

November 17, 2020

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

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

Commissioner Michael O’Rielly
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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

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

RE: RM-11768: Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service

Dear Chairman Pai, Commissioner O’Rielly, Commissioner Carr, Commissioner Rosenworcel, and Commissioner Starks:

We, the undersigned organizations, are committed to free market competition and expanded opportunities for all Americans. Given our organizations’ missions and shared priorities, we write to respectfully urge the Federal Communications Commission (Commission) to reject the Petition for Rulemaking (Petition) filed by the Multichannel Video and Data Distribution Service (MVDDS) 5G Coalition (Petitioners) concerning the use of the 12.2-12.7 GHz band for two-way mobile broadband service (RM-11768).¹

We strongly believe that our opposition to the Petition upholds two central commitments of the Commission; namely:

- **To Close the Digital Divide.** We wholeheartedly applaud the Commission’s ongoing commitment to broadband access. The Commission has continuously pursued policies that fulfill Chairman Pai’s statement: “Since my first day as Chairman of the FCC, my

¹ Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Services filed by the Multichannel Video Distribution and Data Service 5G Coalition, RM-11768 (Apr. 26, 2016).

number one priority has been closing the digital divide and bringing the benefits of the Internet age to all Americans.”²

- **To Foster Broadband Competition.** Satellites are increasingly a critical part of our broadband infrastructure. These new low earth orbit Non Geostationary Satellite Orbit (NGSO) constellations, such as Amazon's Kuiper constellation and SpaceX's Starlink services, offer to connect unserved populations in rural and remote areas with high-speed connectivity and provide competition for broadband services in places that have never experienced any.

The Petitioners are requesting a rulemaking that not only would allow them to provide two-way mobile service, but it would also eliminate critical interference protections for NGSO systems using the band. In other words, if adopted, the proposed rule changes would *adversely impact broadband access and limit competition*—the very opposite of two of the Commission's central commitments. These changes would represent a step backward in closing the digital divide. Our understanding is that Direct Broadcast Satellite systems operating in the band, which provide satellite programming to consumers' homes, would also be negatively affected. The Commission should not act in a manner that undermines that investment and disrupts service to consumers.

Furthermore, the proposed rulemaking—while certain to disrupt NGSO satellite service in the band—would not necessarily expand 5G offerings any time soon, as Petitioners have argued. The soonest that the International Telecommunication Union (ITU) could identify the 12 GHz band for 5G is 2027. Even more critical, because the 12 GHz frequency band is several gigahertz from the nearest 5G spectrum bands, it is far from certain that an ecosystem for chips and equipment will develop. Currently, there are no efforts to develop technical standards underway. It will take years to know whether the band is commercially viable. Until then, if the Commission ultimately implements the Petition, the spectrum would likely be warehoused for years. While this may increase its value for the limited number of MVDDS license holders, it is certainly not consistent with Commission policy to put spectrum to its highest and best use—and as soon as feasible.

For the above reasons, we urge the Commission to deny the MVDDS 5G Coalition's Petition for Rulemaking. We see no justification for policymaking that would undermine other broadband efforts, which supports the Commission's highest priorities.

Sincerely,

Steve Pociask
President / CEO
American Consumer Institute

Grover G. Norquist
President
Americans for Tax Reform

² FCC website visited on November 1, 2020, <https://www.fcc.gov/about-fcc/fcc-initiatives/bridging-digital-divide-all-americans>.

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Executive Director
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