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Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

Spectrum
incentive
auctions

June 8, 2015

The Honorable Thomas Wheeler
Chairman
United States Federal Communications Commission
445 12th Street
Washington, D.C. 20551

Dear Chairman Wheeler:

In the Federal Communications Commission's (FCC or Commission) recent AWS-3 Auction DISH Network funded two companies, Northstar Wireless LLC (Northstar) and SNR wireless LLC (SNR), which won more than 700 licenses in the auction and have now applied for the 25 percent bidding credits that are available to "very small businesses" under the FCC's rules governing designated entities (DEs). If the FCC awards those bidding credits, they will have won \$13 billion of spectrum while having to pay only \$10 billion, at a cost to American taxpayers of \$3.3 billion.

Following the auction, a number of smaller companies that bid in the auction have raised concerns that they were squeezed out of the bidding on spectrum licenses in the auction by the actions of DISH and its two DEs. Significant evidence also has emerged that strongly suggests that DISH and its DEs closely coordinated their bidding in ways that appear designed to obtain an artificial advantage in the auction over other bidders, to drive other bidders out of the auction, and to claim a significant discount at taxpayer expense in the process.

For example, one company, VTel Wireless (VTel), has explained that it actively participated in nearly every previous spectrum auction and succeeded in obtaining spectrum in those auctions.¹ In the AWS-3 auction, however, VTel contends that it was effectively squeezed out by the coordinated bidding activity of DISH, Northstar, and SNR, which made it appear that three other bidders were competing for the license to VTel when in fact it was only the DISH entities. Similarly, a group of rural telephone companies have explained that the coordinated bidding by DISH and its DEs "systematically and quickly drove most of the Telecos out of the auction."²

¹ Letter from Bennett L. Ross, on behalf of VTel, to Marlene H. Dortch, FCC (March 26, 2015), available at <http://apps.fcc.gov/ecfs/document/view?id=60001041479>.

² Letter from Donald L. Herman, Jr. on behalf of 10 rural telephone companies, to Marlene H. Dortch FCC (March 25, 2015), available at <http://apps.fcc.gov/ecfs/document/view?id=60001041455>.

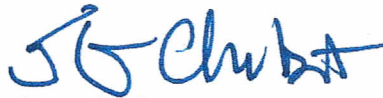
These reports are troubling and merit your thorough investigation. When Congress established the Commission's auction authority, it also required the Commission to "ensure that small businesses, rural telephone companies, and businesses owned by minority groups and women are given the opportunity to participate in the provision of spectrum-based services."³

Accordingly, I encourage you to carefully investigate all aspects of the conduct of DISH and its DEs in the AWS-3 auction before determining whether to award licenses or grant discounts to these entities.

Additionally, as cited in footnote 580 in the FCC's AWS-3 Auction Order, the FCC requested the United States Small Business Administration's (SBA) approval of its final rule adopting small business size standards differing from the SBA's size standards. However, no mention is made of a response from the SBA. The Committee requests a copy of both the FCC letter to the SBA requesting the alternate size standards as well as the SBA's response permitting use of such alternate standards.

Thank you for your prompt attention to this matter. If you have any questions regarding this request, please contact Joe Hartz, Professional Staff with the Committee at (202) 225-5821 or joe.hartz@mail.house.gov.

Sincerely,

A handwritten signature in blue ink that reads "Steve Chabot". The signature is stylized and cursive.

Steve Chabot
Chairman

³ 47 U.S.C. §309(j)(4)(D).