

**Testimony of David Williams
President
Taxpayers Protection Alliance
Before the
Senate Appropriations Subcommittee on Financial Services and General Government
“Oversight of the Federal Communications Commission: Spectrum Auctions Program”**

October 17, 2019

Good morning and thank you for the opportunity to testify today. My name is David Williams, president of the Taxpayers Protection Alliance (TPA). TPA was founded to be a rapid-response nonpartisan taxpayer and consumer advocacy group. When the government neglects its citizens and makes decisions in the interests of a connected few at the expense of all Americans, TPA sounds the alarm through op-eds, coalition letters, and the media. We pride ourselves in quickly and loudly responding to these taxpayer and consumer issues, and keeping citizens educated on what their government is up to.

I’ve come to testify on a pressing issue that many people may not know about, but will nonetheless be greatly impacted by with tens of billions of taxpayer dollars and faster internet speeds at stake. That issue lies in the valuable piece of mid-band spectrum commonly known as the C-band, which has unique properties critical to the nationwide deployment of 5G wireless services. The C-band part of the spectrum is especially important for making sure that consumers will have 5G access in their homes, at work, and everywhere in-between, because of its ability to support larger volumes of mobile data than lower frequencies. And, by using this mid-band spectrum to deliver 5G to millions of consumers, internet providers can be sure that information gets transmitted over the digital domain quickly and effectively. And that’s important, because 5G is at least ten times faster than 4G and doesn’t require the pricey infrastructure currently required to get internet out to rural areas. That’s right: internet providers can use C-band spectrum to close the digital divide, meaning that valuable taxpayer resources won’t have to be spent on government-owned networks which typically waste more than \$50 million while serving few residents.

With 5G, consumers can get internet access via small-cell deployments the size of pizza-boxes attached to telephone poles. And I assure you, the costs of these small-cell deployments are far lower than laying cable through long stretches of rural America. 5G means internet far faster than 4G, and the capacity for powering telemedicine and the internet of things. And, let me repeat, 5G means closing the digital divide WITHOUT taxpayer money.

There’s a well-documented shortage of doctors in rural America, and having a surgeon coordinate a procedure in real-time on a patient 2,000 miles away is a possibility with high-speed, high-quality internet. But things like remote procedures can only happen with better internet standards, and the standards promised by 5G will only be a reality if there’s sufficient bandwidth for internet providers.

Lower income folks won’t have to pay for expensive fiber to the home or sit at a McDonald’s or Starbucks to have access to fast broadband.

Some have argued that, in order to harness the power of the C-band for 5G, we need an alternative to the proven history of Federal Communications Commission (FCC) auctions. A group of three – used to be four – satellite companies known as the C-Band Alliance (CBA) has been lobbying the agency and lawmakers for the right to commandeer C-band and sell it privately in order to clear the spectrum of current users. There’s just one small problem: their proposal leaves the FCC and taxpayers – the current owners of the spectrum – out of the equation entirely. That’s right, nowhere in the CBA’s proposal is a plan or guarantee that taxpayers will be made whole. The satellite group talks a lot about making a “voluntary contribution” to the Treasury once their private, opaque transaction is complete, but interestingly enough, there are never any details provided.

TPA meticulously analyzed the ins-and-outs of CBA’s proposal shortly after it was announced. I had deep concerns after hearing about this “voluntary contribution” to taxpayers, so I had a call with the C-Band Alliance and shared these concerns with a senior employee at the organization. This employee kept reassuring me that spectrum owners, taxpayers, would see their due at the end of the day, but repeatedly refused to provide any concrete details. He also railed against the FCC and its auction process, despite a proven track record by the agency in conducting more than 100 spectrum auctions since 1994 and compensating taxpayers more than \$120 billion over the past 25 years. Instead of acknowledging this effective, transparent way of doing business, the employee claimed that a truly free market approach would sidestep the FCC entirely. It is amazing that an organization like the C-Band Alliance (which has benefitted greatly from the current spectrum allocation process) wouldn’t trust the FCC, an agency that has given them so much.

The CBA claims to be pro-free market, while proposing a process that would make a mockery of free enterprise. To make their plan work, the CBA would need the FCC to give them a monopoly on the selling of C-band spectrum. TPA believes that government-granted monopolies undermine markets and make things more expensive and difficult to obtain. And of course, when a market exchange takes place, there is usually some sort of pre-agreed upon payment that happens during the transaction.

If the CBA gets their way, they’ll receive all the benefit from selling C-band spectrum without any guarantee that the true owner of the spectrum – taxpayers – will see a single cent of the proceeds. And the stakes are too high to ignore, since the proceeds from a C-band auction could generate upwards of \$60 billion for taxpayers. According to CBA’s description of their proposal, they want taxpayers to believe that this is a special situation in which a large amount of spectrum needs to quickly and efficiently be sold off, otherwise America will lose the race to 5G. Except, the CBA’s proposal provides nowhere near enough spectrum to meaningfully aid in the nationwide deployment of 5G.

These satellite companies want FCC permission to clear just 180-megahertz, which would not be nearly enough to meet the Trump administration’s laudable goals of 5G deployment. Experts in the field recommend that, in order for America to have comprehensive 5G coverage, each mobile operator should have access to at least 100-megahertz worth of contiguous mid-band spectrum. That’s certainly what other countries are doing. China and Japan are in the midst of allocating at least 100-megahertz to most of their carriers and freeing up at least 500-megahertz total mid-band spectrum in their countries.

CBA would free up less than half the spectrum that other countries are freeing up, despite our nation having one of the largest and most complicated digital markets in the world. America's lopsided deal with a handful of satellite companies would force 330 million Americans to rely on too little spectrum at far too high of a price. And even that assumes that the CBA's actions will ever come to fruition. Their "private sale" proposal almost certainly runs afoul of FCC regulations, particularly Section 309(j)(6)(E) of the Communications Act, which reaffirms the obligation of the FCC to "avoid mutual exclusivity in application and licensing proceedings." Current law is designed to protect the public interest of citizens and taxpayers, and for good reason. If the FCC were to sidestep the auctions process and empower a government-granted monopoly to sell spectrum, there would almost certainly be an avalanche of lawsuits. And if a judge rules post-FCC approval that CBA's proposal does in fact violate the Communications Act, it'll be back to the drawing board for the U.S. as other countries move forward in providing 5G. A sale by the FCC would incur no legal recourse and make the deployment of 5G faster.

Even before the FCC comes to a decision about C-band spectrum, there are large cracks emerging in the supposed "alliance" of satellite companies. On September 3, Eutelsat decided to drop out of the CBA, citing significant member disagreements about the share of proceeds and the "voluntary contribution" to be given to taxpayers. Eutelsat chief executive Rodolphe Belmer claimed that there's no real agreement within the CBA about how much taxpayers should be compensated post-sale, a statement that undermines the stated position of the alliance's leadership. This clearly doesn't bode well for taxpayers, who can't seem to get a clear answer as to whether they will receive any compensation from the CBA under their plan. But it also means that the FCC can't be too sure as to who they're dealing with. Post Eutelsat's exit, the FCC has to wonder if CBA will further splinter in coming months, and what impact continuing disagreements will have on 5G deployment.

But there's good news: America has other, better alternatives to the CBA's non-plan. The 5G Plus Plan, proposed by America's Communications Association, the Competitive Carriers Association, and Charter Communications, would free up more than double the amount of spectrum that CBA's proposal would, without jeopardizing the law and making a mockery of free enterprise. Under this plan, the FCC would do what it does best and auction off at least 370 megahertz of critical mid-band spectrum for broadband deployment.

Since the FCC would be running the show, proceeds from winning bids would actually be deposited in the Treasury, just as they have been for every spectrum auction run by the FCC since 1994. Taxpayers would see dividends from the valuable spectrum assets that they own, instead of losing them in a fly-by-night sale devoid of any transparency. Under the 5G Plus Plan, the delivery of cable and other video programming would be shifted from satellite systems to a comprehensive network of terrestrial fiber facilities. Since most of the satellite bandwidth in the C-Band is consumed by the delivery of video programming, transitioning to fiber solves the pressing problem of spectrum availability and makes it possible to free up a historically-large block of mid-band spectrum.

This freeing-up of spectrum can and must be done through lawful, transparent channels that guarantee compensation for taxpayers. It must be done in a way that avoids lawsuits and any unnecessary delays

in 5G deployment. And it must be done in a way that keeps companies from rigging the system in the future. If the FCC makes a habit out of granting government-guaranteed windfalls for businesses that received spectrum for free, other companies will quickly jump on the gravy train of cronyism. Imagine a future status-quo where companies sit on spectrum for decades, waiting for the FCC's green light to form cartels of their own and sell taxpayers' property without having to compensate taxpayers. That will send all the wrong signals to taxpayers, consumers, and internet providers, but that's the future we're looking at if these satellite companies get their way.

This decision is an important one, with ramifications that go well beyond Treasury proceeds and future FCC policy. More than 20 million Americans currently lack access to internet at a speed and quality deemed adequate by the FCC. There's been plenty of progress made on broadband access since Ajit Pai became Chairman in 2017. Under his watch, the agency has made sure that unnecessary regulations don't get in the way of deploying high-speed internet. But the remaining Americans without access to quality, high-speed internet will continue to be locked out of the digital domain until the costs of rural deployment go down. Currently, it makes little sense for internet providers to expand their networks out to places like Burlington, Vermont or rural Kentucky.

The costs of laying the cable required to connect these places to the internet are simply too high for the number of consumers covered. The economics just don't work out, but that hasn't stopped city, county, and state governments across the country from trying to build out their own networks to connect the 20 million Americans without internet access. And almost always, these government attempts to build out internet networks end in failure. Kentucky is trying to build out their own state-wide broadband network, but costs have ballooned from \$330 million to \$1.5 billion without any real plan to connect rural residents to broadband. Additional federal and state tax dollars are at risk of being spent and wasted.

Burlington, Vermont has had to take \$20 million from critical public services to invest in their own broadband boondoggle, which just like in Kentucky, is failing to deliver internet. You can see countless more examples of these failed undertakings on our website munibroadbandfailures.com, which features an interactive map complete with project descriptions and cost estimates. If you take the time and scroll around that map, you'll quickly see far too many pins across the fifty states than there should be. The truth is, the list of failed government broadband projects is far too high. And that list will only continue to grow unless the broken status-quo of internet deployment changes.

Of the proposals presented for clearing critical mid-band spectrum, only the 5G Plus Plan delivers the goods without destroying the spectrum markets that policymakers worked so hard to build for decades. And with enough spectrum cleared for 5G deployment, high-tech companies currently considering which countries to invest in would give the U.S. another look.

For the past century, America has been a pioneer in game-changing technologies and led the way on biomedical technologies, aviation innovation, internet development, and yes, the Popeye's chicken sandwich. Pro-innovation policies have been the result of consistent, principled U.S. leadership, reinforced by diligent decision-making across dozens of agencies. Now, lawmakers and the FCC must

TAXPAYERS
PROTECTION
ALLIANCE

decide how to power next-generation internet and close the digital divide between rural and urban America. There is a way to get this done, an approach that would preserve the rule of law, make taxpayers whole, and end the burden of broadband boondoggles across the country. But if policymakers abandon their leadership and empower a government-granted monopoly to sell off spectrum, America will forfeit a critical opportunity and make millions of taxpayers and consumers worse off.

As such, our organization urges you to embrace the promise and potential of FCC auctions and ensure that taxpayers are justly compensated for the use of their assets. Tens of billions of dollars, and most importantly, the lives of millions of consumers are at stake. So please, do the right thing and embrace markets and innovation.

I am happy to answer any questions at this time.