



May 23, 2022

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Washington, DC 20515

Ranking Member Cathy McMorris Rodgers  
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Subcommittee Chairman Mike Doyle  
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Dear Subcommittee on Communications and Technology,

Public Knowledge (PK) and New America Open Technology Institute (OTI) write to provide our perspective on the bills that the Subcommittee on Communications and Technology (the Subcommittee) will consider at its May 25, 2022 legislative hearing on spectrum policy titled “Strengthening Our Communications Networks: Legislation to Connect and Protect.” We support continuing the bipartisan approach to spectrum policy that the United States has pursued over the last decade. This approach has emphasized a mix of access regimes, including licensed, unlicensed, and shared (licensed-by-rule) use. Providing diverse opportunities to access spectrum has created a dynamic and vibrant marketplace for wireless communications, ensuring that consumers continue to benefit from a full array of services and that spectrum is allocated efficiently.

Two of the five bills that the Subcommittee will consider,<sup>1</sup> H.R. 4275 and H.R. 7132, address the needs of vulnerable people. PK and OTI support these efforts and look forward to working with the Subcommittee as these bills progress through the legislative process. H.R. 4275 requires the Federal Communication Commission (FCC) to study Lifeline's current and projected enrollment of supplemental nutrition and assistance program (SNAP) recipients and the effectiveness of different advertising methods in promoting SNAP recipient enrollment in Lifeline. PK and OTI support this legislation because it takes an important step towards ensuring that SNAP and other federal benefit recipients are aware of and can take advantage of programs like Lifeline and the Affordable Connectivity Program, which help to make connectivity affordable.

H.R. 7132 also attempts to solve a connectivity issue vulnerable people face by allowing victims of domestic abuse to withdraw from family share plans and establish their own mobile service. This is a

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<sup>1</sup> H.R. 4275, the “Ensuring Phone and Internet Access for SNAP Recipients Act of 2021”; H.R. 4990, the “Institute for Telecommunication Sciences Codification Act” or the “ITS Codification Act”; H.R. 5486, the “Simplifying Management, Reallocation, and Transfer of Spectrum Act” or the “SMART Act”; H.R. 7132, the “Safe Connections Act of 2022”; and H.R. 7783, the “Extending America’s Spectrum Auction Leadership Act of 2022.”

common sense requirement that mobile providers should adopt to help these victims fully extract themselves from abusive situations. While the legislation includes some overly burdensome requirements that a domestic abuse victim must overcome, we believe that this is an important issue that Congress should address. PK and OTI are happy to outline specific suggestions to eliminate the cumbersome burdens on victims with little to no consequence to the mobile providers.

Of the other three bills, which focus on spectrum allocation, PK and OTI only support one, H.R. 4990. This bill permanently establishes the Institute for Telecommunications Sciences (ITS). The ITS would continue to exist as part of the NTIA. Importantly, H.R. 4990 acknowledges that the ITS is the government's premier research lab for advancing spectrum sharing and interference research. This bill further acknowledges the importance of spectrum sharing with commercial entities.

H.R. 4990's support for spectrum sharing is, however, contradicted by H.R. 5486, which would turn the United States' spectrum sharing policy on its head. H.R. 5486 establishes an automated spectrum sharing regime in Federal bands that only auction winners can utilize. If this bill were to pass, it would prevent commercial ISPs, schools, individual enterprises and other entities that do not need or cannot afford an auctioned license from accessing shared spectrum opportunities. This would, in turn, harm consumers by limiting their choices in the wireless market and increasing the costs of certain services. No public interest purpose is served by prohibiting the use of an automated federal spectrum coordination mechanism to facilitate unlicensed or licensed-by-rule sharing by commercial and Federal users if that is what the FCC, in consultation with NTIA, determines is the highest and best use of a band.

Moreover, H.R. 5486 is unnecessary under existing law. Section 923(b)(2)<sup>2</sup> and Section 927(b)(1) provide mechanisms for allowing shared use between Federal users and licensees. Essentially, if the Commission determines that sharing federal spectrum with licensees is technically feasible and beneficial, it can already do so without foreclosing sharing by rule or unlicensed services. In contrast, this bill creates for no good reason an additional barrier to unlicensed or license-by-rule sharing of underutilized Federal spectrum bands. This is because under the Commercial Spectrum Enhancement Act, federal agency costs for relocation or for sharing a band are only reimbursed in situations where the frequencies made available for private sector use are auctioned. However, this limitation – like the restriction in H.R. 5486 – could foreclose opportunities for efficient sharing among Federal and non-Federal users in underutilized bands that are not appropriate for auction.

For these reasons, PK and OTI strongly oppose H.R. 5486.

Although the final bill under consideration, H.R. 7783, is a straightforward 18-month extension of the FCC's auction authority, it misses real opportunities to advance the public interest needs of the telecommunications sector. The bill could address these needs by setting aside proceeds to fund NG911, digital equity, or securing our network equipment. We understand that this bill may represent a compromise to ensure the FCC's auction authority does not lapse, but we feel it is important to register on the record that such a compromise for the sake of preserving auction authority does not meet the public interest needs of this sector. Consumers of wireless broadband services ultimately pay for the cost of

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<sup>2</sup> 47 U.S.C. §923(b)(2).

auctions. We believe the Committee should at a minimum establish an authorization that would direct future auction proceeds back into the sector for enumerated public interest purposes, one of which should be investments in digital literacy and adoption that are complementary to pending large investments in broadband infrastructure and affordability.

Thank you for this opportunity to express our views on these bills for the record. We appreciate all of the work the Subcommittee has done to advance spectrum policy over the years and look forward to continuing to engage with the Subcommittee on these vitally important matters that impact the economic health of our connected economy.

Respectfully Submitted,

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*/s/ Harold Feld*  
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