

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:)
) PS Docket No. 06-229
Petitions for Waiver to Use)
the 700 MHz for Regional Public)
Safety Broadband Communications)

**COMMENTS OF
THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

INTRODUCTION.

The Telecommunications Industry Association (TIA) hereby submits comments to the Federal Communications Commission (Commission) in the above-captioned proceeding.¹ TIA lauds the Commission for examining several petitions for waiver filed by regional entities (Petitioners) seeking authority to deploy public safety broadband systems on a local or regional basis in the 10 megahertz of broadband spectrum licensed to the Public Safety Spectrum Trust (PSST),² and is eager for the Commission to develop

¹ See Public Safety and Homeland Security Bureau Seeks Comment on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks, Public Notice, 24 FCC Rcd 10814 (rel. Aug. 14, 2009) (Public Safety Waiver Comment Request).

² See City of Boston Request for Waiver, PS Docket No. 06-229 (filed Dec. 11, 2008) (Boston Petition); City of Boston Amended Request for Waiver, PS Docket No. 06-229 (filed May 28, 2009) (Boston Amended Petition); City and County of San Francisco, City of Oakland, City of San Jose Request for Waiver, PS Docket No. 06-229 (filed Mar. 24, 2009) (Bay Area Petition); City and County of San Francisco, City of Oakland, City of San Jose Request for Waiver, PS Docket No. 06-229 (filed May 28, 2009) (Bay Area Amended Petition); State of New Jersey Petition, PS Docket No. 06-229 (filed Apr. 3, 2009) (New Jersey Petition); City of New York Petition for Waiver, PS Docket No. 06-229 (filed June 8, 2009) (New York City Petition); District of Columbia Request for Waiver, PS Docket No. 06-229 (filed June 26, 2009) (DC Petition); New York State Request for Waiver, PS Docket No. 06-229 (filed June 30, 2009) (NYS Petition); City of Chesapeake, Virginia, Request for Waiver, PS Docket No. 06-229 (filed July 8, 2009) (Chesapeake Petition); City of San Antonio, Texas, Petition for Expedited Waiver, PS Docket No. 06-229 (filed July 10, 2009) (San Antonio Petition); State of New Mexico, Petition for Expedited Waiver, PS Docket No. 06-229 (filed July 10, 2009) (New Mexico Petition); North Dakota Petition, note 1, *supra*; Petition for Waiver of the City of Charlotte, North Carolina, PS Docket No. 06-229 (filed Aug 4., 2009) (Charlotte Petition); Petition for Expedited Waiver, PS Docket No. 06-229 (filed Aug. 7, 2009) (Iowa

policies that will ensure the deployment of a nationwide interoperable public safety network that delivers core requirements to first responders.

TIA represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshow, business opportunities, market intelligence and world-wide environmental regulatory analysis. Its 500 member companies manufacture or supply the products and services used in the provision of broadband and broadband-enabled applications. Since 1924, TIA has enhanced the business environment for broadband, mobile wireless, information technology, networks, cable, satellite and unified communications. Members' products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment.

SUMMARY.

TIA agrees with Chairman Genachowski that we must prioritize delivering “public safety communications networks with the best technology to serve our firefighters, police officers, and other first responders.”³ Moreover, TIA lauds all efforts and concepts from the Commission and public and private parties to speed deployment of viable networks that meet the access, capacity, and capability needs of public safety. To meet these needs, a nationwide network must offer interoperability and seamless communications.

Petition)(including the Counties of Blackhawk, Buchanan, Dubuque, Grundy, Johnson, Marshall, and Scott and the City of Cedar Rapids) (Public Safety Waivers).

³ Remarks of Chairman Julius Genachowski to the Staff of the Federal Communications Commission at 4; *see also* APCO Comments at 5-6; *see also* California Public Utilities Commission at 48 (stating that “[d]eployment of broadband for public safety purposes should be a priority under the national broadband plan.”).

With regard to the granting of waivers and evaluating the options for a nationwide public safety network, the Commission should first develop a plan to make the building of a nationwide network economically viable and sustainable long-term, and address these issues with that goal in mind.

DISCUSSION.

I. THE PUBLIC SAFETY WAIVERS SHOULD BE GRANTED ONLY UPON CONDITIONS THAT ENSURE COMPATIBILITY WITH A NATIONWIDE NETWORK.

TIA members support all measures that will ultimately lead to the development of a nationwide, interoperable broadband public safety network that meets core requirements essential for first responders. To that end, TIA supports the Public Safety Waivers, provided that such waivers are conditioned upon meeting network build-out and implementation requirements that will ensure compatibility with a nationwide interoperable public safety network.

In identifying what those requirements are, TIA recommends that the Commission look to the National Public-Safety Telecommunications Council's (NPSTC) 700 MHz Public Safety Broadband Task Force Report and Recommendations (BBTF Report).⁴ This report, which was created with considerable transparency, gives a foundation on how a nationwide network could be structured in such a way that will empower the Petitioners to build regional networks that will eventually serve as a seamless part of an overarching nationwide interoperable public safety network. The BBTF Report establishes minimum

⁴ See David Buchanan et al., Nat'l Pub. Safety and Telecomms. Council, 700 MHz Public Safety Broadband Task Force Report and Recommendations (Sept. 4, 2009), available at http://www.npstc.org/documents/700_MHz_BBTF_Final_Report_0090904_v1_1.pdf (last visited Oct. 15, 2009) (BBTF Report).

standards necessary to ensure roaming and interoperability among the Petitioners.⁵ These standards were made with the assumption that the Petitioners' networks would eventually and seamlessly fit as a part of a nationwide interoperable public safety network. The BBTF standards cover core operational dynamics of a public safety network, including the need for Internet and VPN access, SMS-MMS messaging, LMR Gateway Devices, and field-based server applications.⁶ TIA members agree that these baseline standards could provide the foundation for an interoperable network. The NPSTC report was provided to the Public Safety Broadband Licensee, the Public Safety Spectrum Trust (PSST), and that organization – in conjunction with the expert agency, the FCC – should identify the most critical recommendations from the report with which waiver recipients must comply. That being said, TIA notes the Commission's statement that any waiver decisions should "avoid [] prejudgment of pending issues in the Commission's rulemaking proceeding addressing the 700 MHz D Block and public safety broadband allocations."⁷

II. THE OVERARCHING GOAL OF ENSURING SWIFT BUILD-OUT OF A NATIONWIDE PUBLIC SAFETY NETWORK MUST TAKE INTO CONSIDERATION BOTH TECHNICAL AND FINANCIAL REQUIREMENTS.

TIA continues to support the Commission in its efforts to evaluate all options to determine the most economically realistic, effective, and timely way to build a public

⁵ *See id.* at 13-22.

⁶ *See id.* at 13-15.

⁷ *See* Public Safety Waiver Comment Request at 1. *See also* Service Rules for the 698-746, 747-762 and 777-792 Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, WT Docket No. 06-150, PS Docket No. 06-229, 23 FCC Rcd 8047 (2008); *see also, generally*, Service Rules for the 698-746, 747-762 and 777-792 Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, WT Docket No. 06-150, PS Docket No. 06-229, 23 FCC Rcd 14301 (2008).

safety network;⁸ this initiative is much-needed and reflective of the economic circumstances this nation faces. The options include (i) an encumbered auction (which failed last year for a variety of reasons); (ii) an unencumbered auction to one or more commercial providers (which would raise the most revenue towards a public safety network, thus minimizing the burden on taxpayers); or (iii) the outright provision of the spectrum to public safety (which would require legislative action, so the FCC could not do this on its own). At a recent House Communications Subcommittee hearing, “Several groups offered proposals for solving the longstanding lack of a nationwide public safety network, as well as ways to pick up the pieces after the failed [encumbered] auction of spectrum set aside for such a network in the 700 MHz auction last year. But no consensus emerged among lawmakers or witnesses.”⁹

As House Energy & Commerce Committee Chairman Henry Waxman and Communications Subcommittee Chairman Rick Boucher stated, as these options are evaluated, it is crucial to acknowledge that the financial viability of the network is a key factor that will determine if a next generation public safety network is ever built. The options available to the Commission are constrained by current law to auctioning the D Block in either an encumbered or an unencumbered manner.¹⁰ TIA notes the bipartisan sentiment at the recent Communications Subcommittee hearing that an “encumbered” or

⁸ See Communications Daily, Notebook at 6 (April 30, 2009) (stating that Commissioner Copps was preparing a memo for Chairman Genachowski to list options regarding the D Block auction and the creation of an interoperable public safety network).

⁹ Anne Veigle, “Waxman Backs Partnership for Public Safety Network,” Communications Daily, at 1, Sept. 25, 2009.

¹⁰ *Id.* (quoting Chairman Waxman “I am not sure that any of these proposals are going to derive the revenues that we have to have in order to build-out this spectrum, particularly in rural areas.); *id.* (quoting Chairman Boucher “At the end of the day we are going to find ourselves looking for some kind of general fund revenues in order to finance this.”)

“conditioned” auction approach like the one that failed in the past should not be repeated.¹¹ TIA notes that an encumbered auction is not the only approach that could enable a public-private partnership; for example, an unencumbered auction still leaves open the possibility of a public-private partnership (while raising substantial funds towards the deployment of a network). As the expert agency, the Commission must develop a plan that allows for the financially viable deployment of an interoperable network that has assured access, and can be hardened with suitable capabilities that will meet core needs of public safety.

There is support from some members of the public safety community for assigning the D Block for public safety use outright.¹² However, this approach would require legislative action and leaves open the issue of how public safety will fund the building of a network without any auction revenue. While allotting public safety the 20 MHz of spectrum may address some issues, TIA believes that assuring the network’s ongoing financial sustainability must be the key policy decision for the FCC and Congress.

¹¹ *Id.* at 1-2 (“The public safety community mostly agrees that the conditioned auction approach is ‘not worth pursuing,’ said Rep. Cliff Stearns.... ‘Pricetags really do matter around here,’ said Rep. Anna Eshoo... ‘if there is going to be a shortfall’ from any of the proposals, ‘we need to take that into consideration.’”).

¹² *See e.g.*, Press Release, APCO, Public Safety Associations Meet to Form Consensus on the Development of a Nationwide Broadband Network (May 28, 2009), available at http://www.apco911.org/new/news/nationwide_broadband_network.php (stating that participating organizations [APCO, International Association of Chiefs of Police, International Association of Fire Chiefs, Major Cities Chiefs Association, Major County Sheriffs Association, Metropolitan Fire Chiefs Association, National Emergency Management Association, and the National Sheriffs Association] “substantially agreed to petition Congress to reallocate the D-Block creating a single 20 MHz block of broadband spectrum for use by public safety”) (last visited Oct. 14, 2009); Ex Parte Presentation of Verizon Wireless, WT Dkt. No. 06-150, PS Dkt. No. 06-229 at attachment (filed Apr. 21, 2009) (“The 700 MHz D Block should be reallocated to Public Safety”); Reply Comments of AT&T, Inc., WT Dkt. No. 06-150, PS Dkt. No. 06-229, at i (filed Nov. 12, 2008) (“Consistent with the recommendations of most public safety commenters, the Commission should reallocate the D Block spectrum to public safety.”).

III. THE PUBLIC SAFETY BROADBAND LICENSEE SHOULD HAVE A CHOICE OF NETWORK TECHNOLOGIES AND USER ACCESS.

TIA has long-stated that interoperability in an IP-based network requires a common air interface. However, as a technology-neutral organization whose members provide a host of innovative network solutions, TIA does not take a position on the selection of the common air interface(s), and notes that such technology choices are decisions that should be left to the PSST upon careful consideration of input from local and regional public safety entities – and the expert agency, the FCC.¹³ Additionally, the PSST should have the final authority to determine the users of a regional, and ultimately the national, public safety network. In this context, the PSST should closely examine the public benefits offered by providing network access to federal and critical infrastructure users. Access to such users could dramatically enhance the network’s public benefits on a large scale, and may also affect economic viability.

¹³ In this regard, TIA notes the Commission’s open rulemaking proceeding addressing the 700 MHz D Block and public safety broadband allocations.

CONCLUSION.

For the reasons detailed above, TIA urges the Commission to grant the Public Safety Waivers upon establishment of core build-out and implementation requirements and provide the PSST with a choice of technologies and the ability to assess the valuable aspects of allowing network access to federal and critical infrastructure users.

Respectfully submitted,

TELECOMMUNICATIONS INDUSTRY
ASSOCIATION

By: ___/s/_____

Danielle Coffey
Vice President,
Government Affairs

Patrick Sullivan
Director, Technical and Government Affairs

TELECOMMUNICATIONS INDUSTRY
ASSOCIATION
10 G Street N.E.
Suite 550
Washington, D.C. 20002
(202) 346-3240

October 15, 2009