Statement of James B. Frownfelter

Hearing on Repurposing the C-Band to Benefit All Americans

Before the Subcommittee on Communications and Technology of the United States House of Representatives Committee on Energy and Commerce

October 29, 2019

Chairman Doyle, Ranking Member Latta, Members of the Subcommittee:

Thank you for inviting me to testify today on repurposing the C-band. I do so as the Chairman and CEO of ABS Global, and on behalf of Hispasat and Claro. These three companies, known as the Small Satellite Operators (SSOs), are three of the eight satellite operators authorized by the FCC to serve the United States in the C-band. Another three of the eight operators are in the so-called C-band Alliance (CBA), while the other two operators are not associated with either group.

By way of background, I was President and Chief Operating Officer of PanAmSat, the company responsible for privatizing the satellite industry, and then I was President and Chief Operating Officer of Intelsat, one of the CBA companies. I helped to build the C-band market as it exists today, and was responsible for the development, launch, and operation of many of the satellites currently operating in the United States in C-band.

From the beginning of the FCC proceeding on C-band, the SSOs recognized the need not only to repurpose satellite spectrum quickly for 5G, but to do so in a way that was fair to all of those affected. Satellite operators would be impacted by the repurposing, to be sure, but so would C-band earth station operators. The SSOs also took the position, from the beginning, that U.S. taxpayers were entitled to receive a significant amount—in the billions of dollars—from any auction of C-band spectrum rights.

Compared to the long-established satellite operators in the CBA, the three SSOs are relatively new entrants in the U.S. C-band market, creating competition in satellite services to the benefit of the U.S. consumer of broadcast video and telecommunications. Each of the SSOs invested large sums of capital to launch satellites designed to serve the U.S. market in C-band. The cost of developing, manufacturing, insuring, and launching these satellites was almost $250 million dollars each, with most of that money spent on U.S. satellite manufacturers and U.S. launch providers.

My company, ABS, has a history that illustrates the path of the new entrant. After a group of us acquired ABS in 2010, we embarked on an aggressive expansion of our network through the launch of new satellites. Our newest, ABS-3A, provided us with the missing link to complete our global network needed to compete against the two big players in our business, Intelsat and SES—U.S. coverage. *ABS-3A was built by Boeing, launched by SpaceX, and received FCC approval to serve the United States in 2017*—just a few months before the Commission proposed to repurpose this spectrum. The satellite is basically brand new, and is expected to remain in orbit and in service until 2042.

Hispasat operates 11 satellites, primarily in Europe and the Americas, including Amazonas-3. Like ABS-3A, Amazonas-3 is a newer satellite, and should continue in orbit and in service until 2031. Hispasat built Amazonas-3 to cover the entire continental United States in C-band and it is currently transmitting from Puerto Rico to earth stations across the United States.

Claro, the remaining SSO, operates 7 satellites primarily in the Americas. The one licensed to serve the U.S. was deliberately designed to allow the transmission of programming

into the United States in C-band—and it already transmits programing from Brazil to the U.S. for distribution all across the country.

Some have suggested that the FCC should simply evict all satellite operators from some or all of C-band to make room for 5G services. Others have suggested that we should look backward, rather than forward, and compensate only those satellite operators which had U.S. generated C-band revenues in one arbitrary year, 2017.

Evicting any satellite operator from some or all of its licensed C-band without compensation would be unfair, possibly unlawful and, more importantly, unwise. Each of the eight satellite operators has invested hundreds of millions of dollars in one or more satellites designed to serve the U.S. market in C-band—and each has an FCC license in good standing to do so. Were the FCC to confiscate—without compensation—most of the C-band spectrum these satellites have been licensed to use, it would violate all FCC precedent, reduce the value of all spectrum licenses, and undermine future investment (including through auctions) in spectrum licenses.

We are at the dawn of a new era in both satellite and terrestrial wireless communications. Vast new global satellite constellations have just been licensed by the FCC. New terrestrial 5G services are just around the corner, but need new spectrum licenses from the FCC. The investment required both in space and on earth is vast. But this requires investors to have confidence that the FCC won't simply take their valid licenses away without compensation—whether or not they have already begun service.

ABS-3A shows why. As noted above, we just invested nearly a quarter billion dollars in a U.S.-built and U.S.-launched satellite. We were scant months away from beginning U.S. service. Nevertheless, some suggest that we (a new market entrant) should have a large portion

of our spectrum rights confiscated, dramatically limiting our future revenues and reducing the value of our new asset, while our well-established competitors are allowed to sell their spectrum rights for billions of dollars—further entrenching their market dominance.

The same is true for Hispasat, whose C-band satellite was also recently licensed by the FCC. The satellite spent its initial years providing capacity to an existing, overseas client, but that is a very common—and often necessary—approach for new entrants, who need guaranteed revenues to finance construction. It doesn't mean that Hispasat will not lose dearly from a repurposing—again, that satellite has full mainland U.S. coverage and more than a decade left in orbit. And both Claro and Hispasat already transmit C-band content *into* the United States—it's just that the revenues from those transmissions are derived overseas.

If ABS, Claro, and Hispasat can have their spectrum largely confiscated without compensation, it can happen to anyone who, like us, has already invested—or to anyone who is about to invest—in a newly licensed wireless network. The adverse impact this would have on investment in wireless networks cannot be overstated.

It should also be noted that any proposal to confiscate the SSOs spectrum without compensation, simply because they do not have past U.S. C-band revenues, would be both anticompetitive and economically nonsensical.

It would be anticompetitive because it would grant the two largest satellite operators billions of dollars which they can use to increase their stranglehold on the U.S. market—while economically devastating the smaller new entrants to the market. It would needlessly enshrine a C-band duopoly.

It would be economically nonsensical because repurposing the C-band will have, obviously, no impact on past earnings. It will only limit future earnings and, thus, the value of the satellites that were built to generate those earnings. Indeed, the CBA's own economist has said on the record that the CBA's members deserve compensation for any lost spectrum rights based only on the loss of future earnings—past revenues are irrelevant.

For this same reason, confiscating the SSOs' spectrum rights because they have not previously earned C-band revenue in the US would be just plain arbitrary. The CBA and the SSOs have exactly the same rights to use spectrum in the C-band. And, in fact, a repurposing will impair our rights for a much longer period of time, since our satellites are, on average, much, much newer, and have had much less time to earn a reasonable return on their initial investment.

There really is a middle ground solution to repurposing C-band in a way that makes spectrum for 5G services available to the public quickly and treats all parties, including the taxpayers, fairly— and does not disrupt the FCC precedent that has encouraged investment in both satellite and terrestrial wireless networks. Simply put, the FCC or Congress should:

- Repurpose 300 MHz of C-band for 5G, which we believe can be done rapidly by using off-the-shelf compression technology.
- Mandate multi-billion-dollar payments to the Treasury from an auction.
- Set forth financial incentives for U.S. earth station operators to install the compression equipment in a timely manner, thus facilitating a fast C-band transition, maximizing the amount of frequency spectrum to be repurposed, and expediting roll-out of 5G services.
- Permit a private sector auction under FCC rules that fairly and equitably compensate all FCC licensed satellite operators whose C-band spectrum use rights will be reduced.

I look forward to answering any questions you might have.