

June 23, 2016

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Opposition to Petition for Reconsideration of Association of Global Automakers, Inc., and Alliance of Automobile Manufacturers; ET Docket No. 13-49, Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band

Dear Ms. Dortch:

The Dynamic Spectrum Alliance (“DSA”) respectfully submits this letter in opposition to the Petition for Reconsideration of Association of Global Automakers, Inc., and Alliance of Automobile Manufacturers (collectively “Petitioners”).¹ The Petitioners in their opposition state that the Federal Communications Commission (“FCC” or “Commission”) March 2016 Memorandum Opinion & Order (“MO&O”)² that relaxed the out-of-band-emissions (“OOBE”) mask for U-NII-3 devices was “arbitrary, capricious, and was adopted without reasonable opportunity for affected parties to be heard.”³ We disagree. To be clear, DSA agrees that safety-of-life DSRC operations must be protected from harmful interference. Based on the record we believe that the Commission has fully considered and has provided the necessary protection for Dedicated Short Range Communications (“DSRC”) operations in the adjacent U-NII-4 band.

Specifically, with respect to the Petition, first, we note that the Petitioners had several months to file comments opposing three key ex parte filings that proposed OOBE mask relaxation prior to the MO&O being published,⁴ but did not choose to file. Second, and more critically, the

¹ Petition for Reconsideration of the Association of Global Automakers, Inc. and the Alliance of Automobile Manufacturers, ET Docket No. 13-49 (filed May 6, 2016) (“Second Automaker Petition”).

² *Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, Memorandum Opinion and Order, 31 FCC Red. 2317 (rel. Mar. 2, 2016) (“MO&O”).

³ Second Automaker Petition at 4.

⁴ See JAB Petition at 1. See also Mimosa Petition; Cambium Petition; Motorola Petition; WISPA Petition. See also letter from Peter K. Pitsch, Executive Director, Communications Policy, Intel Corporation, to Marlene H. Dortch, Secretary, FCC, ET Docket No. 13-49 (filed Nov. 6, 2015). See also Letter from Paul Margie, Counsel to Broadcom Corporation, Harris, Wiltshire &

Petitioners imply that the Commission either ignored the technical facts, made fundamental technical errors, and/or demonstrated technical incompetence when it decided that the relaxation of the emissions mask would not cause harmful interference to DSRC operations in the 5.9 GHz. The rules for protecting DSRC operations from harmful interference have been in place for over a decade. DSA has no reason to believe that the Commission did not take these rules into account or the extensive record in the FCC 13-49⁵ docket when it made its decision to relax the emissions mask in the MO&O.

DSA is a global organization advocating for laws and regulations that will lead to more efficient and effective spectrum utilization. Our membership spans multinationals, small-and-medium-sized enterprises, and academic, research, and other organizations from around the world, all working to create innovative solutions that will increase the amount of available spectrum to the benefit of consumers and businesses alike. Our primary goals are to close the digital divide by reducing the cost of deploying last-mile wireless networks, freeing up an ample supply of spectrum for innovative uses, enabling the Internet of Things (“IoT”) and other forward-looking applications.⁶

Our *ex parte* comments in the FCC 13-49 proceeding made it clear that DSA “supports the Commission’s proposals to amend Part 15 of its rules governing the operation of Unlicensed National Information Infrastructure (U-NII) devices in the 5 GHz band. Access to additional 5 GHz spectrum could markedly increase available bandwidth for Wi-Fi and other wireless devices, enabling Gigabit connectivity over short ranges, indoors and outdoors, and complementing both licensed and unlicensed connectivity available at other frequencies.”⁷

DSA believes that the Commission’s 2014 Report and Order⁸ as modified by its 2016 MO&O strikes the right balance in in protecting incumbent services in adjacent bands that either have experienced harmful interference (Terminal Doppler Weather Radar) or could experience harmful interference (DSRC), while ensuring maximum utility of the UNII-3 band for unlicensed devices, such as those used for Wi-Fi.

Grannis LLP, to Marlene H. Dortch, Secretary, FCC, at Attachment at 2, ET Docket No. 13-49 (filed Jan. 25, 2016).

⁵ *Revision of Part 15 of the Commission’s Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, Notice of Proposed Rule Making (“NPRM”), ET Docket No. 13-49 (adopted Feb. 20, 2013).

⁶ For more on DSA, please visit www.dynamicspectrumalliance.org.

⁷ See *ex parte* comments from DSA, to Marlene H. Dortch, Secretary, FCC, at 6, ET Docket No. 13-49 (filed Mar. 18, 2014).

⁸ *Revision of Part 15 of the Commission’s Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, First Report and Order (“R&O”), ET Docket No. 13-49 (adopted Apr. 1, 2014).

In the 2016 MO&O the FCC made it clear that the purpose of the additional restrictions on UNII-3 OOB mask was to reduce the harmful interference to Terminal Doppler Weather Radar (TDWR), and that they believed the 2016 MO&O Mask would provide additional aggregate protection to the DSRC devices as well. We agree with the FCC that it is important to protect DSRC safety operations, and that the MO&O Mask would lead to such an outcome.

The Petitioners declare the FCC has actually put DSRC operations at greater risk than they faced previously because the relaxed mask allowed for significantly greater OOB into the first 35 MHz of UNII-4 spectrum than was previously allowed even prior to 2014.⁹ However, the Petitioners did not provide any new evidence of actual harmful interference other than pointing out the theoretical worst case scenario of an 802.11 device's OOB. We note that the Commission also pointed out in the MO&O that "DSRC systems were not experiencing interference problems previously" as a basis for rejecting previous reconsideration petitions.¹⁰ As a result, the Petitioners cannot now claim to oppose the rules without providing additional evidence or argumentation.

DSA believes the safety of life application for DSRC is indeed of utmost importance and any interference warrants the FCC's careful consideration. However, we also believe that the Petitioners have not yet supplied sufficient evidence of harmful interference to support their request that the Commission's decision be reopened, and the petitioners request would have a negative impact on unlicensed device operations in UNII-3. Thus we believe that the public would be best served by denying the petitioners request unless or until such a point that harmful interference is demonstrated.¹¹

Sincerely,



H. Nwana
Executive Director

⁹ Second Automaker Petition at 14-15.

¹⁰ See MO&O at 9.

¹¹ Perhaps one possible solution the FCC should take into consideration that would benefit both the Petitioners and the general public is to move the more interference sensitive DSRC communications from Channel 172 to Channel 182. In this way, the DSRC would obtain additional protection from UNII-3 OOB as evidenced in Figure 2 and UNII-3 Devices could continue to operate at maximum allowable power levels.