

July 29, 2022

Senator Maria Cantwell
Chair, United States Senate Committee on
Commerce, Science, and Transportation
511 Hart Senate Office Building
Washington, DC 20510

Representative Frank Pallone
Chairman, House Committee on Energy and
Commerce
2107 Rayburn House Office Building
Washington, DC 20515

Senator Roger Wicker
Ranking Member, United States Senate
Committee on Commerce, Science, and
Transportation
555 Dirksen Senate Office Building
Washington, DC 20510

Representative Cathy McMorris Rogers
Ranking Member, House Committee on Energy
and Commerce
1035 Longworth House Office Building
Washington, DC 20515

Re: 12 GHz Spectrum Band

Dear Sens. Cantwell and Wicker and Reps. Pallone and McMorris Rodgers:

A historic effort to close the digital divide is underway, and 12 GHz frequencies are well-suited to deliver connectivity to unserved and underserved communities across America. For example, satellite provider SpaceX/Starlink, a primary operator in the band, is revolutionizing rural broadband deployment and improving access for the hardest to reach communities. This company's heroic effort has given the Ukrainian military an advantage against Russia and kept many displaced Ukrainians connected to the rest of the world. The FCC presently is examining whether the 12 GHz band can also be used to power terrestrial wireless service alongside satellite broadband. We trust that the FCC will fully analyze the technical issues raised by this issue.

Actions taken by Congress and the FCC have paved the way for global U.S. leadership in 5G and can do the same for 6G. 5G is revolutionizing mobile wireless technology, powering new fixed wireless broadband competition throughout the country, and paving the way for continued economic and technological benefits with subsequent generations. The 12 GHz band – and frankly any future spectrum band suitable for mobile wireless use – should not just be given away to any of the incumbent users in that band. The FCC should reject giving DISH Network a sweetheart deal from the government amounting to a large corporate giveaway.

This unfortunately wouldn't be the first time the FCC has enabled DISH to scam taxpayers. Originally a satellite TV provider, DISH convinced the FCC in 2013 to change the nature of its license in the AWS-4 band from satellite to terrestrial broadband, effectively granting the company 40 MHz of mid-band spectrum for free. Instead of prompt buildout, the company attempted to enter the mobile wireless space with an initial network and wholesale roaming agreement to resell access on established networks under its own name and waited until the last minute (June 2022) to fulfill the bare minimum buildout obligations, cherry-picking the most lucrative populous urban centers along the way and completely ignoring underserved rural America. Americans deserve more from a company in exchange for the precious and critical gift of free spectrum.

In the FCC's 2015 AWS-3 auction, DISH tried to scam U.S. taxpayers out of \$3 billion by claiming a 25 percent designated entity (or small business discount) by bidding for spectrum through fake companies it fully controlled to exploit an FCC loophole. Even the *New York Times* called out the theft. Rewarding companies which buy and hold – while ignoring buildout requirements – is bad spectrum policy.

Spectrum is a finite resource and demand is only going up. We shouldn't give it away, single out companies for special favors, reward spectrum squatting, allow spectrum arbitrage, or ignore it when companies fail to live up to their commitments. DISH has all these failings, and its behavior has not benefitted taxpayers or the public interest.

As America experiences an uncertain economy and the worse inflation in decades, the FCC should not reward spectrum freeloaders. DISH's founder, billionaire Charlie Ergen, and his Wall Street friends want to reap the benefits of a spectrum windfall at the expense of U.S. taxpayers. It's time that the buck stops. We ask that you work with the FCC to reject DISH's proposal and this prime example of crony capitalism.

Sincerely,

Steve Posiasck, President & CEO
Krisztine Pusok, PhD, Director of Policy and Research
American Consumer Institute

Roslyn Layton, PhD
Founder
China Tech Threat

Ryan Nabil
Policy Fellow
Competitive Enterprise Institute

Silvia Elaluf-Calderwood, PhD
Affiliated Scholar, Jack D. Gordon Institute for Public Policy at
Adjunct Professor, FIU College of Business
Florida International University

Hance Haney
Founder
Innovation and Prosperity Policy Institute

Petrus Potgieter, PhD
Institute for Technology and Network Economics

Seton Motley
President
Less Government

David Witkowski
Oku Solutions, LLC

Cc: Federal Communications Commission
Jessica Rosenworcel, Chair
Brendan Carr, Commissioner
Geoffrey Starks, Commissioner
Nathan Simington, Commissioner