**DA 19-385**

**Released: May 3, 2019**

**INTERNATIONAL BUREAU AND WIRELESS TELECOMMUNICATIONS BUREAU SEEK FOCUSED ADDITIONAL COMMENT IN 3.7-4.2 GHZ BAND PROCEEDING**

**GN Docket No. 18-122, RM-11791, RM-11778**

**Comments Due: 30 days from publication in the Federal Register**

**Reply Comments Due: 45 days from publication in the Federal Register**

By this Public Notice, the International Bureau and the Wireless Telecommunications Bureau invite interested parties to supplement the record to address issues raised by commenters concerning proposals for enabling additional terrestrial use of the 3.7-4.2 GHz band (C-band). As the Commission explained in its July 2018 *Notice of Proposed Rulemaking*, the Commission’s efforts to make this mid-band spectrum available for more flexible use will help close the digital divide by providing wireless broadband connectivity across the nation and secure U.S. leadership in next-generation services, including fifth-generation (5G) wireless and the Internet of Things.[[1]](#footnote-3)

In the *Notice*, the Commission sought to balance the desire to make this spectrum available for new terrestrial wireless uses in a rapid and efficient manner with the need to accommodate incumbent Fixed Satellite Service and Fixed Service operations in the band. To that end, the *Notice* sought comment on both market-based and auction-based approaches for repurposing a portion or all of the C-band for flexible use licenses, as well as approaches that combine elements of market- and auction-based clearing mechanisms.[[2]](#footnote-4) Commenters have now weighed in by supporting or opposing a variety of clearing mechanisms, and their comments raise additional issues concerning the Commission’s authority to employ elements of those mechanisms. We accordingly invite focused additional comment on the issues set forth below and any other issues commenters wish to raise concerning proposals for enabling additional terrestrial use of the C-band.

1. **What are the enforceable interference protection rights, if any, granted to space station operators against co-primary terrestrial operations? Do those rights depend on the extent incumbent earth stations receive their transmissions within the United States? And what limits, if any, does section 316 of the Act place on the proposals raised by the Commission in the *Notice* or by the commenters in this docket?**

Space station operators use the 3.7-4.2 GHz band for downlink operations. Before transmitting in the band, a space station operator must receive either a license from the Commission or a license from a non-U.S. government along with a grant of market access by the Commission.[[3]](#footnote-5) Requests for U.S. market access through non-U.S.-licensed space stations require the same legal and technical information that our rules require for a license application for that space station.[[4]](#footnote-6) Whether a space station operator is a licensee or recipient of a market access grant, modifications to U.S. operations require Commission review.[[5]](#footnote-7) Importantly, the Commission’s rules permit space station operators to transmit in the 3.7-4.2 GHz band on a nonexclusive basis from specific orbital locations.

Fixed terrestrial users have co-primary use of the 3.7-4.2 GHz band. Fixed terrestrial licensees may be assigned 20 megahertz paired channels for point-to-point common carrier or private operational fixed microwave links in the 3.7-4.2 GHz band and must comply with the frequency coordination procedures set forth in Part 101 to be entitled to interference protection.[[6]](#footnote-8)

To implement a sharing framework for the band, our rules offer receive-only earth stations the option to register for protection against terrestrial fixed stations. [[7]](#footnote-9) Such registration occurs by filing applications accompanied by an exhibit demonstrating coordination with terrestrial stations.[[8]](#footnote-10) The purpose of this coordination requirement is to establish the baseline level of interference that an earth station must accept in frequency bands shared by the fixed terrestrial and fixed satellite services on a co-primary basis.[[9]](#footnote-11) The coordination results entitle the earth station to the interference protection levels agreed to during coordination.[[10]](#footnote-12) Or as our rules put it, “protection from impermissible levels of interference to the reception of signals by earth stations in the Fixed-Satellite Service from terrestrial stations in a co-equally shared band is provided through the authorizations granted under this part.”[[11]](#footnote-13)

Against this backdrop, we seek targeted comment on the extent to which satellite space station operators have enforceable rights against harmful interference from terrestrial stations in the C-band under their space station licenses and market access grants. [[12]](#footnote-14) For C-band satellite space station operators, what is the scope of enforceable rights, if any, that they have under their space station licenses and market access grants?[[13]](#footnote-15) Is there any distinction between the enforceable rights, if any, accorded to U.S.-licensed space stations and non-U.S.-licensed space stations that have been duly approved for U.S. market access? Commenters should discuss the specific statutory or regulatory provisions granting any such enforceable rights.

The C-Band Alliance argues that C-band satellite space station operators with no U.S. customers and no U.S. revenues should not be compensated in the C-band transition process.[[14]](#footnote-16) In contrast, the small satellite operators argue that any transition plan must “[c]ompensate fairly all satellite operators with satellites authorized by the Commission to provide C-band service in the United States for the loss of valuable spectrum that they are currently authorized to use to offer services . . . .”[[15]](#footnote-17) Do the enforceable rights, if any, of space station operators depend on the extent incumbent earth stations receive their transmissions within the United States? For instance, do space station operators have a right to transmit free from harmful interference only where there are registered earth stations receiving their signal? Do they have a right to transmit free from harmful interference anywhere in the contiguous United States? Do they only have the right to transmit on a non-exclusive basis? Or do they have some broader right to preclude the Commission from adopting any policy that would impair their satellite service distribution business? To put it another way, to what extent are the enforceable rights of a space station operator dependent on, or derivative from, the rights of licensed or registered receive-only earth stations that receive that space station operator’s signal?

We note that T-Mobile has suggested that, as a technical matter, new, flexible-use terrestrial operations would not suffer harmful interference from downlink signals but could cause harmful interference to licensed or registered receive-only earth stations in the band.[[16]](#footnote-18) Is this correct? If so, how should it impact our analysis given that new flexible-use operations could cause harmful interference to licensed or registered receive-only earth stations in the band?

We note that section 316 of the Act gives the Commission authority to modify entire classes of station licenses by rulemaking or adjudication, but that this authority has been interpreted not to extend to any “fundamental change” to the terms of a license.[[17]](#footnote-19) What obligations, if any, does section 316 of the Communications Act (or any other provision of the Act) impose on the Commission with respect to space station operators if the Commission were to authorize new terrestrial operations in the band under any of the proposals in the *Notice* or the record? Does section 316 require that the Commission ensure the receipt of downlink transmissions where there are registered earth stations receiving a space station’s signal? Does section 316 require the availability of comparable facilities for such locations? Does section 316 create obligations in areas where there are no registered earth stations?

So long as a satellite operator’s transmission rights are not disturbed, would section 316 even apply if the Commission authorized additional terrestrial use that could interfere with the receipt of the signal? If so, under what circumstances and to what extent? And would section 316 apply to a satellite operator that was permitted, after the Commission adopted changes to the band in this rulemaking, to continue to transmit on a non-exclusive, shared basis?

If section 316 does impose obligations on the Commission regarding satellite licensees or market access grantees, how should the Commission measure comparability in the context of these proposals? Of what relevance here are the Commission’s prior actions to ensure that incumbents required to vacate spectrum receive comparable facilities, or to provide options when modifying the holdings of existing licensees?[[18]](#footnote-20)

1. **What are the enforceable interference protection rights granted to licensed or registered receive-only earth station operators against co-primary terrestrial operations? What obligations does section 316 of the Act place on the Commission vis-à-vis licensed or registered receive-only earth station operators? Are registered receive-only earth station operators eligible to voluntarily relinquish their rights to protection from harmful interference in the reverse phase of an incentive auction because they qualify as “licenses” under § 309(j)(8)(G)? Does the Commission have other statutory authorities that would enable it to authorize payments to such earth stations to induce them to modify or relocate their facilities?**

Receive-only earth stations cannot cause interference, but under the Commission’s current rules they can be coordinated and licensed or registered with the Commission to protect them from terrestrial fixed services.[[19]](#footnote-21) On April 19, 2018, the International Bureau temporarily waived the coordination requirement for earth station applications filed during a window that closed on October 31, 2018.[[20]](#footnote-22) Registrations or licenses granted for applications filed during the window without the coordination report will include a condition noting that the license or registration does not afford interference protection from fixed service transmissions. Upon announcing the termination of the freeze, the International Bureau may modify or terminate the waiver by requiring or permitting registrants or licensees who filed applications within the window without a coordination report to file such a report as required by the Commission’s rules, and to take any appropriate action in light of such filing.[[21]](#footnote-23)

The *Notice* proposed to protect incumbent earth stations from harmful interference as the Commission increased the intensity of terrestrial use in the band.[[22]](#footnote-24) What is the scope of the right of such users to protection from harmful interference? What obligations, if any, does section 316 of the Communications Act (or any other provision of the Act) impose on the Commission vis-à-vis licensed or registered receive-only earth station operators if the Commission were to authorize new terrestrial operations in the band under any of the proposals in the *Notice* or the record?[[23]](#footnote-25)

We seek comment on whether licensed or registered receive-only earth stations have licensed spectrum usage rights, as defined in the Communications Act of 1934, as amended (the Act).[[24]](#footnote-26) Section 309(j)(8)(G) of the Act, provides that the Commission “may encourage a licensee to relinquish voluntarily some or all of its licensed spectrum usage rights” as part of an incentive auction.[[25]](#footnote-27) This provision, however, does not define the term “licensee” or “licensed spectrum usage rights.”[[26]](#footnote-28) We note that section 3(53) of the Act defines “license” as “that instrument of authorization required by [the Act] or the rules and regulations of the Commission made pursuant to [the Act], for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.”[[27]](#footnote-29) The “transmission of energy . . . by radio,” in turn, is defined to include “all instrumentalities, facilities, and services incidental to such transmission.”[[28]](#footnote-30) In light of these and any other statutory provisions that may be relevant, how should the Commission interpret “licensed spectrum usage rights” as it may apply to any of the proposals either advanced by the Commission in the *Notice* or raised in comments filed in this docket?

Receive-only earth stations do not transmit “energy, or communications, or signals” and most have not been eligible for a Commission license since 1991.[[29]](#footnote-31) However, in adopting the receive-only earth station registration program, the Commission provided that “a registration program will afford the same protection from interference as would a license issued under our former [licensing] procedure.”[[30]](#footnote-32) Do licensed or registered receive-only earth station operators meet the definition of licensees that have licensed spectrum usage rights that they could voluntarily relinquish in an incentive auction?[[31]](#footnote-33) Some commenters argue that registered earth stations have licensed spectrum usage rights, while other commenters argue that earth station registrations are not licenses under Section 309(j)(8)(G).[[32]](#footnote-34) At least one commenter suggests that the Commission consider holding a reverse auction in which incumbent receive-only earth station registrants and satellite licensees would compete to submit winning bids to clear a PEA.[[33]](#footnote-35) Does the Commission’s incentive auction authority allow it to structure a reverse auction in which satellite operators and licensed or registered receive-only earth station operators compete to relinquish their spectrum usage rights? What, if any, legal authority does the Commission have to structure an incentive auction that would award initial licenses for mobile operations in the band subject to protecting or reaching agreements with licensed or registered receive-only earth stations? For that matter, do non-U.S.-licensed space station operators granted market access meet the definition of licensees that have licensed spectrum usage rights that they could voluntarily relinquish in an incentive auction?[[34]](#footnote-36)

If an incentive auction approach is unavailable, does the Commission have other statutory authorities that would enable it to authorize or require payments to licensed or registered receive-only earth stations to induce them to modify or relocate their facilities? One commenter argues that sections 303(c), 303(r), and 4(i) of the Act, and specific Commission precedent, provide the Commission with ample authority to require that proceeds from a Commission auction or a private sale of spectrum usage rights to be shared with registered receive-only earth stations as well as with the U.S. Treasury.[[35]](#footnote-37) Another commenter maintains that the Commission recognized the important role of receive-only earth stations in the *Notice* when it asked whether, “[i]nstead of paying [fixed satellite] operators for relinquishing spectrum usage rights nationwide, or in specific geographic regions, a mechanism instead might pay earth stations for relinquishing access to C-band spectrum in specific geographic areas.”[[36]](#footnote-38) Are there any other rules or sources of authority the Commission should consider in addressing the question of how to accommodate licensed or registered earth station operators that may be displaced as a result of repurposing of the C-band? Are there any equitable or public policy factors the Commission should take into consideration?

*Filing Requirements.* Interested parties may file comments and replies on or before the dates indicated on the first page of this document.[[37]](#footnote-39) All filings must reference GN Docket No. 18-122, RM-11791 and RM-11778. Comments and replies may be filed using the Commission’s Electronic Comment Filing System (ECFS).[[38]](#footnote-40)

* Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
* Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
  + All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  + Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  + U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

*Ex Parte Rules*. This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.[[39]](#footnote-41) Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

*People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

*Additional Information.* For further information regarding this Public Notice, please contact please contact Matthew Pearl, Wireless Telecommunications Bureau, at [Matthew.Pearl@fcc.gov](mailto:Matthew.Pearl@fcc.gov) or 202-418-2607 or Jim Schlichting, International Bureau, at  [Jim.Schlichting@fcc.gov](mailto:Jim.Schlichting@fcc.gov) or 202-418-1547.

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1. *Expanding Flexible Use of the 3.7-4.2 GHz Band*, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 6915, 6915-16, paras. 1-2 (2018). [↑](#footnote-ref-3)
2. *See, e.g.*, *id.* at 6935-51, paras. 58-115. [↑](#footnote-ref-4)
3. 47 CFR § 25.102(a); 47 CFR § 25.114(b) (requiring applicants for a new or modified space station to specify the type of authorization requested, such as a “[space] station license”). [↑](#footnote-ref-5)
4. 47 CFR § 25.137(b). [↑](#footnote-ref-6)
5. 47 CFR §§ 25.117(d) & (h), 25.118(e), 25.137(f). [↑](#footnote-ref-7)
6. *See* 47 CFR §§ 101.147(h); 101.21(f); 101.103; 101.105. [↑](#footnote-ref-8)
7. Consistent with the Commission’s proposals in the *Notice* for protecting incumbent earth stations that were operational as of April 19, 2018, for the questions in this Public Notice, the term “registered receive-only earth station operators” is intended to include applicants who had registration applications pending in IBFS as of the date the freeze exception filing window ended. Thus, the term would include applications that have not yet been processed by FCC staff, as well as applications without a showing of frequency coordination with terrestrial fixed service. *See Notice*, 33 FCC Rcd at 6926,para. 27*.*  [↑](#footnote-ref-9)
8. 47 CFR §§ 25.115, 25.131. The coordination procedures specified in 47 CFR § 101.103 and § 25.251 shall be applicable except that the information to be provided shall be that set forth in 47 CFR § 25.203(c)(2). [↑](#footnote-ref-10)
9. *See* 47 CFR §§ 25.131(d) & (f); 25.251. [↑](#footnote-ref-11)
10. 47 CFR § 25.131(f). [↑](#footnote-ref-12)
11. 47 CFR § 25.102(b). Section 25.102 is entitled “Station authorization required.” [↑](#footnote-ref-13)
12. There is no specific rule in Part 25 that would result in automatic termination of a space station license for the lack of licensed or registered receive-only earth stations. *Cf.* 47 CFR § 25.161. However, the Commission’s rules impose specific application and orbital assignment procedures, bonds, and milestones for construction and operation of a space station, and limits on pending or unbuilt satellite systems to ensure that a license was not obtained for speculative purposes. 47 CFR Part 25, Subpart B. [↑](#footnote-ref-14)
13. A non-U.S.-licensed space station may access the U.S. market through an authorization granted pursuant to a petition for declaratory ruling. *See* 47 CFR § 25.137. [↑](#footnote-ref-15)
14. Letter from Michele C. Farquhar, Counsel to the C-Band Alliance, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at Attach. C. p.10 (filed Nov. 19, 2018). [↑](#footnote-ref-16)
15. Letter from Scott Blake Harris, Counsel to the Small Satellite Operators, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 1 (filed Apr. 17, 2019). [↑](#footnote-ref-17)
16. *See, e.g.*, Letter from Russell H. Fox, Counsel to T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 8 (filed Apr. 11, 2019). [↑](#footnote-ref-18)
17. *Cellco Partnership v. FCC*, 700 F.3d 534, 543-44 (D.C. Cir. 2012) (section 316’s power to modify existing licenses does not allow the Commission to fundamentally change those licenses); *see also Community Television v. FCC*, 216 F.3d 1133, 1140-41 (D.C. Cir. 2000). [↑](#footnote-ref-19)
18. *See, e.g.*, 47 CFR §§ 101.73(d), 101.75(b), 101.89(d) (comparable facilities defined in terms of throughput, reliability, and operating costs); *Improving Public Safety Communications in the 800 MHz Band et al.*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969, para. 68 (2004); *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, GN Docket No. 14-177, Fourth Report and Order, FCC 18-180, at para. 15 (Dec. 12, 2018). [↑](#footnote-ref-20)
19. 47 CFR § 25.131(b) (filing requirements and registration for receive-only earth stations). Receive-only earth stations in the Fixed Satellite Service that operate with U.S.-licensed space stations, or with non-U.S.-licensed space stations that have been duly approved for U.S. market access, may be registered with the Commission in order to protect them from interference from terrestrial microwave stations in bands shared co-equally with the Fixed Service in accordance with the procedures of §§ 25.203 and 25.251, subject to the structure in § 25.209(c). Receive-only earth stations must be licensed in cases where they seek to operate with non-U.S.-licensed space stations that have not been approved for market access. *See* 47 CFR § 25.131(j). [↑](#footnote-ref-21)
20. *See Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band; 90-Day Window to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, GN Docket Nos. 17-183, 18-122, Public Notice, 33 FCC Rcd 3841, 3844-45 (IB/PSHSB/WTB 2018) (*Earth Station Public Notice*). [↑](#footnote-ref-22)
21. *Earth Station Public Notice*, 33 FCC Rcd at 3844. [↑](#footnote-ref-23)
22. *See Notice*, 33 FCC Rcd at para. 37. The *Notice* sought comment on how to define the appropriate class of incumbents for protection. For earth station licensees and registrants, the *Notice* proposed to define incumbent stations as earth stations that: (1) were operational as of April 19, 2018; (2) are licensed or registered (or had a pending application for license or registration) in the IBFS database as of October 17, 2018; and (3) have timely certified the accuracy of information on file with the Commission to the extent required by the *Order*. *Notice*, 33 FCC Rcd at para. 37. The filing deadline was subsequently extended until October 31, 2018. *International Bureau Announces Two-Week Extension of Filing Window for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, Public Notice, 33 FCC Rcd 10054 (IB Oct. 2018). [↑](#footnote-ref-24)
23. *See Cellco Partnership v. FCC*, 700 F.3d 534, 543-44 (D.C. Cir. 2012) (section 316’s power to modify existing licenses does not allow the Commission to fundamentally change those licenses); *see also Community Television v. FCC*, 216 F.3d 1133, 1140-41 (D.C. Cir. 2000). [↑](#footnote-ref-25)
24. ACA argues that “[w]hile the Commission streamlined rules applicable to C-band earth station operators in 1991 to replace licenses with registrations, it did so simply because receive-only earth stations present no potential for interfering with the rights of others, not because the rights of earth station users have somehow lesser dignity than those of satellite operators.” ACA Feb. 12, 2019 *Ex Parte* Letter at 2. [↑](#footnote-ref-26)
25. 47 U.S.C. § 309(j)(8)(G). [↑](#footnote-ref-27)
26. 47 U.S.C. § 309(j)(8)(G)(i). [↑](#footnote-ref-28)
27. 47 U.S.C. § 153(49). Title III governs the use of “channels of radio transmission” under licenses granted by the Commission and provides that “no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio . . . except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.” 47 U.S.C. § 301. [↑](#footnote-ref-29)
28. 47 U.S.C. § 153(57). [↑](#footnote-ref-30)
29. In 1991, the Commission eliminated the availability of a voluntary license for *most* receive-only earth stations, creating instead the current voluntary registration regime. *Amendment of Part 25 of the Commission’s Rules and Regulations to Reduce Alien Carrier Interference Between Fixed–Satellites At Reduced Orbital Spacings and to Revise Application Processing Procedures For Satellite Communications Services*, First Report and Order, 6 FCC Rcd 2806, 2806-07, para. 4 (1991) (*Amendment of Part 25 Order*). Receive-only earth stations must request a license to receive transmissions from non-U.S.-licensed space stations that are not approved for U.S. market access. *See* 47 CFR § 25.131(j). [↑](#footnote-ref-31)
30. *Amendment of Part 25 Order*, 6 FCC Rcd at 2807, para. 7. The Commission’s rules require receive-only earth stations to request a license to receive transmissions from non-U.S.-licensed space stations that are not approved for U.S. market access.  *See* 47 CFR § 25.131(j). [↑](#footnote-ref-32)
31. *See Notice*, 33 FCC Rcd at 6926,para. 27*.* [↑](#footnote-ref-33)
32. Letter from Russell Fox, Counsel to T-Mobile USA, Inc., to Marlene Dortch, FCC, GN Docket No. 18-122, at 2 (filed Mar. 19, 2019) (arguing that receive-only earth stations are incidental to satellite operators’ transmissions and are therefore “licenses” under the Communications Act regardless of the nomenclature used); Letter from Pantelis Michalopoulos, Counsel to the American Cable Association, to Marlene Dortch, FCC, GN Docket No. 18-122, at 2(filed Feb. 12, 2019) (ACA Feb. 12, 2019 *Ex Parte* Letter) (also noting that, even according to a report prepared for CBA, investment in earth station infrastructure exceeds that made by the satellite space industry by over $5 billion); Letter from Henry Gola, Counsel to the C-Band Alliance, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 1-3 (filed Mar. 7, 2019) (arguing that the Act does not permit receive-only earth stations to participate in a reverse auction because they do not transmit and thus are not licensees); Letter from Scott Blake Harris, Counsel to Small Satellite Operators, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 9-12 (filed Mar. 25, 2019) (arguing that T-Mobile’s current incentive auction proposal is inconsistent with the Communications Act because earth station owners and satellite owners are not “competing licensees” and because reverse auctions must be voluntary). [↑](#footnote-ref-34)
33. Letter from Steve Sharkey, Counsel to T-Mobile USA, Inc., to Marlene Dortch, FCC, GN Docket No. 18-122 (filed Feb. 15, 2019). [↑](#footnote-ref-35)
34. *See* 47 U.S.C. § 309(j)(8)(G)(ii)(II). [↑](#footnote-ref-36)
35. Letter from Scott Blake Harris, Counsel to Small Satellite Operators, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at 3 (filed Mar. 25, 2019); Letter from Elizabeth Andrion, Senior Vice-President, Regulatory Affairs, Charter Communications, Inc., to Marlene H. Dortch, Secretary, FCC, at 5-6 (filed Feb. 22, 2019) (noting that the Commission also has ample authority to ensure that this process adequately compensates incumbent satellite space station operators and earth station licensees in order to allow for the efficient repurposing and repacking of the C-band and to require winning bidders to compensate incumbents beyond their relocation costs pursuant to its Title III authority). [↑](#footnote-ref-37)
36. ACA Feb. 12, 2019 *Ex Parte* Letter at 2 (citing *Notice*, 33 FCC Rcd at 6937, para. 65). [↑](#footnote-ref-38)
37. 47 CFR § 1.2. [↑](#footnote-ref-39)
38. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). [↑](#footnote-ref-40)
39. 47 CFR §§ 1.1200 *et seq.* [↑](#footnote-ref-41)