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March 9, 2021

VIA ECFS


Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**RE: Notice of Ex Parte Presentation, *Facilitating Shared Use in the 3.1-3.55 GHz Band*,
WT Docket No. 19-348**

Dear Ms. Dortch:

The Dynamic Spectrum Alliance submits this Ex parte in the above-captioned proceeding to offer suggested changes to the draft Second Report and Order, Order on Reconsideration, and Order of Proposed Modification, released on February 24, 2021. The changes proposed in the attached acknowledge that the Commission has adopted successful spectrum sharing solutions for other bands, including the Citizens Broadband Radio Service and TV White Spaces, and in the post-auction 600 MHz band, and that similar sharing frameworks may be appropriate for other bands in the future.

Please do not hesitate to contact me with any questions.


Martha SUAREZ
President
Dynamic Spectrum Alliance

3.45 GHz Draft Second Report and Order: Suggested Revisions to Pars. 130-132

6. Licensed-By-Rule Use

129. In the *FNPRM*, the Commission sought comment on potentially authorizing “license-by-rule” operations in the 3.45 GHz band.³¹⁰ It noted that such opportunistic use of spectrum is permitted in the General Authorized Access tier of the adjacent Citizens Broadband Radio Service. The Commission asked whether this should be permitted generally or where not all spectrum licenses are sold at auction. The Commission asked commenters to explain the effect of allowing such operations on the Commission’s efforts to ensure adequate protection of incumbent and licensee operations from harmful interference, and whether a database or other coordination techniques would create unnecessary burdens on licensees or hinder incumbent protection.

130. Some commenters support this proposal and note that opportunistic access can help to ensure this spectrum is put to immediate and intensive use.³¹¹ Indeed, in our *Report & Order* establishing the Citizens Broadband Radio Service, the Commission stated that “permitting opportunistic access to unused Priority Access channels would maximize the flexibility and utility of the 3.5 GHz Band for the widest range of potential users” and “ensure that the band will be in consistent and productive use.”¹ Commenters observe that the Commission has authorized opportunistic use of locally-unused spectrum in the adjacent Citizens Broadband Radio Service as well as by unlicensed TV White Space operations in the 600 MHz band following the incentive auction that concluded in 2017.² These comments make clear, however, that implementing opportunistic use would require the use of some type of automated frequency coordination mechanism, such as the Spectrum Access System that is used in the Citizens Broadband Radio Service, and many commenters oppose such a mechanism because of the reporting burden it places on licensees. Although we believe that the Spectrum Access Systems have proven they are capable of coordinating opportunistic use of locally-unused spectrum, we decline to adopt this coordinated sharing approach in the 3.45 GHz band at this time.

131. In the Citizens Broadband Radio Service band, federal incumbent use is constantly changing, requiring a dynamic spectrum sharing environment and using automated coordination mechanisms to enable that environment. This approach allows the provision of a General Authorized Access tier without imposing additional requirements on Priority Access Licensees. Here, because the DoD and the Commission have worked collaboratively on a different sharing regime in the band, the limited federal operations that remain indefinitely in the band will not require dynamic spectrum sharing. The goal shared by the Commission and the Executive Branch, including the DoD, has been to minimize requirements on licensees to coordinate their

¹ *3.5 GHz R&O and FNPRM*, 30 FCC Rcd at 3983, para. 72.

² OTI and PK Comments at 16. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, GN Docket No. 12-268, 29 FCC Rcd 6567, 6843-6844 (June 2, 2014).

operations with third-party systems, thereby allowing maximum opportunities for flexibility in deployment and operational design. Permitting licensed-by-rule operations would require implementing coordination mechanisms similar to the Spectrum Access Systems found in the Citizens Broadband Radio Service. In light of the work that the DoD has done to plan for clearing the band, and our statutory mandate to begin a system of competitive bidding to auction some or all of the 3.45 GHz band by December 31, 2021, we decline to permit licensed-by-rule operations at this time.

132. Similarly, based on the framework developed for this band, permitting licensed-by-rule operations near Cooperative Planning Areas and Periodic Use Areas could limit the ability of the DoD to work directly with licensees to ensure continued access as needed while minimizing the burden on commercial wireless operations. The DoD's work on determining the boundaries of these areas relies on its ability to cooperate with licensees to design and plan its use of the 3.45 GHz band. Although different coordination or exclusion areas could be designed in the future to accommodate opportunistic use enforced by a Spectrum Access System or similar mechanism, we decline at this time to adopt any proposal that would involve licensed-by-rule use in this band. Nevertheless, we recognize that there may be potential opportunities in the future to consider steps we might take, in cooperation with NTIA and other federal partners, to effect an overall rationalization of the non-federal services in the 3 GHz band.

- *Proposed language for future 3 GHz proceedings to use CBRS framework:*

In this proceeding, given the circumstances, we adopt rules similar to the C-Band rules. Nevertheless, we recognize the value of frameworks that foster innovation and opportunistic use, such as the CBRS rules, and we therefore commit to finding opportunities to adopt the CBRS framework elsewhere in the 3 GHz band. Reallocating government spectrum on a shared basis has strong bipartisan support,³ and the relocation of the government systems in the 3.45-3.55 GHz band for commercial use in this proceeding will facilitate the availability of spectrum in adjacent bands for commercial use on a shared basis. We therefore direct Wireless Telecommunications Bureau and Office of Engineering and Technology staff to continue working with our federal partners, including NTIA, to establish the technical basis for adopting dynamic sharing regimes, such as CBRS, in the remainder of the 3 GHz band.

³ See, e.g. President's Council of Advisors on Science and Technology, Report to the President: Realizing the Full Potential of Government-Held Spectrum to Spur Economic Growth (2012), 50-51 (recommending prioritizing the spectrum from 2700-3500 MHz for shared use), <https://protect-us.mimecast.com/s/y2jrCJ676vsx5DAviVGBtI?domain=obamawhitehouse.archives.gov>; M. Dano, "FCC's acting chair voices support for spectrum sharing," Light Reading (Feb. 17, 2021), https://www.lightreading.com/aiautomation/fccs-acting-chair-voices-support-for-spectrum-sharing/d-d-id/767468?_mc=RSS_LR_EDT; Remarks of FCC Chairman Ajit Pail, Dynamic Spectrum Alliance Global Summit (Nov. 5, 2020) ("[D]ynamic spectrum sharing rests at the cutting edge. . . . It's become a powerful tool for squeezing the most value out of high-quality spectrum and meeting the growing demand for wireless services."), <https://docs.fcc.gov/public/attachments/DOC-367990A1.pdf>.