VIA ECFS

November 7, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Wireless Telecommunications Bureau Seeks Comment on Request for Waiver of Accelerated Final Construction Deadline for Three 700 MHz Licenses in Montana; WT Docket No. 16-319

Dear Ms. Dortch:

INCOMPAS, the leading trade association for competitive networks and competition policy, supports the Commission’s grant of a waiver in the above-referenced proceeding. Doing so will ensure that consumers in the rural areas covered by the request will have the benefit of additional competition from a nationwide carrier, other than the two largest wireless providers. As such, INCOMPAS urges the Commission to expeditiously grant the waiver, allowing the proposed transaction to proceed and ensuring that Montanans obtain a new, competitive wireless alternative as quickly as possible.

In this proceeding, Bresnan Communications, LLC (“Bresnan”), on behalf of itself and T-Mobile License LLC (“T-Mobile”) seeks a waiver of the rule which otherwise accelerates a 700 MHz licensee’s end-of-license performance requirement if the licensee does not meet an interim performance requirement, which is now set at December 13, 2016 (the “Interim Construction Deadline”). As the parties point out, it will be impossible for T-Mobile (or anyone) to meet the Interim Construction Deadline. That means the final performance deadline would be moved from June 2019 to June 2017—about 8 months from now. Meeting that benchmark would also be infeasible, which is why T-Mobile has understandably stated that it is unwilling to acquire Bresnan’s licenses without the requested relief.

The public interest will be best served by granting the waiver request so that T-Mobile can become the licensee of this spectrum with sufficient time to build out and provide a new

competitive alternative to consumers. Indeed, T-Mobile has made meaningful commitments to building out in the licensed areas. It has promised to cover 40% of the licensed area approximately one year from now and 70% of the license area six months earlier than the rules currently require. Allowing T-Mobile to meet those commitments will enable it to offer consumers another choice for wireless broadband and voice services. As the Commission is well aware, wireless competition in rural areas is particularly limited, making T-Mobile’s entry to these markets that much more important to the consumers who live, work and travel in Montana.

Far from letting spectrum remain fallow—which is what the performance requirements are intended to prevent—T-Mobile will put the spectrum to use and quickly. The alternative—Commission recapture of the spectrum with a re-auction—provides no assurance that consumers will be provided an alternative, competitive service any time soon (or sooner than what T-Mobile is proposing). In the meantime, consumers will continue to have limited options. As demonstrated by T-Mobile’s Un-carrier campaign, consumers are responding to the innovative offerings the company provides, and its competitors are reacting.\(^2\) Expansion of T-Mobile’s service to the State of Montana will benefit all consumers in the state—even those who ultimately choose to stay with their current provider—as the increased competition will encourage the incumbent providers to respond in kind.

Given the pro-competitive benefits, the Commission should grant the requested waiver expeditiously so that the transaction may proceed, and T-Mobile can begin its construction. INCOMPAS appreciates the Commission’s consideration of this matter. If there are any questions concerning this letter, please contact the undersigned directly.

Respectfully submitted,

/s/Angie Kronenberg

Angie Kronenberg
Chief Advocate & General Counsel

\(^2\) See, e.g., Ex Parte Letter of T-Mobile, WT Docket No. 16-137 (July 11, 2016) (detailing the pattern of competitors imitating many of T-Mobile’s innovative and pro-consumer programs).