

Attachment—Additional Questions for the Record

**Subcommittee on Communications and Technology
Hearing on
“Our Wireless Future: Building A Comprehensive Approach to Spectrum Policy”
July 16, 2019**

Mr. Michael Calabrese, Director, Wireless Future Project, Open Technology Institute at New America

The Honorable Tom O’Halleran (D-AZ)

1. **Mr. Calabrese, there’s bipartisan consensus that the FCC needs to take action on opening up some or all of the 5.9 GHz band for unlicensed operations. Commissioner Mike O’Rielly has stated that if the Commission could “open up the 5.9 GHz Band for unlicensed use . . . we would really be on to something special, as it’s the missing link between the 5 GHz and 6 GHz bands.” And Commissioner Rosenworcel says that the Commission “should embrace the economic possibilities of bringing [the 5.9 GHz band] to market and allowing all that permission-less innovation to happen” by taking a “fresh look” at the band “sooner than later.”**

- a. **What should the FCC do next to ensure that this valuable spectrum is used as efficiently as possible?**

Response: Congressman O’Halleran, thank you for your timely question. Our public interest coalition has urged the Commission to take a fresh look at the best use of the entire 5.9 GHz band by adopting and seeking comment on a Further Notice of Proposed Rulemaking (FNPRM).¹ Opening at least the lower portion of the 5.9 GHz band for unlicensed sharing has bipartisan support at the FCC. As you noted, Commissioner Michael O’Rielly aptly describes the 5.9 GHz band as “the missing link between the 5 GHz and 6 GHz bands.” The 5.9 GHz band has been vacant for 20 years. Since it is immediately adjacent to the unlicensed U-NII-3 band, it is perfectly situated to fuel the next generation of gigabit-fast Wi-Fi as a complementary pillar of a robust 5G wireless ecosystem that accelerates 5G-quality connectivity for *all* Americans, including in rural areas, smaller towns, and less profitable lower-income neighborhoods.

As you likely know, in May FCC Chairman Ajit Pai outlined the scope of a FNPRM to refresh the record in the Commission’s ongoing proceeding aimed at expanding public access to

¹ Comments in Opposition of the Open Technology Institute at New America, American Libraries Association, Consumer Federation of America, Public Knowledge, Benton Foundation, xLab, *Public Notice*, Office of Engineering and Technology and Wireless Telecommunications Bureau Seek Comment on 5GAA Petition for Waiver to Allow Deployment of Cellular Vehicle-to-Everything (C-V2X) Technology in the 5.9 GHz Band,” DA 18-1231 (Feb. 8, 2019).

unlicensed spectrum in the 5.9 GHz band. This FNPRM represents a long-delayed continuation on the Commission's ongoing proceeding aimed at expanding unlicensed sharing in the 5 GHz band. Back in 2013 the Commission initiated a multi-stage rulemaking that is specifically aimed at reconsidering the allocation and potential uses of the 75 megahertz ITS band.²

The Chairman indicated that the FNPRM would be voted at the Commission's June Open Meeting and seek comment and data on a range of options, including proposals to segment the band (authorizing unlicensed operations and auto safety operations in separate band segments) and to relocate auto safety to another band. Unfortunately, the NPRM was then pulled from the agenda pursuant to a request from the Secretary of Transportation, according to press reports. The Chairman's staff has told us the Commission continues to engage in discussions with DOT, but that they do expect a vote on the FNPRM in the coming months. We certainly hope so.

During the two decades (since 1999) that the 5.9 GHz has sat unused, the U.S economy's reliance on unlicensed technologies such as Wi-Fi has soared. Wi-Fi yields hundreds of billions of dollars annually for U.S. consumers and the economy more broadly. As the European Union has already determined, only up to 30 megahertz is necessary for time-critical road safety. The record in the ongoing 5.9 GHz proceeding shows that even if real-time public safety applications require exclusive use of the upper portion of the band, the lower half band can be segmented for unlicensed sharing – including by commercial auto industry or cellular applications and non-real-time, safety-related applications that do not require a dedicated channel.

Our public interest coalition has further urged the Commission to consider the proposal of the 5G – Automotive Association (“5GAA”) – which seeks exclusive use of the upper 20 megahertz of the band – *only* in the context of a broader FNPRM. 5GAA's petition is welcome as well in the sense that it confirms the end of the proposed DSRC mandate. But rather than repeat the mistake the Commission made by setting the band aside in 1999 for a specific technology (DSRC), the FCC should objectively consider how much spectrum is needed for V2X safety signaling – and what spectrum is most useful for unlicensed and next generation Wi-Fi – in the decades ahead.

As consumer advocates, our groups believe the Commission is in the best position to optimize the public interest in both more effective auto safety and in faster and more affordable Wi-Fi. Our Public Interest Spectrum Coalition (PISC) and industries in need of wider-channel mid-band spectrum for Next Generation Wi-Fi 6 strongly support having the FCC take public comment to refresh the record. A fresh look FNPRM offers the best approach to achieving a win-win for American consumers: that is, both more effective auto safety and faster, more affordable connectivity via gigabit-fast Wi-Fi 6.

Thank you for your interest in this critical broadband policy issue.

² See Notice of Proposed Rulemaking, *Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, ET Docket No. 13-49 (rel. Feb. 20, 2013) (“5.9 GHz NPRM”).