BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of Satellite Spectrum Abundance	)	SB Docket No. 25-180
Shared Use of the 42-42.5 GHz Band	)	WT Docket No. 23-158
Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use	)	GN Docket No. 22-352
Use of Spectrum Bands Above 24 GHz For Mobile Radio Services	)	GN Docket No. 14-177

COMMENTS OF
OPEN TECHNOLOGY INSTITUTE AT NEW AMERICA
AND PUBLIC KNOWLEDGE

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New America's Open Technology Institute and Public Knowledge ("OTI & PK") submit these Comments in response to the Further Notice of Proposed Rulemaking ("FNPRM") and Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceedings. Our groups agree that expanding the use of the 12.7 GHz band for satellite communications is likely to "encourage a more efficient and intensive use of the band than previous proposals to repurpose this band for mobile broadband or other expanded uses."[1] We also support the authorization of FSS earth station gateways in the 42-42.5 GHz band as part of a light-licensing and automated database coordination process that is similar to the proven 70/80/90 GHz framework and that includes the coordination of at least fixed wireless terrestrial users as well. We further agree that this same light-licensing coordination framework should likewise be considered to accommodate NGSO uplink operations (earth-to-space) in the 51.4-52.4 GHz.

[1] *Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use; Shared Use of the 42-42.5 GHz Band*, Further Notice of Proposed Rulemaking, GN Docket No. 22-352, WT Docket No. 23-158, at para. 19 (rel. May 27, 2025) ("FNPRM").

I. Introduction and Summary

First, our groups agree that reallocating the 12.7 GHz band to mobile exclusive use will not best serve the public interest. Rather, the FCC should make the band an expansion of the downlink capacity for NGSO FSS broadband services that already use the contiguous Ku band immediately below 12.7 GHz (10.7-12.7 GHz) to deliver LEO satellite broadband services. Our groups support reallocation of the 12.7 GHz band for FSS (space-to-Earth) and the deletion of footnote NG57 to permit blanket licensed earth stations in the band, including for earth stations in motion (ESIMs).

Second, our groups strongly support an additional allocation in the 42 GHz band for FSS earth station gateways, authorizing their coordination on a co-primary basis with fixed terrestrial and other authorized use cases that can similarly coexist, using blanket licensing and coordination through an automated database similar to the 70/80/90 GHz framework. In addition, our groups support a secondary allocation for FSS (space-to-Earth) in the 42 GHz band in conjunction with a non-exclusive shared licensing approach for terrestrial licensees, as proposed in the 42 GHz NPRM. Anticipating the need to make more highband spectrum available for NGSO FSS operations is crucial due to rapidly growing demand and the limitations placed on very large swaths of Ka-band mmW spectrum.

Finally, OTI and PK strongly support the Commission's proposal to authorize NGSO FSS operations in the 51.4-52.4 GHz band. We agree that just as the rapid growth in demand for high-throughput LEO satellite broadband and business data connectivity services requires more downlink spectrum, a corresponding increase in capacity for earth station uplinks (earth-to-space) will be needed to backhaul to what could become an exponential increase in NGSO data traffic.

II. Authorizing Satellite Downlinks, Including ESIMs, Across the 12.7 GHz Band Would Benefit Consumers by Improving NGSO Broadband Capacity and by Facilitating Market Entry and Competition

In its 2023 NPRM, the Commission proposed reallocating most, or potentially all, of the 12 GHz band (12.7-13.25 GHz) to exclusive licenses for high-power terrestrial mobile services.[2] In comments responding to that proposal, OTI, PK, and other public interest organizations (PIOs) "urge(d) the Commission not to apply the same old 'exclusive use' and preclusive licensing area rules that respond only to the siren song of the three Big Mobile carriers. . . . [because] at 12.7-13.25 GHz, the propagation characteristics strongly suggest that for mobile networks this spectrum will be used primarily to add capacity to existing cell sites in relatively high-traffic (or high ARPU) areas."[3] The far more limited range of transmissions in the mmW spectrum above 12.7 GHz requires that cell sites be deployed far more densely — something mobile carriers have steadfastly refused to do outside dense urban and other very high ARPU areas.

The PIOs further argued that the mobile industry's focus on lower mid-band spectrum (to reduce buildout costs), together with the warehousing of its vast trove of millimeter wave spectrum, strongly suggested that there are higher and better uses for the grossly underutilized spectrum between 12.7 and 13.25 GHz. Our groups observed that in 2019 and 2020 — in auctions 101, 102 and 103 — the Commission assigned 4,950 megahertz of spectrum for exclusive use, calling it "flexible use," but then packaged most of it as Partial Economic Area

[2] *Expanding Flexible Use of the 12.2-12.7 GHz Band; Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use*, Report and Order, Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking and Order, 38 FCC Rcd 5283 (2023) ("12.7 GHz NPRM").

[3] Comments of the Public Interest Organizations, *Expanding Flexible Use of the 12.2-12.7 GHz Band; Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use*, WT Docket No. 20-443, GN Docket No. 22-352, at 27 (Aug. 9, 2023).

("PEA") licenses that would not be relevant or affordable to more than a few national or regional mobile carriers. "As a result," the PIOs opined, "the lion's share of those 4,950 megahertz sits fallow in mobile carrier warehouses, without even an option for others to use that wasting bandwidth on an opportunistic basis."[4]

Accordingly, we applaud the Commission for reconsidering what use of this relatively high-frequency and currently underutilized spectrum will best promote connectivity in the years ahead. Our groups agree that rather than auctioning this spectrum for exclusive terrestrial use, this band will best serve the public interest if it expands downlink capacity for NGSO broadband services that already use the Ku band immediately below 12.7 GHz (10.7-12.7 GHz) to deliver LEO satellite broadband services. As the Commission states in the *FNPRM*, "allowing downlinks in the 12.7 GHz band, particularly to blanket-licensed user terminals, could provide additional contiguous spectrum for use by high-speed services."[5] Our groups support reallocation of the 12.7 GHz band for FSS (space-to-Earth) and the deletion of footnote NG57 to permit blanket licensed earth stations in the band, including for earth stations in motion (ESIMs).

The 12.7 GHz band has an existing allocation for satellite services. However, as the *FNPRM* notes, "non-geostationary satellite orbit (NGSO) fixed-satellite service (FSS) operations in this band are limited to uplink communications with individually licensed earth stations."[6] Authorizing NGSO downlinks in the band would better align with the ITU's global allocations since, as the *FNPRM* further notes: "FSS (space-to-Earth) transmissions are permitted at 12.7-12.75 GHz in International Telecommunications Union (ITU) Regions 1 and 3 but not in Region

[4] *Id*.

[5] *12.7 GHz FNPRM* at para. 29.

[6] *Id*. at 3.

2."[7] Accordingly, rather than limit the potential utility of the band to uplinks that could be accommodated in more sparsely-used mmW bands, our groups support a reallocation of the band to expand the capacity of downlink NGSO satellite broadband services and to accommodate market entry and future competition by multiple LEO satellite operators going forward.

We believe the rapid growth in NGSO satellite deployments and capabilities suggest the Commission will facilitate more capacity, market entry, competition, and innovation by expanding the bands shared by FSS constellations for both downlinks to users and (in the mmW frequency bands discussed below) uplinks from earth station gateways. Satellite communications has rapidly shifted from a sector dominated by a small number of geostationary satellites (GSOs) to a rapid profusion of LEO satellites. While only a few hundred commercial satellites occupied LEO orbits a decade ago, more than 8,500 are currently deployed and operational today, providing both fixed and mobile satellite service connectivity to millions of users globally.[8] As a result, global satellite capacity increased eight-fold over just three recent years, reaching 27 Tbps in 2023, and is forecast to increase another tenfold by 2028 — to 240 Tbps.[9] The overwhelming share is attributable primarily to LEO NGSO constellations.

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[7] *Id*. at para. 6. In addition, the 2023 World Radio Conference adopted an agenda item providing that the 12.75-13.25 GHz band can be used by ESIMs on aircraft and vessels communicating with GSO FSS space stations (earth-to-space direction) in all three ITU regions, but it only applies to GSO services. *See* Agenda item 1.15, "Use of the frequency band 12.75-13.25 GHz by earth stations in motion on aircraft and vessels communicating with geostationary space stations in the fixed-satellite service," World Radiocommunications Conference 2023 (WRC-23), *Final Acts, International Telecommunication Union (2023) (WRC-23 Final Acts)*, https://www.itu.int/pub/R-ACT-WRC.16-2024.

[8] *See, e.g.*, United Nations, Office for Outer Space Affairs, For All Humanity: The Future of Outer Space Governance, Policy Brief 7, at 4 (May 2023), https://www.unoosa.org/oosa/en/documents/doc/policy-brief.html.

[9] "Novaspace Reports Major Shifts in Satellite Communications Industry," BroadcastPro (Sept. 16, 2024), available at https://www.broadcastprome.com/news/satellite/novaspace-reports-major-shifts-in-satellite-communications-industry/#:~:text=News%20Satellite/Comms-

Although the 12.7 GHz band is sparsely used by incumbent services, the Commission will need to consolidate and/or relocate these users, as well as provide incentives for satellite operators to offset (and ideally expedite) the transition. In that regard, we believe that incumbent services in the band (i.e., Fixed Service links, BAS, CARS, and FSS earth station uplinks) could be transitioned under the Commission's *Emerging Technologies* framework in generally the same manner the agency proposed in its *12.7 GHz NPRM*.[10] For example, the Commission proposed that incumbent point-to-point fixed licenses could be relocated to other comparable fixed link bands or, alternatively, become secondary and operate on an unprotected, non-interference basis subject to a sunset date.[11] The *12.7 GHz NPRM* proposed that mobile BAS and CARS operations could be "repacked" into a 25 megahertz portion of the band going forward.[12] FSS earth stations in the band are uplinks, and so presumably could continue to operate.

A similar approach to accommodating incumbent operations seems appropriate if the band is reallocated for NGSO FSS downlinks, rather than for mobile terrestrial use. Relocating CARS and BAS to the top of the band, if feasible, would give satellite operators a contiguous extension of the adjacent Ku band below (10.7-12.7 GHz), while adding what may be a sufficient buffer at the upper edge of the 12.7 GHz band to protect Federal operations in the adjacent 13.25-13.75 GHz band.[13]

,Novaspace%20reports%20major%20shifts%20in%20satellite%20communications%20industry,reaching%20$18bn%20by%202033.

[10] *See 12.7 GHz FNPRM* at para. 12.

[11] *Id.*; 12.7 GHz Band NPRM, 38 FCC Rcd at 5323-24, para. 71.

[12] See *Id.; 12.7 GHz NPRM* at 5325, para. 75.

[13] *See FNPRM* at para. 44 ("NTIA performed a preliminary compatibility analysis . . . which NTIA says indicated that a 25-megahertz frequency offset of mobile BAS/CARS operations would help alleviate some of the adjacent band interference concerns.")

However, a complication for the repacking of CARS and BAS operations is the absence of an auction as the mechanism to reimburse relocation costs. The *FNPRM* asks "which entities should bear the costs arising from the repacking" of CARS and BAS incumbent uses.[14] Auctions apportion the rights to a band, facilitating an upfront assessment on winning bidders. This becomes challenging in a shared band, especially for an emerging industry and a band that may not be heavily used by satellites for some years. If the Commission reallocates the band on a primary basis to NGSO and GSO downlinks, including for ESIMs, one option is for the satellite operators using the band to contribute to a pooled fund to offset these costs. The Commission would need to determine a fair allocation of these relatively modest costs. For example, NGSO operators could be assessed on a per satellite basis. To the extent that a repacking deadline would put too much of the burden on current operators and early entrants, the Commission could consider requiring payments sufficient to compensate incumbents (e.g., within 3-to-5 years), but subject to refunds on a pro rata basis as newly-deployed satellites generate increased funds in the pool over a longer period (e.g., 10-15 years).

III. NGSO FSS Should Be Able to Coordinate Earth Stations into the 42 GHz band on a Co-Primary Basis with Terrestrial Fixed Wireless Users, Under the Same Light Licensing and Automated Coordination Framework Used for the 70/80/90 GHz Bands

OTI & PK participated extensively in the 42 GHz proceeding, filing both comments and reply comments in response to the Commission's 2023 Notice of Proposed Rulemaking.[15] With respect to the Commission's proposal to reallocate this mmW band for shared and flexible use on

[14] *12.7 GHz FNPRM* at para. 35.

[15] Comments of OTI and PK, *Shared Use of the 42.0-42.5 GHz Band; Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, WT Docket No. 23-158 (Aug. 30, 2023); Reply Comments of OTI and PK, WT Docket No. 23-158 (Sept. 29, 2023).

a coordinated basis, we strongly agreed with the Commission that "[i]nnovative, non-exclusive access models have the potential to provide solutions in this evolving space."[16] Further, because the 42-42.5 GHz band is currently unused, this "greenfield" spectrum gives the Commission "greater flexibility in designing a licensing scheme that may be optimized for future use and that can take advantage of new technological developments more easily than a band with existing deployments."[17]

Moreover, as the *FNPRM* notes, the LEO satellite sector asserts that anticipating the need to make more high-band spectrum available for NGSO FSS operations is crucial due to rapidly growing demand and the limitations placed on very large swaths of Ka-band mmW spectrum. For example, despite this need, the 37.5-40.0 GHz frequency range desired for FSS downlinks to gateway stations has been limited by siting restrictions designed to protect UMFUS operations.[18] More generally, as Kuiper opined at an earlier stage of this proceeding: "As satellite technology advances and consumer demand for satellite connectivity grows, NGSO operators grow further constrained by the finite amount of spectrum allocated for NGSO FSS use, with substantial impact to the quality and availability of broadband services available to consumers."[19]

Accordingly, our groups strongly support an additional allocation in the 42 GHz band for FSS earth station gateways, authorizing their coordination on a co-primary basis with fixed terrestrial and other authorized use cases that can similarly coexist, relying on coordination

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[16] *Shared Use of the 42-42.5 GHz Band and Use of Spectrum Bands Above 24 GHz For Mobile Radio Services,* Notice of Proposed Rulemaking, 38 FCC Rcd 6362, at ¶1 (2023) (*42 GHz NPRM*).

[17] *FNPRM* at para. 14.

[18] Comments of Kuiper Systems LLC, WT Docket No. 23-158 and GN Docket No. 14-177, at 3-4 (Aug. 30, 2023) "Amazon and others will rely on spectrum in the 37.5-42.0 GHz frequency range, much of which is subject to siting restrictions designed to protect UMFUS operations." *Id.*

[19] *Id*. at 1-2.

through an automated database similar to the 70/80/90 GHz framework, as we also proposed as a means to coordinate earth station gateways in the pending Lower 37 GHz band proceeding. In addition, our groups support "a secondary allocation for FSS (space-to-Earth) in the 42 GHz band in conjunction with a non-exclusive shared licensing approach for terrestrial licensees, as proposed in the 42 GHz NPRM, [to] maximize the use of the band for both satellite and terrestrial services, while also protecting Federal radioastronomy operations in the adjacent 42.5-43.5 GHz band."[20]

One relatively new but proven technological development is the ability of an automated spectrum coordination database to facilitate sharing among a variety of use cases while fully protecting any incumbent or adjacent-band operations from harmful interference. Our groups emphasized in our previous 42 GHz comments, and we continue to believe, that in most millimeter wave bands (e.g., in 70/80/90 GHz and in 37-37.6 GHz), a framework premised on open access, light licensing by rule, and automated database coordination will best serve the public interest. PK and OTI have long advocated that the 70/80/90 GHz light-licensing framework and database can be extended to accommodate the widest possible array of connectivity solutions, including HAPS, FSS gateways, and more.

The 42 GHz band presents an opportunity to expand upon the Commission's pending proposals to allow a variety of terrestrial users to coordinate across 600 megahertz of the lower 37 GHz band. Earlier this month, OTI and PK filed comments supporting the coordination of FSS earth stations in the Lower 37 GHz band under an automated version of the same light-licensing framework the Commission adopted earlier this year for a variety of terrestrial use

[20] *See FNPRM* at para. 48.

cases.[21] We stated that this capability would allow FSS earth stations to coordinate more easily with terrestrial users and potentially eliminate the cumbersome rules that make it harder to coordinate in particular mmWave bands. And because sharing in the Lower 37 GHz band is on a co-primary basis, a database that rapidly identifies the need to engage in voluntary coordination optimizes coexistence and would be particularly productive.[22]

Last year, OTI and PK similarly supported authorizing FSS earth stations for inclusion in the blanket licensing and light-licensed database coordination framework that manages sharing in the 70/80 GHz bands, just as we previously supported the coordination of links from High Altitude Platforms (HAPs) in those bands.[23] Although the coordination of FSS earth stations in 70/80 GHz remains pending, we believe the Commission now has an even more compelling opportunity to adopt a common light-licensing framework across the Lower 37 GHz and 42 GHz bands that is as streamlined and transparent as the automated coordination mechanism that has long operated to facilitate access to and coexistence in the 70/80/90 GHz bands. Such a sharing framework will be especially beneficial if it can be used to coordinate local access for a diversity

[21] Comments of Open Technology Institute at New America and Public Knowledge, *Lower 37 GHz Band, Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, WT Docket No. 24-243, Further Notice of Proposed Rulemaking, WT Docket 24-243, GN Docket No. 14-177, at 5-7 (July 14, 2025) ("While this band has relatively few users now, modernizing the coordination framework can make this band more hospitable to innovative uses that harness the most advanced technologies and use spectrum in new ways that respond better to dynamic needs.").

[22] *Id*. at 7-8.

[23] *See, e.g.,* Comments of New America's Open Technology Institute and Public Knowledge, *In the Matter of Modernizing and Expanding Access to the 70/80/90 GHz Bands*, Further Notice of Proposed Rulemaking, WT Docket No. 20-133 (May 29, 2024); Comments of New America's Open Technology Institute (OTI) and Public Knowledge (PK), *In the Matter of Modernizing and Expanding Access to the 70/80/90 GHz Bands*, Public Notice, WT Docket No. 20-133 (Dec. 2, 2021).

of users and use cases, including FSS earth stations and at least terrestrial fixed wireless operators (both point-to-point and point-to-multi-point).

Accordingly, we urge the Commission to add an allocation for NGSO FSS earth stations (space-to-earth) to the 42 GHz band on a co-primary basis with fixed service links, HAPs, or any other service that could successfully use a common self-coordination database system to coexist with the other users in the band.

IV. The Commission Should Authorize NGSO FSS Uplink Operations in the 51.4 to 52.4 GHz Band on a Co-Primary Basis and Allow Self-Coordination Under the Same Light Licensing and Automated Framework Used For the 70/80/90 GHz Bands

OTI and PK strongly support the Commission's proposal to authorize NGSO FSS operations in the 51.4-52.4 GHz band.[24] As SpaceX explained in a recent filing, "these largely greenfield uplink bands are ideal for satellite backhaul because they combine large bandwidth with high-gain, narrow 'pencil beam' transmissions, allowing high-capacity backhaul while efficiently sharing spectrum with other users."[25] Our groups agree that just as the rapid growth in demand for high-throughput LEO satellite broadband and business data connectivity services requires more downlink spectrum, a corresponding increase in capacity for earth station uplinks (earth-to-space direction) will be needed to backhaul to what could become an exponential increase in NGSO data traffic.

[24] *Satellite Spectrum Abundance*, Notice of Proposed Rulemaking, SB Docket No. 25-180, at para. 57 (rel. May 27, 2025) ("NPRM").

[25] Letter from Jameson Dempsey, Director, Space Policy, Space Exploration Technologies Corp., GN Docket Nos. 22-352, 14-177, WT Docket No. 23-158, at 2-3 (May 12, 2025). *Accord* Letter from Catherine Kuersten, Senior Corporate Counsel, Kuiper Systems LLC, GN Docket Nos. 22-352, 14-177, WT Docket No. 23-158 (May 13, 2025)

The authorization of NGSO FSS gateway earth stations in the band would also be timely and consistent with existing ITU allocations for satellite use of the band. As the Commission observes in the *NPRM*, studies completed shortly before WRC-19 concluded that "the additional allocation to FSS being considered is beneficial to make broadband connections more accessible to communities regardless of their geographical location and with more affordable costs as achieved by HTS (High Throughput Satellite) systems."[26] As a result, the WRC-19 added an FSS allocation in the 51.4-52.4 GHz band, but only for GSO networks.

Although the band is currently limited to geostationary satellite orbit ("GSO") FSS use internationally, the United States' World Radiocommunication Conference ("WRC") Advisory Committee has recommended supporting WRC-27 Agenda Item 1.3, which would consider studies to use the band for NGSO FSS operations with gateway earth stations.[27] Because of the advanced state of the market and demand for LEO satellite broadband services in the U.S., our groups urge the Commission to once again lead the world and not wait years for the ITU process to run its course. Given the propagation characteristics of spectrum at 51.4-52.4 GHz and the existing global allocation for GSO uplinks, as well as the fact there are no vulnerable incumbents in the band, there seems to be no downside to anticipating future needs by authorizing NGSO FSS operations in this band.

As we did in the section above concerning the 42 GHz band, OTI and PK urge the Commission to use a blanket light licensing and self-coordination through an automated database system akin to the 70/80/90 GHz framework to streamline and lower the cost of FSS uplink

[26] *NPRM* at par. 57, citing International Telecommunications Union, "Spectrum needs for the fixed-satellite service in the 51.4-52.4 GHz band," Report ITU-R S.2461-0, at 16 (July 2019).

[27] *See* "Office of International Affairs Seeks Comment on Recommendations Approved by the World Radiocommunication Conference Advisory Committee," Public Notice, OIA Docket No. 24-30, DA 24-774, Attachment A (rel. Aug. 6, 2024).

registration. We believe that a lightweight and completely transparent third-party database registration and coordination system — as in 70/80/90 GHz — would best accomplish the Commission's goal to authorize an "efficient coexistence measures to best protect incumbent or potential future services in [this band], or in adjacent bands, and the nearby 52.6-54.6 GHz band covered by Footnote US246 and international Footnote 5.340, including terrestrial and satellite operations and passive services."[28] As we noted previously, OTI and PK filed comments supporting the coordination of FSS earth stations in the Lower 37 GHz band under an automated version of the same light-licensing framework the Commission adopted earlier this year for terrestrial fixed and mobile users of the band.[29] We urge the Commission to adopt this light licensing, automated and transparent third-party database coordination framework for all three bands: Lower 37 GHz, 42 GHz and 51.4-52.4 GHz. Doing so would create consistency, synergies, and lower costs for all users eligible to coordinate.

Finally, although the same rationale described above may support authorizing FSS uplink operations in the proposed "W-band" frequencies,[30] our groups will wait to review the record and any technical submissions before taking a position on the current need to add those bands in addition to 51.4-52.4 GHz.

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[28] *NPRM* at para. 59.

[29] Comments of Open Technology Institute at New America and Public Knowledge, *Lower 37 GHz Band, Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, WT Docket No. 24-243, Further Notice of Proposed Rulemaking, WT Docket 24-243, GN Docket No. 14-177, at 5-7 (July 14, 2025).

[30] *NPRM* at para. 60, which lists these as including 92.0-94.0 GHz, 94.1-100 GHz, 102.0-109.5 GHz, and 111.8-114.25 GHz.

V. Conclusion

OTI and PK applaud the Commission for this initiative to promote satellite spectrum abundance. The demand for LEO satellite connectivity has exploded over the past few years and seems very likely to require additional spectrum access to reach its potential to benefit consumer and enterprise connectivity alike. Our groups support reallocation of the 12.7 GHz band for FSS (space-to-Earth) to expand capacity for broadband and other data services to blanket-licensed earth stations relying on Ku-band downlinks. We also support the coordination of NGSO FSS operations in the 42 GHz and 51.4-52.4 GHz bands, which we believe is best accomplished by relying on the sort of lightly-licensed and automated database coordination approach successfully in use to coordinate diverse use cases in the 70/80/90 GHz bands.

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