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January 29, 2020

VIA ELECTRONIC FILING

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

Re: *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, GN Docket No. 18-122

Dear Ms. Dortch:

On December 18, 2019, T-Mobile USA, Inc. submitted a notice of *ex parte* communication supporting the Chairman's proposal to hold a public auction of spectrum in the 3.7–4.2 GHz band ("C-band") for 5G services.[1] T-Mobile joined others in urging the Commission to employ its authority under the Communications Act of 1934 ("Act") to require, as a condition of receiving a license, that winning bidders pay incumbent license holders to voluntarily relocate their current C-band operations on an accelerated basis. This letter elaborates on the Commission's ample legal authority to require such "Relocation Payments"—and, if the incumbents do not relocate voluntarily, to implement involuntary relocation by modifying incumbent operators' licenses.

Under T-Mobile's proposal, winning bidders' Relocation Payments would cover incumbent satellite operators' estimated relocation costs. The Relocation Payments would also include an additional sum to incentivize these operators to accelerate the relocation process. Both the aggregate cost estimate and the aggregate acceleration payment would be fixed prior to the auction. The relocation-cost estimate would be based on satellite operators' reasonable assessment of their customers' needs, and the acceleration payment could similarly be based on input from the satellite operators, including the estimated costs of relocation, the value of the relinquished spectrum rights to the operators, and the risks associated with an expedited transition, among other possible factors. These two aggregate

[1] Letter from Steve B. Sharkey, Vice President, Government Affairs, Technology and Engineering Policy, T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed Dec. 18, 2019) ("T-Mobile Dec. 18 *Ex Parte* Letter").

sums would then be converted to a per-license Relocation Payment so that auction participants could know their post-auction payment obligations prior to bidding. Winning bidders would then place their Relocation Payments in escrow. Cost-reimbursement funds would be released to incumbent operators upon a demonstration to the Commission that the funds are required for particular identified expenses covered in pre-auction relocation cost estimates.[2] By the same token, acceleration payments would be released upon an incumbent's certification that it has relocated all customers prior to a specified transition deadline. Finally, once relocation is complete—or at the end of the specified transition period, whether or not all incumbents have voluntarily relocated as required to collect acceleration payments—the Commission would modify the incumbent operators' licenses to clear the spectrum for use by the auction winners. As this letter explains, T-Mobile's approach falls well within the Commission's legal authority and would ensure that incumbents are adequately compensated while facilitating the rapid deployment of innovative 5G services.

The C-Band Alliance ("CBA"), which represents satellite operators, substantially agrees with this proposal. But in a January 16, 2020 letter, the CBA argues that "legal uncertainty" clouds the Commission's statutory authority to modify the incumbent satellite operators' licenses without consent.[3] The CBA attempts to leverage this supposed uncertainty to extract a ***100% premium*** on the final, aggregate value of winning bids, which it deems an appropriate incentive for incumbents to voluntarily relocate.

There is no uncertainty about the Commission's legal authority to unilaterally modify licenses—§ 316 of the Act specifically grants the Commission this authority. The Commission has consistently exercised this authority in analogous circumstances, and these actions were later approved by reviewing courts. The Commission therefore has ample authority to require incumbent C-band operations to relocate involuntarily, should that measure prove necessary. The Commission should adopt T-Mobile's proposal to encourage voluntary relocation by offering reasonable Relocation Payments, with involuntary relocation as a necessary backstop to address any holdouts.

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[2] *See* T-Mobile Dec. 18 *Ex Parte* Letter, at 8–9.

[3] Letter from Bill Tolpegin, Chief Executive Officer, C-Band Alliance, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 7 (filed Jan. 16, 2020) ("CBA Jan. 16 *Ex Parte* Letter").

I. The Commission Has Authority to Condition C-Band Licenses on Payment of Fixed-Price Relocation Payments.

Whether viewed as a spectrum-management measure or as an exercise of the Commission's authority to design and conduct competitive auctions, T-Mobile's Relocation Payment proposal falls well within the Commission's legal authority.

A. The Communications Act Grants the Commission Broad Authority to Both Manage Spectrum and Conduct Spectrum Auctions.

The Commission has broad authority under the Act to manage and allocate spectrum in support of its mission to promote new technologies and encourage the provision of communication services. *See* 47 U.S.C. §§ 151, 157(a). The Act empowers the Commission to classify radio stations and prescribe the nature of services rendered by each class, to assign station frequencies, to determine station locations, and to regulate station apparatus. *Id.* § 303(a)–(e). The Commission may also prescribe qualifications for station operators, issue licenses to qualified persons, and suspend or modify those licenses. *Id.* §§ 303(*l*)–(m), 308, 316. And the Act supplements these powers with broad authority to issue regulations and "prescribe such restrictions and conditions" on licenses "as may be necessary" to carry out the Commission's functions. *Id.* § 303(r); *see id.* §§ 154(i), 303(f), 308(b).

The Act also grants the Commission extensive authority to design and conduct competitive auctions for licenses. When mutually exclusive applications are accepted for a given license, the Act directs the Commission to grant the license "through a system of competitive bidding," using a methodology established by regulation after a rigorous design process. 47 U.S.C. § 309(j)(1), (3). In designing and specifying the eligibility requirements for each auction, the Commission must implement safeguards to protect the public interest and promote the Act's purposes, including the rapid development of new technologies, the efficient use of spectrum, and a recovery for the public of a portion of the value of the spectrum while avoiding unjust enrichment in awarding uses of the spectrum. *Id.* § 309(j)(3)(A)–(D). Section 309(j) further provides that no person may participate in an auction unless the bidder "submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing." *Id.* § 309(j)(5). If an applicant is not qualified to hold a license pursuant to conditions established by the Commission, the license may not be granted to the applicant through the auction. *Ibid.*; *see id.* § 308(b).

Section 309(j) defines certain limits on the Commission's broad authority over auctions. For example, the Act provides that, as a general matter, "all proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury." 47

U.S.C. § 309(j)(8)(A). The Act does contain a mechanism for sharing auction proceeds with licensees in order to encourage them to relinquish spectrum-usage rights, but it limits such proceed-sharing to a specific type of auction (a "reverse" auction) that T-Mobile and other parties now agree should not be used in this particular context. *See id.* § 309(j)(8)(G)(ii)(I). In general, though, § 309(j) does not "limit or otherwise affect the requirements of" other statutory provisions or "diminish the authority of the Commission under the other provisions of this chapter to regulate or reclaim spectrum licenses." *Id.* § 309(j)(6)(B)–(C).

Pursuant to these authorities, the Commission's competitive-bidding regulations permit the use of "bids that are contingent on specified conditions," as well as "[p]rocedures to determine the amount of any payments made to or by winning bidders." 47 C.F.R. § 1.2103(b)(1)(iv), (3). And in a series of orders beginning with the *Emerging Technologies* proceedings in the early 1990s, the Commission has required new service providers to pay incumbent licensees to relocate as a condition of obtaining a license. These payments have included both reimbursement of relocation costs and voluntary additional payments to incentivize swift transitions.[4] The Commission has applied the *Emerging Technologies* framework both within the auction context and outside of it,[5] and the D.C. Circuit has repeatedly approved the Commission's application of this relocation framework. *See Teledesic LLC v. FCC*, 275 F.3d 75, 84–88 (D.C. Cir. 2001); *Small Bus. in Telecomms. v. FCC*, 251 F.3d 1015, 1026 (D.C. Cir. 2001); *Ass'n of Pub.-Safety Commc'ns Officials-Int'l v. FCC*, 76 F.3d 395, 396 (D.C. Cir. 1996); *cf. Mobile Commc'ns Corp. v. FCC*, 77 F.3d 1399, 1406 (D.C. Cir. 1996) ("*Mtel*") (upholding the Commission's authority under 47 U.S.C. §§ 154(i), 309(a), to condition the grant of a license on payment to the Commission).

B. The Commission's Authority and Precedent Amply Support T-Mobile's Proposed Fixed-Price Relocation Payments.

The authority and precedent discussed above provide a firm legal foundation for T-Mobile's proposed Relocation Payments. As previously explained, T-Mobile proposes that the Commission require auction winners to pay incumbent licensees' estimated relocation costs, plus an acceleration payment to incentivize an efficient transition. This

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[4] *E.g.*, *Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation*, 11 FCC Rcd. 1923 ¶¶ 6–7 (1995) ("*Microwave Relocation NPRM*").

[5] *Compare, e.g.*, *Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies*, 7 FCC Rcd. 6886 ¶ 24 (1992), *with Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands*, 27 FCC Rcd. 16,102 ¶¶ 289–306 (2012).

requirement can be imposed both as a qualification for bidding implemented under the Commission's auction-specific authority, *see* 47 U.S.C. § 309(j)(3)(A)–(D), and as a condition implementing the Commission's broad licensing and spectrum-management authority, *see id.* §§ 303(a)–(r), 308, 309, 316, which is not "diminish[ed]" in the auction context, *id.* § 309(j)(6)(C).

The Commission's regulations support this conclusion, as they permit auction designs that require successful bidders to make payments to third parties. 47 C.F.R. § 1.2103(b)(1)(iv), (3). Although the Commission has not previously required license applicants to make *incentive payments* to incumbent license holders, it has allowed applicants to do so voluntarily, and it has repeatedly sought comment on the possibility of including such payments in cost-sharing requirements associated with spectrum auctions.[6] The Commission has never questioned its authority to impose an incentive-payment requirement, though it has not yet seen fit to adopt such a requirement in a particular context.[7] And its authority to require such payments is clear under the Act, as there is no legally significant difference between a reasonable incentive payment and other relocation costs, at least where there is a pressing public need for the relocation to occur quickly. Indeed, the statutory basis for requiring acceleration payments is, if anything, *stronger* in the context of an auction that will facilitate the prompt deployment of innovative, high-demand services: that is so because Section 309(j) specifically directs the Commission to "include safeguards" in the auction to promote the "efficient and intensive use of the electromagnetic spectrum" as well as "the development and rapid deployment of new technologies, products, and services for the benefit of the public ... without administrative or judicial delays." 47 U.S.C. § 309(j)(3)(A), (D).

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[6] *Microwave Relocation NPRM*, 11 FCC Rcd. 1923 ¶¶ 36–37; *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, 11 FCC Rcd. 1463 ¶¶ 270–72 (1995).

[7] *Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation*, 11 FCC Rcd. 8825 ¶ 2, App. A ¶¶ 15–20 (1996); *see also Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services*, 20 FCC Rcd. 15,866 ¶ 52 n.135 (2005) ("Overall, the Commission's *policy* is that relocators are only entitled to reimbursement of 'actual' costs, as opposed to so-called 'premium' costs, defined as costs above those required to obtain comparable facilities. These premium costs may be incurred to induce an incumbent to agree voluntarily to relocation." (emphasis added)).

Section 309(j)(8)(A)'s general requirement that "proceeds from the use of a competitive bidding system … be deposited in the Treasury" is not to the contrary. As the CBA explains, the term "proceeds" ordinarily refers to "the total amount brought in" from a sale or the "net amount received" from a sale "after deduction of any discount or charges."[8] In the context of license auctions, payments tied to costs external to the auction cannot be considered "proceeds" of the auction. Here, T-Mobile's proposed Relocation Payments would be calculated in advance, based on a reasonable estimate of the actual costs and risks of an accelerated relocation. These payments would not be tied in any way to particular bids in the C-band auction, and thus could not be considered "proceeds" of the auction. This conclusion is consistent with the Commission's regulations on competitive bidding and its *Emerging Technologies* precedent, which authorize payments to third parties in connection with auctions conducted under § 309(j).

Nor does the Act's provision for incentive auctions pose any obstacle to T-Mobile's proposed auction design. Section 309(j)(8)(G) gives the Commission discretionary authority to use an incentive auction to encourage a licensee to voluntarily relinquish its spectrum-usage rights. Although the Commission may not "share … auction proceeds" with a licensee unless it conducts a reverse auction under that provision of the Act, *see* 47 U.S.C. § 309(j)(8)(G)(ii)(I), nothing in that provision prohibits the Commission from requiring the winning bidder in a traditional forward auction to pay a fixed Relocation Payment on top of the auction proceeds. Nor does that provision purport to impose any other obligations outside of the limited circumstances to which it applies. Because T-Mobile and other parties now contemplate a traditional forward auction, § 309(j)(8)(G) is inapposite and sets no barrier to the current proposal.

II. The Commission Has Authority to Modify the Authorizations of Incumbent Satellite Operators to Implement the C-Band Transition.

T-Mobile's Relocation Payment proposal would facilitate voluntary relocation on terms that ought to be acceptable to all parties. Should some of the incumbents nevertheless attempt to block the transition by "holding out," the Commission possesses ample authority to implement the C-band transition unilaterally. The CBA's recent efforts to question that authority lack legal support and should be disregarded.

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[8] CBA Jan. 16 *Ex Parte* Letter, at 9.

A. The Communications Act Grants the Commission Broad Authority to Modify Licenses.

The Act specifically grants the Commission authority to modify licenses it has previously granted, a key component of its broad authority to allocate and manage spectrum in the public interest. Under § 316 of the Act, "[a]ny station license or construction permit may be modified by the Commission either for a limited time or for the duration of the term thereof, if in the judgment of the Commission such action will promote the public interest, convenience, and necessity, or the provisions of this chapter or of any treaty ratified by the United States will be more fully complied with." 47 U.S.C. § 316(a)(1). The Act prescribes various procedures allowing licensees a reasonable opportunity to protest a proposed modification. *Id.* §§ 309(d)–(f), 316(a)–(b); *see* 47 C.F.R. § 1.87. But it imposes no further substantive limits on the nature and extent of the Commission's authority to modify licenses. Moreover, here as elsewhere, the Act supplements the Commission's specific powers with broad residual authority to "[m]ake such rules and regulations and prescribe such restrictions and conditions ... as may be necessary" to fulfill its mission. 47 U.S.C. § 303(r).

As both the Commission and the courts have recognized, "the Commission is afforded significant latitude when it exercises its Section 316 authority."[9] It may act unilaterally to modify licenses on its own initiative, as "[t]he Commission has power under Section 316(a) ... to modify a license without an application for the modification having been made by the licensee." *Peoples Broad. Co. v. United States*, 209 F.2d 286, 287–88 (D.C. Cir. 1953). It "may modify entire classes of licenses" at once, as "nothing in the statute ... suggests that the FCC's modification power is limited to individual licenses." *Cmty. Television, Inc. v. FCC*, 216 F.3d 1133, 1140 (D.C. Cir. 2000). And it may act "without the approval of [license] holders," *Rainbow Broad.*, 949 F.2d at 410, as it has repeatedly done in the context of post-auction involuntary relocations, among others.[10] Indeed, § 316 could hardly be read otherwise. If § 316 merely confirmed the freedom of license holders to *voluntarily* assent to modifications proposed by the Commission, then this provision would

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[9] *Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Services in the Upper and Lower L-Band*, 17 FCC Rcd. 2704 ¶ 25 (2002) ("*2002 MSS Order*") (citing *Rainbow Broad. Co. v. FCC*, 949 F.2d 405, 410 (D.C. Cir. 1991)); *see also Cal. Metro Mobile Commc'ns, Inc. v. FCC*, 365 F.3d 38, 45 (D.C. Cir. 2004) ("Section 316 grants the Commission broad power to modify licenses; the Commission need only find that the proposed modification serves the public interest, convenience and necessity.").

[10] *E.g.*, *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, 33 FCC Rcd. 12,168 ¶¶ 15–36 (2018); *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 12 FCC Rcd. 12,809 ¶¶ 57, 68–69 (1997).

do little or no work. The detailed statutory procedures for the resolution of protests would also serve no purpose, as they expressly contemplate modification over the objections of the license holder. 47 U.S.C. §§ 309(d)–(f), 316(a)–(b); *cf. Duncan v. Walker*, 533 U.S. 167, 174 (2001) (statutes should be interpreted to "give effect, if possible, to every clause and word" (internal quotation marks omitted)). The statutory structure, too, rules out such a reading, because "if modification of licenses were entirely dependent upon the wishes of existing licensees, a large part of the regulatory power of the Commission would be nullified." *Peoples Broad.*, 209 F.2d at 288.

The D.C. Circuit has suggested a theoretical limit on the Commission's power to effect "fundamental" or "revolutionary" changes to license terms, based on arguments that, at a certain point, change becomes too drastic to qualify as a "modification" authorized by § 316. *Cellco P'ship v. FCC*, 700 F.3d 534, 543 (D.C. Cir. 2012). But the court has rejected such claims and affirmed the Commission's broad modification authority in every case where a protesting incumbent has raised the argument. *Id.* at 544; *see Cmty. Television*, 216 F.3d at 1141. Thus, even granting the existence of this implicit limitation on § 316, it would apply only to the most extreme cases, and would require proper deference to the Commission's reasonable exercise of its broad authority. *Cf. Cal. Metro*, 365 F.3d at 45 (upholding license modification under deferential arbitrary-and-capricious review).

B. The Commission's Authority and Precedent Amply Support T-Mobile's Proposed Modification of Incumbent Licenses.

These authorities easily justify the proposed modification of incumbent C-band satellite operators' licenses, as T-Mobile and others have previously explained.[11] The Commission has repeatedly exercised its § 316 authority to modify licenses by reducing and relocating the spectrum allocated to license holders, as T-Mobile proposes here.[12] And the

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[11] *E.g.*, T-Mobile Dec. 18 *Ex Parte* Letter, at 11–13; Letter from Russell H. Fox, Mintz, Counsel to T-Mobile USA, Inc., to Ms. Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed Apr. 11, 2019); Letter from Carlos M. Nalda, LMI Advisors, to Ms. Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, Ex. B (filed Jan. 23, 2020); Letter from Pantelis Michalopoulos, Steptoe, Counsel for ACA Connects – America's Communications Association, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 8–9 (filed Dec. 11, 2019); Letter from Kathryn A. Zachem & Francis M. Buono, Comcast Corp., to Ms. Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 10–12 (filed Nov. 19, 2019).

[12] *E.g.*, *2002 MSS Order*, 17 FCC Rcd 2704 ¶¶ 1, 19–29.

D.C. Circuit has upheld the Commission's authority to effectuate such transitions, both in the context of auctions and in other contexts.[13]

The CBA cannot and does not dispute the Commission's § 316 authority to modify licenses through involuntary spectrum relocation in the public interest. Instead, its primary objection—now raised only halfheartedly, in the form of alleged "legal uncertainty"[14]—is that the proposal could effectuate an impermissible "fundamental change" testing the bounds of § 316's modification authority. But even assuming the validity of this exception—which the D.C. Circuit has never found to be satisfied—it is plainly inapplicable to these circumstances.

As the Commission has noted, "the D.C. Circuit has found that reassignments to new spectrum are not fundamental changes to the original licenses."[15] Just like the licensees that were subjected to the modifications upheld in *Community Television*, the incumbent satellite operators here "will begin and end the transition period broadcasting ... under very similar terms" and "will provide essentially the same services," thanks to the Relocation Payment proposal described above. 216 F.3d at 1141. Whatever the bounds of the Commission's modification authority, it is certainly broad enough to support an involuntary relocation requirement that covers the reasonable cost of transitioning to facilities that are "at least equivalent, in terms of throughput, reliability, and operating costs, as the facilities from which the [incumbent] is evicted." *Teledesic LLC v. FCC*, 275 F.3d 75, 81 (D.C. Cir. 2001). Indeed, T-Mobile's proposal stands on even stronger footing than these precedents, given the provision of reasonable incentive payments above and beyond the estimated relocation costs. Such generous provision for transition to equivalent facilities can hardly be termed a "revolutionary" change in license terms.

The CBA also floats a constitutional-avoidance argument under the Takings Clause of the Fifth Amendment, which prohibits the taking of private property for public use without just compensation. But this argument fails for three independent reasons. First, a license granted by the Commission "does not constitute a property interest protected by the Fifth Amendment." *Mobile Relay Assocs. v. FCC*, 457 F.3d 1, 12 (D.C. Cir. 2006). The Act empowers the Commission to grant licenses for the temporary "use" of public spectrum, "but

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[13] *See Improving Public Safety Communications in the 800 MHz Band*, 19 FCC Rcd. 14,969 ¶¶ 62–69 (2004) ("*2004 800 MHz Order*") (citing *Teledesic LLC v. FCC*, 275 F.3d 75 (D.C. Cir. 2001)).

[14] CBA Jan. 16 *Ex Parte* Letter, at 7.

[15] *2004 800 MHz Order*, 19 FCC Rcd. 14,969 ¶ 69 (citing *Cmty. Television*, 216 F.3d 1133).

not the ownership thereof." 47 U.S.C. § 301. The courts have therefore consistently held that licenses granted by the Commission, such as the satellite operators' licenses here, are not legally cognizable property interests capable of sustaining takings claims. *Mobile Relay*, 457 F.3d at 12; *accord Prometheus Radio Project v. FCC*, 373 F.3d 372, 428 (3d Cir. 2004).

Second, even if the CBA could identify a cognizable property interest, its avoidance argument ignores directly contrary precedent. In particular, the CBA cites *Bell Atlantic Telephone Cos. v. FCC*, 24 F.3d 1441, 1445 (D.C. Cir. 1994), for the proposition that constitutional avoidance should cause the Commission to avoid any interpretation of § 316 that could create an "identifiable class of cases in which application of a statute will necessarily constitute a taking."[16] But later case law has strictly limited *Bell Atlantic* to the context of *physical* invasions of property, which constitute *per se* takings, while holding it inapplicable to *regulatory* taking claims, where the governing "context-specific standard ... cannot be said to create an 'identifiable class' of applications that would 'necessarily constitute a regulatory taking.'" *Bldg. Owners & Managers Ass'n Int'l v. FCC*, 254 F.3d 89, 99 (D.C. Cir. 2001) (citation omitted). Because T-Mobile's proposal would effect no physical taking of any property, "the *Bell Atlantic* approach to statutory interpretation does not apply." *Ibid.*

Third, even if the CBA could show an identifiable class of physical takings, its argument still would pose no threat to the Commission's authority to implement T-Mobile's proposal. Under this proposal, the incumbent satellite operators would all be offered generous Relocation Payments to fully cover the costs of transition, plus an additional payment to complete the relocation quickly. "Because a 'justly compensated' taking is not unconstitutional, *see* U.S. Const. amend. V, nothing in [T-Mobile's proposal] implicates the constitutional avoidance principle underlying *Bell Atlantic*." *Cellco*, 700 F.3d at 549 (original brackets omitted).

Finally, the CBA offers a perfunctory argument that applying the proposed unilateral modification to one of its members, Intelsat, would violate Intelsat-specific provisions in the International Telecommunications Satellite Organization Agreement.[17] But the treaty provision cited by the CBA does *not* forbid the Commission from modifying Intelsat's licenses; it merely imposes certain requirements on the selection of a successor if the

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[16] Letter from Bill Tolpegin, Chief Executive Officer, C-Band Alliance, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 12 (filed Jan. 14, 2020) ("CBA Jan. 14 *Ex Parte* Letter").

[17] CBA Jan. 14 *Ex Parte* Letter, at 13.

company voluntarily gives up its present frequencies.[18] There is no direct conflict between the treaty and the Act. Indeed, even the International Telecommunications Satellite Organization ("ITSO") itself has not made such a claim. ITSO merely advances *policy* arguments against involuntary relocation, without citing any treaty provision that such a measure would contravene.[19] Policy judgments, of course, are firmly committed to the judgment of the Commission, which is charged with advancing the "public interest, convenience, and necessity." 47 U.S.C. § 316(a)(1). And as T-Mobile has explained and the Commission is well aware, the efficient transition of the C-band to 5G services is a matter of the highest public importance.

T-Mobile's proposal offers a clear and straightforward path for the Commission to proceed with a smooth, efficient transition for a vital public resource. The CBA advances no serious legal critique casting doubt on the Commission's authority to modify incumbent satellite operators' licenses under § 316 to facilitate the C-band transition.

III. Conclusion

For the foregoing reasons, the Commission enjoys ample authority to implement T-Mobile's Relocation Payment proposal, including a provision for involuntary relocation. The Commission should adopt this proposal at the earliest opportunity.

Respectfully submitted,

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[18] International Telecommunications Satellite Organization (INTELSAT) Agreement art. XII(c)(ii), 23 U.S.T. 3813 (as amended Jan. 16, 2017).

[19] Reply Comments of International Telecommunications Satellite Organization, GN Docket No. 18-122, at 3–4 (filed July 18, 2019).