to the government for exclusive, long-term and large-area licenses.

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In sum, PISC urges the Commission to focus on an expedited implementation of the rules as adopted in 2015 and 2016. The CBRS rules struck a careful balance that gives *every industry and public institution* direct access to interference-protected spectrum, allowing market forces – rather than a top-down FCC industrial policy – to promote innovation, competition, rural broadband access, and consumer choice in the development of America’s future 5G ecosystem. The Commission should reject any effort to backtrack on this forward-thinking spectrum policy.

Respectfully submitted,

**The Public Interest Spectrum Coalition:**

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<sup>8</sup> Ex Parte Letter of WISPA Counsel Stephen Coran, *In the Matter of Amendment of the Commission’s rules with Regard to Commercial Operations in the 3550-3700 MHz Band*, GN Docket 12-354 (April 7, 2017).

<sup>9</sup> See Testimony of David A. Wright before the U.S. House Subcommittee on Communications and Technology (April 5, 2017), available at <https://goo.gl/CUyX1G>; “Ruckus Wireless Shares Vision for the Future on In-Building Cellular,” Ruckus Wireless (Feb. 18, 2016), available at <https://goo.gl/2KgMqF>.

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