

Attachment—Additional Questions for the Record

**Subcommittee on Communications and Technology
Hearing on
“Repurposing the C-Band to Benefit all Americans”
October 29, 2019**

Mr. Phillip Berenbroick, Policy Director, Public Knowledge

The Honorable Adam Kinzinger (R-IL)

- 1. Mr. Berenbroick, you recommend in your testimony that the FCC pursue a “traditional forward auction, repack incumbent satellite users into the upper portion of the band, and require auction winners to reimburse incumbents for eligible and reasonable costs.”**
 - a. When you say “incumbents” should be reimbursed, do you mean the C-Band Alliance members only? Or should members of the Small Satellite Operators also be reimbursed for their licenses and the investments they have made in satellites and earth station facilities?**

Response: The Commission has broad authority under 47 U.S.C. § 316 to modify licenses. Modifying the licenses of the incumbent satellite operators in a way that permits more efficient use of the C-Band while not harming the ability of satellite users to deliver video programming is well within the Commission’s statutory authority.

The quickest and most straightforward way for the Commission to make C-Band spectrum available for mobile wireless use, consistent with the agency’s authority and precedents, is for the FCC to modify existing C-Band licenses and hold a public auction of the lower portion of the Band. The Commission should direct winning bidders to negotiate with and reimburse incumbent satellite users for eligible and reasonable costs they incur for relocation into the upper portion of the band.

CBA’s filings with the FCC demonstrate that the incumbent satellite operators can clear up to 300 megahertz of lower C-Band spectrum without diminishing their business. Chairman Pai has announced the Commission will auction 280 megahertz of C-Band spectrum, leaving the upper 200 megahertz of the band available for the continued delivery of video programming. Transition costs that are eligible and reasonable and deemed reimbursable should be contingent on those costs being necessary for repacked satellite users to continue to deliver their current level of video programming. Because small satellite operators do not offer domestic fixed satellite service and their business operations are unlikely to be affected by the auction and repack, they are unlikely to incur eligible and reasonable transition costs.

2. Separately, your testimony states concern that the CBA's plan excludes small and rural broadband providers. Given the FCC's stated mission and bipartisan record on improving access to rural broadband:

a. In your opinion, what is the likelihood that the Commission would approve a plan that does not accommodate smaller and rural providers through bidding credits or some other set-aside?

Response: Under 47 U.S.C. § 309(j)(4)(d), the Commission is required to ensure that small businesses, rural businesses, and women and minority owned businesses have the opportunity to compete for licenses. The Commission is directed to consider the use of tax certificates, bidding credits, and other measures to comply with Congress' goal. Chairman Pai's announcement in November 2019 that the Commission would conduct a public auction for C-Band licenses was a critical step for ensuring that Congress' intent is followed so small, rural, and women and minority businesses have the opportunity compete for C-Band licenses.

A traditional FCC-run auction will include rules that are subject to a transparent notice and comment process. As a result, the public and policymakers will have an opportunity to request the Commission adopt auction rules, license areas, and limits on spectrum aggregation to promote participation and license acquisitions by small, rural, and women and minority owned firms. This transparent, public process is a critical difference between a traditional FCC-run auction and the opaque and untested proposals by CBA.