



MEMORANDUM

March 6, 2020

**To: Subcommittee on Communications and Technology Members and Staff**

**Fr: Committee on Energy and Commerce Staff**

**Re: Markup of Eleven Communications and Technology Bills**

On Tuesday, March 10, 2020, at 10 a.m. in the John D. Dingell Room, 2123 of the Rayburn House Office Building, the Subcommittee on Communications and Technology will hold a markup of the following eleven bills: **H.R. 451**, the “Don’t Break Up the T-Band Act of 2019”; **H.R. 5926**, the “Reinforcing and Evaluating Service Integrity, Local Infrastructure, and Emergency Notification for Today’s (RESILIENT) Networks Act”; **H.R. 6096**, the “Reliable Emergency Alert Distribution Improvement (READI) Act of 2020”; **H.R. 4194**, the “National Suicide Hotline Designation Act of 2019”; **H.R. 5918**, the “Emergency Reporting Act of 2020”; **H.R. 1289**, the “Preserving Home and Office Numbers in Emergencies (PHONE) Act”; **H. Res. 549**, reaffirming the commitment of the House of Representatives to media diversity and expresses its pledge to eliminate barriers to such diversity; **H.R. 3957**, the “Expanding Broadcast Ownership Opportunities Act of 2019”; **H.R. 5567**, “Measuring the Economics Driving Investments and Access for Diversity Act of 2020” or the “MEDIA Diversity Act of 2020”; **H.R. 5564**, the “Enhancing Broadcaster Diversity and Inclusion by Verifying and Ensuring the Reporting required by Statute Is Transpiring and Yielding Data Act” or the “Enhancing Broadcaster DIVERSITY Data Act”; and **H.R. 4855**, the “Clearing Broad Airwaves for New Deployment Act (C-BAND Act)”.

**I. PUBLIC SAFETY AND NETWORK RESILIENCY**

**A. Background**

**i. *T-Band***

In 1970, the Federal Communications Commission (FCC) granted public safety entities and business-industrial users in 11 major U.S. metropolitan areas access to certain portions of the spectrum between 470 MHz and 512 MHz, commonly referred to as the T-Band, on a shared basis with incumbent TV broadcast users.<sup>1</sup> Since then, local and regional public safety and law

---

<sup>1</sup> Federal Communications Commission, *Amendment of Parts 2, 89, 91, and 93* (May 1970) (FCC 70-521). The 11 major metro areas utilizing the T-Band are New York City, Los Angeles, Chicago, Washington/Baltimore, Philadelphia, San Francisco, Boston, Dallas/Fort Worth, Houston, Miami, and Pittsburgh.

enforcement entities have built out radio and data communications systems that today serve a combined population of more than 90 million Americans.<sup>2</sup>

As part of the Middle Class Tax Relief and Job Creation Act of 2012, Congress directed the FCC to reallocate the T-Band spectrum used by public safety entities for commercial use.<sup>3</sup> The FCC is required to begin auctioning T-Band spectrum by February 2021 and clear all public safety operations from the band by early 2023.<sup>4</sup> Proceeds from the auction would then go toward covering relocation costs imposed on displaced public safety users through a grant program administered by the National Telecommunications and Information Administration.<sup>5</sup> According to a June 2019 Government Accountability Office report, FCC officials estimate that revenues from auctioning the entire T-Band would not exceed \$2 billion. The estimated costs associated with relocating these incumbent public safety users, however, are estimated to amount to between \$5 to \$6 billion.<sup>6</sup>

## ii. *Network Resiliency*

Americans depend on communications networks to call for help, contact loved ones, and access critical emergency response information when disaster strikes. In recent years, communications networks have been pressed to meet increasing challenges due to natural disasters that have grown in size and severity due to environmental and climate factors.<sup>7</sup> All the while, FCC data demonstrates that the number of reported wireless outages caused by a physical incident increased from 189 in 2009 to 1,079 in 2016.<sup>8</sup>

In 2016, an industry-led coalition of wireless communications providers adopted a set of voluntary principles, calling it the *Wireless Network Resiliency Cooperative Framework* (Framework).<sup>9</sup> The Framework sought to improve industry preparedness, cooperation, and

---

<sup>2</sup> See National Public Safety Telecommunications Council, *T-Band Update Report* (May 2016).

<sup>3</sup> Pub. L. No. 112-96, § 1603; *see also* 47 U.S.C. § 1413.

<sup>4</sup> See National Public Safety Telecommunications Council, *T-Band Report* (Mar. 2013).

<sup>5</sup> See note 3.

<sup>6</sup> Government Accountability Office, *Emergency Communications: Required Auction of Public Safety Spectrum Could Harm First Responder Capabilities* (Jun. 2019) (GAO-19-508).

<sup>7</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment Volume II: Impacts, Risks, and Adaptation in the United States* at 94 (Nov. 2018).

<sup>8</sup> Government Accountability Office, *FCC Should Improve Monitoring of Industry Efforts to Strengthen Wireless Network Resiliency* (Dec. 2017) (GAO-18-198).

<sup>9</sup> Letter from Scott Bergmann, CTIA, to Marlene H. Dortch, FCC Secretary (Apr. 27, 2016). See also House Committee on Energy and Commerce, *CTIA & Pallone Announce 'Wireless Network Resiliency Cooperative Framework' for Disasters and Emergencies* (Apr. 27, 2016) (press release).

response to maintain operations during emergencies and disasters.<sup>10</sup> The Framework consists of six main components that wireless carriers should address to improve continuity in network operations during times of disaster: (1) Providing for Roaming Under Disasters; (2) Fostering Mutual Aid During Emergencies; (3) Enhancing Municipal Preparedness and Restoration; (4) Improving Public Safety Awareness Regarding Service and Restoration Status; (5) Increasing Consumer Readiness and Preparation; and (6) Improving Public Awareness Regarding Service and Restoration Status.<sup>11</sup> Nevertheless, since the adoption of the Framework, numerous widescale communications outages have occurred following major natural disasters including hurricanes and wildfires.<sup>12</sup>

As part of the 2018 Consolidated Appropriations Act, Congress passed the Securing Access to Networks in Disasters Act, or the SANDy Act.<sup>13</sup> That law amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act to expand those categories of essential service providers that may access a disaster site to restore and repair essential services in an emergency or major disaster without being denied or impeded by a federal agency. Services to be considered essential are wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, and direct broadcast satellite service.

### **iii. *Emergency Alerts***

The Emergency Alert System (EAS) is a mechanism that allows the President to send emergency alerts to Americans through broadcast TV and radio, cable systems, and satellite systems. The FCC, with the help of the Federal Emergency Management Agency (FEMA) and the National Weather Service, is responsible for implementing EAS at the national level. All EAS participants are required by the FCC to have the technical capability to transmit Presidential alerts, although distribution of EAS messages are done on a voluntary basis at the state and local level. A message initiated by the appropriate authority cascades down to the public through a hierarchical system. Once the alert message is encoded, it is broadcast from one or more EAS participants and relayed to additional stations until all affected EAS participants have received and delivered the message to the public.

---

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> See e.g., *Cell Networks Suffer Outages in Harvey's Wake*, Wall Street Journal (Aug. 27, 2017); *Hurricane Irma Took 7 Million Cable and Wireline Subscribers Offline*, Ars Technica (Sept. 13, 2017); *Puerto Rico is Nearly Entirely Cut Off From Cellphone Service, Leading to Low Tech Solutions*, USA Today (Sept. 28, 2017); *Phones Fail in California Fires, Highlighting Cell Vulnerability*, Bloomberg (Nov. 16, 2018); *Camp Fire Evacuation Warnings Failed to Reach More Than a Third of Residents Meant to Receive Calls*, Los Angeles Times (Nov. 30, 2018).

<sup>13</sup> Pub. L. No. 115-141, § 301 (2018).

The Wireless Emergency Alert (WEA) system was established in 2006 when the Warning, Alert, and Response Network (WARN) Act was signed into law.<sup>14</sup> Since its launch in 2012, the WEA system has allowed wireless customers to receive geographically-targeted emergency alert messages that are originated by authorized federal, state, local, or tribal government authorities through FEMA’s Integrated Public Alert and Warning System (IPAWS). Wireless carriers participate in WEA on a voluntary basis yet, according to industry, providers participating in WEA cumulatively serve over 99 percent of wireless subscribers in the United States.<sup>15</sup> Consumers do not have to sign up for WEA and automatically receive four types of alerts: (1) alerts issued by the President; (2) alerts involving imminent threats to safety or life; (3) Amber Alerts, and; (4) alerts conveying recommendations for saving lives and property.<sup>16</sup>

#### **iv. *Suicide Prevention***

The National Suicide Prevention Lifeline (Lifeline) is a network of 163 crisis centers that can be accessed by people experiencing suicidal crisis or emotional distress at 1-800-273-8255 (or 1-800-273-TALK).<sup>17</sup> According to the Substance Abuse and Mental Health Services Administration, more than 47,000 Americans died by suicide and more than 1.4 million adults attempted suicide in 2017.<sup>18</sup> The following year, more than 2.2 million calls were placed to the Lifeline.<sup>19</sup>

In 2018, Congress passed the National Suicide Hotline Improvement Act, which directed the FCC to analyze the effectiveness of the existing Lifeline and examine the feasibility of designating a 3-digit dialing code in its place.<sup>20</sup> In its report to Congress, the FCC recommended designating 9-8-8 as the single, 3-digit dialing code for callers to access the Lifeline.<sup>21</sup>

In December 2019, the FCC unanimously adopted a Notice of Proposed Rulemaking to begin implementing 9-8-8 as the nationwide, 3-digit dialing code for accessing the Lifeline.<sup>22</sup>

---

<sup>14</sup> Pub. L. No. 109-347 (2006).

<sup>15</sup> CTIA, *Consumer Resources: Wireless Emergency Alerts* ([www.ctia.org/wireless-emergency-alerts](http://www.ctia.org/wireless-emergency-alerts)) (accessed Feb. 20, 2020).

<sup>16</sup> Federal Communications Commission, *Consumer Guide: Wireless Emergency Alerts* (Dec. 19, 2019) ([www.fcc.gov/sites/default/files/wireless\\_emergency\\_alerts\\_wea.pdf](http://www.fcc.gov/sites/default/files/wireless_emergency_alerts_wea.pdf)).

<sup>17</sup> U.S. Department of Health and Human Services, *National Suicide Hotline Improvement Act: The Substance Abuse and Mental Health Services Administration Report to the Federal Communications Commission* (Feb. 7, 2019).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Pub. L. No. 115-233 (2018).

<sup>21</sup> Federal Communications Commission, *Report on the National Suicide Hotline Improvement Act of 2018* (Aug. 14, 2019).

<sup>22</sup> Federal Communications Commission, *Implementation of the National Suicide Hotline Improvement Act of 2018* (Dec. 16, 2019) (FCC 19-128).

## **B. Legislation**

### *i. H.R. 451, the “Don’t Break Up the T-Band Act”*

Reps. Engel (D-NY), Zeldin (R-NY), Green (D-TX), and King (R-NY) introduced H.R. 451, the “Don’t Break Up the T-Band Act of 2019”. The Don’t Break Up the T-Band Act would repeal the requirement on the FCC to reallocate and auction the 470-512 MHz spectrum band, also known as the T-Band.

### *ii. H.R. 5926, the “RESILIENT Networks Act”*

Reps. Pallone (D-NJ) and McNerney (D-CA) introduced H.R. 5926, the “Reinforcing and Evaluating Service Integrity, Local Infrastructure, and Emergency Notification for Today’s (RESILIENT) Networks Act”. The RESILIENT Networks Act requires the FCC to adopt rules requiring pre-planned coordination agreements among advanced communications service providers to take effect during times of emergency, including roaming agreements and mutual aid arrangements. The RESILIENT Networks Act directs the FCC to adopt rules to improve coordination between communications providers and public safety answering points (PSAPs), as well as covered public safety entities. The bill includes mechanisms to ensure that these first responders are provided with network outage data to help guide disaster response.

The FCC, in consultation with the Secretary of Energy, is required to establish a master point-of-contact directory to facilitate communication between PSAPs, utilities, and communications service providers. Under the RESILIENT Networks Act, the FCC, in consultation with the Secretary of Energy and the Secretary of Homeland Security, would also have to ensure that providers of advanced communications service take measures to integrate backup power, including generators and batteries, into their networks for times of emergency and pre-planned power downs.

The FCC, in consultation with the Secretary of Energy and the Secretary of Homeland Security, would also be required to issue best practices for coordination between communications service providers and utilities for times of emergency and during pre-planned power downs. The Act also creates a process whereby utilities and providers of advanced communications service can share information so utilities can prioritize reenergizing the most critical communications networks.

To help stop accidental network line-cuts following emergencies, the RESILIENT Networks Act requires the FCC to issue a report to Congress on the effectiveness and feasibility of expanding one-call notification systems to include advanced communications services. The bill would also require the FCC to study, and issue rules, that account for and leverage 5G wireless networks’ particular challenges and their inherent advantages in times of emergency.

Finally, the bill requires the Comptroller General to audit the FCC’s response to the 2017 Hurricane Season in Puerto Rico. The Comptroller General then must publish a report of this audit, including findings and recommendations, and the FCC must take action to address issues raised in the Comptroller General’s report.

**iii. H.R. 6096, the “READI Act”**

Reps. McNerney, Bilirakis (R-FL), Olson (R-TX), and Gabbard (D-HI) introduced H.R. 6069, the “Reliable Emergency Alert Distribution Improvement (READI) Act of 2020”. The READI Act amends the Warning, Alert, and Response Network Act to include emergency alerts from FEMA as a type of alert that subscribers of mobile service may not block from their devices, as currently, alerts from the President may not be blocked.

The bill also directs the FCC to adopt regulations to facilitate coordination with State Emergency Communications Committees (SECCs) over alerts issued under the EAS. The READI Act requires the FCC to review and certify SECC-submitted State EAS plans not less than once per year, and to create a State EAS plan content checklist for evaluating such submissions.

The READI Act also requires the FCC to complete rulemakings to establish a process for receiving reports of false alerts, modify the EAS protocols to allow for repeating messages when alerts remain pending, and examine the feasibility of enabling EAS distribution over the internet, including content streaming services.

**iv. H.R. 4194, the “National Suicide Hotline Designation Act of 2019”**

Reps. Stewart (R-UT) and Moulton (D-MA) introduced H.R. 4194, the “National Suicide Hotline Designation Act of 2019”. The National Suicide Hotline Designation Act amends the Communications Act to designate 9-8-8 as the universal dialing code for the Lifeline. The National Suicide Hotline Designation Act allows states to impose a fee or charge on commercial mobile or IP-enabled voice service subscribers’ bills for the support or implementation of 9-8-8 services. The National Suicide Hotline Designation Act also requires the FCC to evaluate, and submit a report to Congress on, the feasibility and cost of automatically providing the dispatchable location of calls to 9-8-8.

**v. H.R. 5918, the “Emergency Reporting Act of 2020”**

Reps. Matsui (D-CA), Eshoo (D-CA), Thompson (D-CA), and Huffman (D-CA) introduced H.R. 5918, the “Emergency Reporting Act”. The Emergency Reporting Act requires the FCC to establish formal processes to take effect in instances when the FCC activates the Disaster Information Reporting System (DIRS). Under the Emergency Reporting Act, the FCC would be required to issue a preliminary report, not later than six weeks after the deactivation of DIRS, covering the scale and scope of communications service outages. After issuing a preliminary report, the FCC would be required to hold at least one public field hearing in communities affected by the disaster not later than four months following the deactivation of DIRS. The Commission would then be required, not later than eight months after deactivating DIRS, to issue a comprehensive final report on the event, including recommendations to improve the resiliency of affected communications networks and recovery efforts. Finally, the Emergency Reporting Act instructs the FCC to initiate a rulemaking to establish requirements within the Network Outage Reporting System for alerting PSAPs of communications service

disruptions that may affect the origination or transmission of 9-1-1 calls or relevant caller location information.

*vi. H.R. 1289, the “PHONE Act”*

Rep. Thompson (D-CA) introduced H.R. 1289, the “Preserving Home and Office Numbers in Emergencies (PHONE) Act of 2019”. The PHONE Act amends the Communications Act to prohibit providers of voice service from reassigning phone numbers of subscribers in area covered by a major disaster declaration, for the duration of the declaration. The prohibition may extend for a period of up to two years if requested by the subscriber. The PHONE Act also prohibits providers of voice service from assessing early termination fees to cancel service, or connection fees to re-subscribe at a new address, for subscribers whose residence is rendered inaccessible or uninhabitable due to a major disaster.

## **II. MEDIA DIVERSITY**

### **A. Background**

Viewpoint and ownership diversity have long been cited by Congress (as well as the FCC) as constituting a compelling governmental interest both for Congress and the FCC.<sup>23</sup> Media outlets provide viewers with educational, political, entertainment, and news programming. Diversity helps to ensure that programming offers different perspectives and that viewers have access to programming that is relevant to them.<sup>24</sup>

There is wide consensus that ownership of traditional media distribution outlets – broadcast and multichannel video programming distributor (MVPD) – by women and people of color is very low.<sup>25</sup> According to the most recent data from the FCC, from October 2015, ownership of full power commercial television stations and commercial FM radio stations by women and people of color was around 10 percent.<sup>26</sup> The FCC does not collect similar ownership data for MVPDs.

---

<sup>23</sup> Michelle C. Forelle, *The FCC and the Problem of Diversity*, International Journal of Communication (2015).

<sup>24</sup> See, e.g., Carolyn M. Byerly, *Behind the Scenes of Women’s Broadcast Ownership*, Howard University Journal of Communications (2011).

<sup>25</sup> See, e.g., Federal Communications Commission, *Third Report on Ownership of Commercial Broadcast Stations* (May 10, 2017); Government Accountability Office, *Economic Factors Influence the Number of Media Outlets in Local Markets, While Ownership by Minorities and Women Appears Limited and Is Difficult to Assess* (Apr.11, 2008) (GAO 08-383).

<sup>26</sup> Federal Communications Commission, Media Bureau, *Third Report on Ownership of Commercial Broadcast Stations* (May 10, 2017). Ownership by women and people of color of Class A television stations, low power television stations, and commercial AM radio stations did not fare any better. *Id.*

Historically, a tax certificate program helped increase diversity of broadcast ownership. Using authority granted it by Congress in 1943,<sup>27</sup> the FCC created the minority ownership tax certificate program in 1978, to address the dearth of broadcast ownership by people of color.<sup>28</sup> The program provided tax breaks to companies that sold a radio or television station to a minority-owned business.<sup>29</sup> Congress eliminated the tax certificate program in 1995.<sup>30</sup> During the tax certificate program's tenure, minority broadcast ownership increased from 40 radio and TV stations in 1978, to 288 radio and 43 TV stations in 1995.<sup>31</sup> Courts have since prevented government agencies from adopting race-specific policies without sufficient data demonstrating the need for the race-specific measures.<sup>32</sup>

Employment discrimination also affects viewpoint and ownership diversity.<sup>33</sup> It was not until 1969 that the FCC adopted its first employment nondiscrimination rule, which was extended to gender discrimination in 1971.<sup>34</sup> The FCC has acknowledged that the underlying rationales of the equal employment opportunity (EEO) rules are to promote "varying perspectives" and to deter employment discrimination, which can harm "efforts to diversify media ownership by impeding opportunities" for women and people of color to gain broadcasting experience.<sup>35</sup>

The EEO rules prohibit employment discrimination on the basis of race, color, religion, national origin, or gender. The rules also require broadcasters to create a recruitment and

---

<sup>27</sup> 47 U.S.C. § 1071(a) (1994).

<sup>28</sup> Federal Communications Commission, *Statement of Policy on Minority Ownership of Broadcast Facilities, Public Notice* (May 25, 1978) (FCC 78-322).

<sup>29</sup> Erwin G. Krasnow and Lisa M. Fowlkes, *The FCC's Minority Tax Certificate Program: A Proposal for Life After Death*, *Federal Communications Law Journal* (1999).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See Leonard M. Baynes, *Life After Adarand: What Happened to the Metro Broadcasting Diversity Rationales for Affirmative Action for Affirmative Action in Telecommunications Ownership*, *University of Michigan Journal of Law Reform* (1999).

<sup>33</sup> Federal Communications Commission, *Streamlining Broadcast EEO Rule and Policies*, Order and Notice of Proposed Rulemaking (Feb. 8, 1996) (FCC 96-49).

<sup>34</sup> Theresa Brunson, *The Federal Communications Commission's Commitment to Regulating Equal Employment Opportunity in The Broadcast Industry*, *Howard Scroll Social Justice Law Review* (1993). The EEO rules were extended to MVPDs in 1972 and FCC's rules also prohibit age discrimination by MVPDs.

<sup>35</sup> *See id.*



outreach program to provide notice of job vacancies.<sup>36</sup> Some argue that the FCC has done little to enforce its own EEO rules,<sup>37</sup> even though the FCC has said it will consider, among other things, compliance with the EEO rules when determining whether a broadcast license should be renewed.<sup>38</sup> Additionally, the FCC is required to collect employment demographic data.<sup>39</sup> Despite the statutory requirement to collect employment data, the FCC has failed to collect this data for nearly two decades.<sup>40</sup>

## **B. Legislation**

### ***i. H. Res. 549***

Rep. Demings (D-FL) reintroduced H. Res. 549 after first introducing the measure in the 115th Congress. The resolution resolves to reaffirm the commitment of the House of Representatives to media diversity and pledges that Congress will work with media entities and diverse stakeholders to develop common ground solutions to eliminate barriers to media diversity.

### ***ii. H.R. 3957, the “Expanding Broadcast Ownership Opportunities Act of 2019”***

Rep. Butterfield (D-NC) reintroduced H.R. 3957, the “Expanding Broadcast Ownership Opportunities Act of 2019”, after first introducing the measure in the 115th Congress. The Expanding Broadcast Ownership Opportunities Act would reinstate the tax certificate program at the FCC, which would incentivize sales to women and members of minority groups and encourage investment of capital in stations owned by women and members of minority groups. The bill also requires the FCC to make recommendations to Congress for increasing the number of broadcast stations owned by women and members of minority groups and submit to Congress a report every two years that states the total number of broadcast stations that are owned by women and members of minority groups.

---

<sup>36</sup> Federal Communications Commission, *EEO Rules and Policies for Radio, Broadcast TV and Non-Broadcast TV* (<https://www.fcc.gov/consumers/guides/eo-rules-and-policies-radio-and-broadcast-and-non-broadcast-tv>).

<sup>37</sup> *Id.* See also note 16 (The FCC also had denied licenses to Jewish Americans, around the same time, due to their religious beliefs).

<sup>38</sup> See note 36.

<sup>39</sup> Federal Communications Commission, *Review of The Commission’s Broadcast and Cable EEO Rules and Policies* (April 19, 2004) (FCC 04-103).

<sup>40</sup> Letter from Senator Chris Van Hollen and Representative Yvette D. Clarke to FCC Chairman Ajit V. Pai (May 10, 2019).

*iii. H.R. 5567, the “MEDIA Diversity Act of 2020”*

Reps. Long (R-MO) and Veasey (D-TX) introduced H.R. 5567, the “Measuring the Economics Driving Investments and Access for Diversity Act of 2020” or the “MEDIA Diversity Act of 2020”. The MEDIA Diversity Act would require the FCC to consider, with the input of its Office of Communications Business Opportunities of the Commission, market entry barriers for socially disadvantaged individuals in the communications marketplace.

*iv. H.R. 5564, the “Enhancing Broadcaster DIVERSITY Data Act”*

Rep. Clarke (D-NY) introduced H.R. 5564, the “Enhancing Broadcaster Diversity and Inclusion by Verifying and Ensuring the Reporting required by Statute Is Transpiring and Yielding Data Act” or the “Enhancing Broadcaster DIVERSITY Data Act”. H.R. 5564 would require the FCC to complete its rulemaking reviewing the FCC’s broadcast and cable equal employment opportunity rules. The bill would also prohibit the FCC from substantially revising broadcast ownership data reporting requirements and requires the FCC to include an analysis of the data in its communications marketplace report. The bill also requires the FCC to create a public, searchable database of the broadcast ownership data collected by the FCC.

### **III. SPECTRUM POLICY**

#### **A. Background**

Electromagnetic spectrum is used to deliver radio, broadcast television (TV), cellular, and wireless broadband internet services, including 5G wireless technology. Mid-band spectrum is particularly well-suited for next generation wireless broadband services due to its specific combination of favorable propagation characteristics.<sup>41</sup> The spectrum between 3.7 gigahertz (GHz) and 4.2 GHz, commonly referred to as C-band, is prime, mid-band spectrum, and is currently being evaluated world-wide for 5G suitability.<sup>42</sup> Estimates of the value of C-band spectrum range as high as \$60 billion for the full 500 megahertz (MHz) in the band.<sup>43</sup>

In the United States, C-band spectrum is predominantly used by a handful of satellite operators to deliver programming content to radio and TV broadcasters.<sup>44</sup> In addition to C-band satellite operators, there are thousands of licensed earth stations receiving transmissions from C-

---

<sup>41</sup> Federal Communications Commission, *In the Matter of Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification (FCC 20-22) (Feb. 28, 2020) (*hereinafter*, “C-band Order”).

<sup>42</sup> Joe Barrett, *5G Spectrum Bands* (Feb. 22, 2017) ([gsacom.com/5g-spectrum-bands/](https://www.fcc.gov/5g-spectrum-bands/)).

<sup>43</sup> Caleb Henry, *Satellite C-band is Worth Billions, But How Many?*, SpaceNews (Sept. 16, 2019).

<sup>44</sup> *See* note 41.

band satellites.<sup>45</sup> Under existing rules, space station operators are authorized to use all 500 MHz in the band.<sup>46</sup>

The Federal Communications Commission adopted a Report and Order and Order of Proposed Modification (the C-band Order),<sup>47</sup> and also sought public comment on competitive bidding procedures for an auction of the C-Band (the C-band PN) last week.<sup>48</sup> The C-band Order adopted rules to auction 280 MHz of mid-band spectrum for flexible use, including wireless services, with a 20 MHz guard band.<sup>49</sup> The C-band PN set the auction to commence on December 8, 2020.<sup>50</sup> Under the FCC’s C-band Order, new licensees will have to pay for relocation and accelerated relocation payments to satellite operators to incentivize them to move out of the band quickly.<sup>51</sup> (Eligible earth station operators will only be reimbursed for reasonable relocation costs and will not be granted accelerated relocation payments.) The FCC capped the acceleration payments at \$9.7 billion and apportioned the payments among five satellite operators with about half of the money going to Intelsat.<sup>52</sup> Under the C-band Order, the remaining proceeds would be deposited into the U.S. Treasury.

## **B. Legislation**

### *i. H.R. 4855, the “C-Band Act”*

Reps. Doyle (D-PA), Johnson (R-OH), Matsui, and Gianforte (R-MT), introduced the “Clearing Broad Airwaves for New Deployment (C-Band) Act”, which would require the FCC to conduct a public auction of no less than 200 MHz and no more than 300 MHz of C-band spectrum by September 30, 2022. The bill would also protect C-band-dependent users by requiring that they continue to receive equal or better service throughout and after the transition process.

---

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *See* note 41.

<sup>48</sup> Federal Communications Commission, *Auction of Flexible-Use Service Licenses in the 3.7-3.98 GHz Band For Next-Generation Wireless Services*, (Feb. 28, 2020) (FCC 20-23) (hereinafter, “C-band PN”).

<sup>49</sup> *See* note 41.

<sup>50</sup> *See* note 48.

<sup>51</sup> *See* note 41.

<sup>52</sup> *Id.*