

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Wireless Telecommunications Bureau Accepts)	
for Filing AT&T Spectrum Frontiers LLC’s)	WT Docket No. 25-138
and FTC Management Group, Inc.’s <i>De Facto</i>)	
Transfer Spectrum Leasing Arrangements and)	
Seeks Comment on Waiver Request)	
)	

**REPLY COMMENTS OF
OPEN TECHNOLOGY INSTITUTE AT NEW AMERICA
AND PUBLIC KNOWLEDGE**

The Open Technology Institute at New America and Public Knowledge (OTI & PK) submit these Reply Comments in response to the Public Notice in the above-referenced docket.¹ Our groups oppose the proposed *de facto* spectrum transfer from FTC to AT&T to the extent that it “would allow the Applicants to exceed the 40 megahertz spectrum aggregation limit applicable to the 3450-3550 MHz band (3.45 GHz band) licenses.”² We believe that the Commission must not view this application for waiver in isolation, but must consider its anti-competitive impacts together with AT&T’s additional applications to waive spectrum caps and screens concerning, *inter alia*, its proposed acquisitions of 3.45 GHz licenses from U.S. Cellular and SoniqWave.³

¹ *Wireless Telecommunications Bureau Accepts for Filing AT&T Spectrum Frontiers LLC’s and FTC Management Group, Inc.’s De Facto Transfer Spectrum Leasing Arrangements and Seeks Comment on Waiver Request*, Public Notice, WT Docket No. 25-138, DA 25-231 (rel. Mar. 14, 2025) (Public Notice).

² *Id.* at 1; See 47 CFR § 27.1606(a) (“3.45 GHz Service licensees may aggregate up to 40 megahertz of 3450-3550 MHz band licenses across both license categories in any service area at any given time for four years after the close of the auction. After four years post-auction, no such aggregation limit on 3450-3550 MHz licenses shall apply.”).

³ *Wireless Telecommunications Bureau Accepts for Filing New Cingular Wireless PCS, LLC’s and United States Cellular Corporation’s Spectrum Assignment Application*, Public Notice, WT Docket No. 25-150, DA 25-276 (rel. Mar. 26, 2025); *Description of Transaction, Public Interest*

The application and associated request for waiver of section 27.1606 of the Commission's rules at issue here would allow the Petitioners to exceed the 40 megahertz spectrum aggregation limit applicable to the 3450-3550 MHz band (3.45 GHz band) licenses subject to the transaction.⁴ While auction specific caps have worked reasonably well with respect to the CBRS and 3450-3550 MHz auctions, the public interest benefits are lost if the Commission readily agrees to waivers that promote the further consolidation of a three-carrier market. Although the 40 MHz aggregation limit on 3.45 GHz band holdings is in effect only through next January 4, 2026,⁵ in the absence of a mid-band spectrum screen – and with the mobile market effectively whittled down to three nationwide mobile carriers – the Commission should consider whether AT&T's series of acquisitions of spectrum in the 3.45 GHz band is, on the whole, promoting or inhibiting robust competition for 5G mobile broadband services.

It is past time for the Commission to follow up on its Public Notice on AT&T's petition to update the spectrum screen with a Notice of Proposed Rulemaking that seeks comment on modern spectrum aggregation policies that will help the U.S. realize a competitive wireless market with at least four players.⁶ There is broad support in the record for meaningful updates to

Statement, and Request for Waiver, ULS File No. 0011490039, at 5-9 (Mar 20, 2025), available <https://wireless2.fcc.gov/ULsApp/ApplicationSearch/applMain.jsp?applID=15294805>.

⁴ See ULS File No. 0011135704 (filed July 15, 2024), amended Aug. 9, 2024; see also ULS File No. 0011152414 (filed July 15, 2024), amended Jan. 29, 2025, (AT&T-FTC 3.45 GHz Waiver Request).

⁵ See *Public Notice* at 2, n. 11.

⁶ See, *Wireless Telecommunications Bureau and Office of Economics and Analytics Seek Comment on AT&T Petition for Rulemaking and Mobile Spectrum Holdings Policies*, Public Notice, DA 23-891, WT Docket No. 23-319, RM-11966 (Sept. 23, 2023); see also Letter from EchoStar Corporation, Public Knowledge and Open Technology Institute at New America, *AT&T Petition for Rulemaking and Mobile Spectrum Holding Policies*, WT Docket No. 23-319, RM-11966 (Aug. 14, 2024).

the Commission’s spectrum screen and access/sharing policies, particularly for mid-band spectrum.⁷

More specifically, we continue to agree with AT&T that the Commission should adopt a mid-band spectrum screen to “fill a critical gap in the Commission's spectrum aggregation rules...to ensure that every provider has a fair and efficient opportunity to acquire the mid-band spectrum it needs to provide consumers with high-quality 5G services, free from anticompetitive foreclosure strategies.”⁸ As AT&T argued in 2022, a spectrum screen and aggregation limits are important to “prevent anticompetitive aggregations of mid-band spectrum,” preserve “competitive equilibrium,” and enable “spectrum-poor providers and new entrants [to obtain] the spectrum they need to catch up to the most spectrum-rich provider.”⁹ AT&T has well noted that “outsized holdings of [] critical spectrum input threaten long-term competition for mobile broadband services.”¹⁰ For these reasons and more, it is critical that the Commission not waive band-specific aggregation limits without at least considering the overall impact of AT&T’s various spectrum acquisitions. Today the market is staring back at a mirror – this time in the 3.45 GHz Band.

⁷ See Comments of AT&T, WT Docket No. 23-319; RM-11966 (Oct. 23, 2023)(AT&T Spectrum Screen Comments); Comments of Public Knowledge and Open Technology Institute at New America, WT Docket No. 23-319; RM-11966 (Oct. 23, 2023); Comments of NCTA – The Internet & Television Association, WT Docket No. 23-319; RM-11966 (Oct. 23, 2023); Comments of Competitive Carriers Association, WT Docket No. 23-319; RM-11966 (Oct. 23, 2023).

⁸ Petition for a Rulemaking to Establish a Mid-Band Spectrum Screen, *AT&T Petition for Rulemaking to Establish a Mid-Band Spectrum Screen and Mobile Spectrum Holdings Policies*, Petition, WT Docket No. 23-319, RM-11966 (filed Sep. 1, 2021).

⁹ Petition to Deny of AT&T Services, Inc., ULS File No. 0010206629 (Nov. 9, 2022) at 4, 16-24.

¹⁰ *Id.* at 1.

Traditional antitrust analysis and the Commission's own experience have demonstrated that subscribers need a minimum of four national providers to see vigorous competition between providers. The Commission and the Department of Justice have both concluded that consumers will only experience the full benefits of competition with a minimum of *four* national competitors. The Commission should therefore update the spectrum screen and rule on spectrum transfer allocations in a manner that facilitates a minimum of four national competitors, not three. Both spectrum aggregation limits – and the Commission's careful consideration of applications and waivers that may undermine, in aggregate, the concept of creating spectrum aggregation limits – should reflect this reality.

Accordingly, our groups urge the Commission to consider AT&T's various market-by-market applications and waiver requests together because the impact on competition and consumers will be determined by the full portfolio of spectrum holdings, not just the licenses held in a single market.

Respectfully submitted,

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