

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
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| Expanding Flexible Use of the 12.2-12.7 GHz Band |) | WT Docket No. 20-443 |
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| Expanding Flexible Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use |) | GN Docket No. 22-352 |
| |) | |

REPLY COMMENTS OF INCOMPAS

INCOMPAS submits these reply comments in response to the Federal Communications Commission’s (“Commission”) *Report and Order and Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking and Order* (“*Further Notice*” or “*Notice*”) seeking proposals on making more efficient and intensive use of the 12.2-12.7 GHz (“12.2 GHz”) band for expanded terrestrial operations and the 12.7-13.25 GHz (“12.7 GHz”) band for mobile broadband and other advanced services.¹

This proceeding presents the Commission with a unique opportunity to quickly and efficiently put 1,050 megahertz of the nation’s mid-band spectrum resources to its highest-value and most efficient use, including 500 megahertz in the 12.2 GHz band. By unlocking the existing Multi-Channel Video and Data Distribution Services (“MVDDS”) licenses in the 12.2 GHz band for high-powered, two-way fixed wireless service the Commission can accelerate broadband market competition and preserve and strengthen America’s place as a leader in

¹ *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, Report and Order and Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking and Order, FCC 23-36 (rel. May 19, 2023) (“*Further Notice*” or “*Notice*”).

spectrum sharing policy. In response to the Commission’s request for comment in this proceeding, proponents of this change have demonstrated that additional operations can be accommodated in the band while protecting incumbent operations from harmful interference. Additionally, a range of stakeholders, including public interest organizations, current license holders, and service providers have submitted substantial evidence that such modifications to the 12.2 GHz band would be in the public interest and promote competition in the broadband internet access service market.

To consider making changes to the 12.2 GHz band, the Commission made it clear that the current licensees must offer specific proposals that these modifications could result in a win-win scenario for the three services allocated to the band on a co-primary basis—Direct Broadcast Satellite (“DBS”), Fixed Satellite Service limited to non-geostationary orbit systems (“NGSO FSS”) and MVDDS. To that end, DISH, the primary user of the band, has submitted an engineering study conducted by RKF Engineering substantiating that co-existence in the band between high-powered, two-way point-to-multipoint fixed wireless service and NGSO FSS broadband is “eminently feasible.”² According to DISH, the study concludes that “[t]he static nature of fixed wireless, along with the capabilities of beamforming massive MIMO antennas, give operators new tools to support operator-to-operator coordination, manage interference, and simplify co-frequency coexistence in the same geography.”³ DISH suggests subjecting a higher powered fixed service in the 12.2 GHz band to an EIRP limit of 70 dBm/100 MHz with beamforming antennas “in all cases where there are DBS and NGSO terminals within a 50 km

² See Comments of DISH Network Corporation, WT Docket No. 20-443, GN Docket No. 22-352, 7 (filed Aug. 9, 2023) (“DISH Comments”).

³ *Id.* at 10.

radius when a non-geostationary base station commences operations” and includes these specific rule changes in its comments.⁴ RS Access makes a similar proposal recommending that the Commission make high-powered, two-way fixed wireless available at an EIRP limit of 65 dBm/100 MHz which provides the Commission with a viable alternative as it considers making changes to the band.⁵

With these changes in hand, current MVDDS licensees could make immediate changes to their networks that would prepare them to bring fixed wireless service quickly to market.⁶ Go Long Wireless, for instance, is “poised to provide a viable equipment platform that will conform and perform within any new rules adopted by the Commission” and is “well-positioned to assist in deploying both point-to-point (backhaul) and point-to-multipoint fixed wireless services” for residential and business customers.⁷ Another INCOMPAS member, RS Access contends that its

⁴ *Id.* at 12.

⁵ *See* Comments of RS Access, WT Docket No. 20-443, GN Docket No. 22-352, 7 (filed Aug. 9, 2023) (“RS Access Comments”). RS Access’ proposals would apply to “two-way services within the band . . . utilizing a cellular Radio Access Network architecture that reflects the current authorization.”

⁶ While INCOMPAS focuses primarily on its members’ stated aspirations for bringing fixed wireless service to market in the 12.2 GHz band, the record also reflects significant interest from equipment vendors and competitive carriers in delivering this service to customers. *See* Letter of Paul Wright, VP Sales and Customer Operations, Cambridge Broadband Networks Group Limited, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20-443, GN Docket No. 22-352, 1 (Aug. 9, 2023) (describing the current availability of fixed wireless technologies that could be adapted for use in the 12.2 GHz band); Comments of the Competitive Carriers Association, WT Docket No. 20-443, GN Docket No. 22-352, 2 (filed Aug. 9, 2023) (“Allowing this upper mid-band spectrum to be more feasibly deployed as technology evolves and the business case for smaller cell deployments and expanded Internet of Things (“IoT”) applications in rural areas improves creates increasingly attractive opportunities for CCA members using these bands.”).

⁷ Comments of Go Long Wireless, LLC, WT Docket No. 20-443, GN Docket No. 22-352, 3 (filed Aug. 9, 2023).

proposed operational and technical rule changes would “facilitate a more robust service more rapidly, supporting consumers and competition in the marketplace.”⁸ Furthermore, DISH is prepared to rapidly deploy service in the band if given Commission permission as it “has already tested two-way point-to-multipoint links in the band under experimental authority” and has conducted significant “groundwork for the deployment of 12.2 GHz spectrum.”⁹

As providers line up to offer next generation services in the 12.2 GHz band in anticipation of Commission action, the agency should be confident that its modifications permitting high-powered, two-way fixed wireless service will increase competition in the market leading to great innovation, improved service, and lower prices for consumers. The Computer & Communications Industry Association highlights the potential of this spectrum noting that “invit[ing] new entry and new innovation” into the band will “creat[e] an even more competitive wireless market and an even more vibrant economy.”¹⁰

The submission of DISH’s technical study demonstrating that coexistence between a fixed wireless service and NGSO FSS incumbents is feasible in the 12.2 GHz band, coupled with the public interest benefits that next generation services will bring, should give the Commission considerable confidence that flexible use of the band is warranted. INCOMPAS therefore urges the Commission to assign new rights in the 12.2 GHz band by modifying the incumbent MVDDS providers’ licenses using its existing authority.

⁸ RS Access Comments at 7.

⁹ DISH Comments at 25.

¹⁰ Comments of the Computer and Communications Industry Association, WT Docket No. 20-443, GN Docket No. 22-352, 1 (filed Aug. 9, 2023).

Respectfully submitted,

INCOMPAS

/s/ Angie Kronenberg

Angie Kronenberg
Christopher L. Shipley
INCOMPAS
1100 G Street NW
Suite 800
Washington, D.C. 20005
(202) 872-5746

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