

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Policies Regarding Mobile Spectrum Holdings)	WT Docket No. 12-269
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)	
Auctions)	

ORDER ON RECONSIDERATION

Adopted: August 5, 2015

Released: August 11, 2015

By the Commission: Chairman Wheeler and Commissioner O’Rielly issuing separate statements; Commissioner Clyburn approving in part, dissenting in part, and issuing a statement; Commissioner Pai concurring and issuing a statement.

I. INTRODUCTION

1. In this Order on Reconsideration, we address petitions seeking reconsideration of certain decisions made by the Commission in the Mobile Spectrum Holdings Report and Order (“*Mobile Spectrum Holdings R&O*”).¹ Specifically, T-Mobile seeks reconsideration of the maximum spectrum reserve levels for potential initial clearing targets in the upcoming Broadcast Television Spectrum Incentive Auction (“incentive auction”).² Sprint seeks reconsideration of the Commission’s decision not to adopt spectrum weighting in its application of the spectrum screen in proposed secondary market transactions.³ We deny the petitions for reconsideration for the reasons set out below.⁴

¹ In the Matter of Policies Regarding Mobile Spectrum Holdings, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, WT Docket No. 12-269, Docket No. 12-268, *Report and Order*, 29 FCC Rcd 6133 (2014) (“*Mobile Spectrum Holdings R&O*”).

² T-Mobile USA Inc. Petition for Reconsideration, WT Docket No. 12-269, GN-Docket No. 12-268 (filed Aug. 11, 2014) (T-Mobile Petition for Reconsideration). We note that T-Mobile’s Petition for Reconsideration also seeks changes with respect to the tying of the spectrum reserve trigger to the final stage rule. Because those issues are closely related to arguments about tying the reserve trigger to the specific average price component proposed in the *Auction 1000 Comment Public Notice*, we address those elements of T-Mobile’s Petition for Reconsideration in the *Auction 1000 Bidding Procedures Public Notice*.

³ Sprint Corporation Petition for Reconsideration, WT Docket No. 12-269, Docket No. 12-268 (filed Aug. 11, 2014) (Sprint Petition for Reconsideration).

⁴ As noted below, T-Mobile relies in part on certain events that occurred following release of the *Mobile Spectrum Holdings R&O*. With respect to both petitions for reconsideration, we note that a petition that relies on facts or arguments which have not previously been presented to the Commission may be granted if the facts or arguments relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission, the facts or arguments relied on were unknown to petitioner until after its last opportunity to present them to the Commission, or the Commission determines that consideration of the facts or arguments is in the public interest. 47 C.F.R. § 1.429(b). Because we are denying the petitions for reconsideration on the merits, we need not reach the question whether they satisfy this standard. See AT&T Opposition at 10; Verizon Opposition at 7-8; Mobile Future Opposition at 5.

II. BACKGROUND

2. In the *Mobile Spectrum Holdings R&O*, the Commission adopted mobile spectrum holdings policies to ensure that all Americans, regardless of whether they live in an urban, suburban, or rural area, enjoy the benefits that wireless broadband competition can provide. First, with respect to competitive reviews of proposed secondary market transactions, the Commission added and removed spectrum to the screen to reflect spectrum that is currently suitable and available for the provision of mobile broadband/telephony services.⁵ If a proposed transaction would result in a wireless provider holding approximately one-third or more of available spectrum licenses in a given market, post-transaction, the Commission determined that the proposed transaction will continue to trigger a more detailed, case-by-case, competitive review.⁶ Further, the Commission determined that in proposed secondary market transactions involving increased aggregation of below-1-GHz spectrum such that the entity would hold approximately one-third or more of available low-band spectrum post-transaction, the proposed aggregation will be treated as an “enhanced factor” in its competitive review.⁷ In addition, with respect to auctions, the Commission set out policies for the AWS-3 auction and the incentive auction, which included no auction-specific limits for the above-1-GHz AWS-3 band, but established a market-based spectrum reserve of up to a maximum of 30 megahertz in the incentive auction of the below-1-GHz 600 MHz band.⁸

3. On August 11, 2014, T-Mobile and Sprint each filed petitions for reconsideration of certain portions of the *Mobile Spectrum Holdings R&O*.⁹ On September 24, 2014, AT&T, Mobile Future, and Verizon each filed oppositions to the petitions for reconsideration.¹⁰ On October 6, 2014, T-Mobile and Sprint each filed replies to AT&T and Verizon’s oppositions.¹¹ Sprint and the Computer & Communications Industry Association (“CCIA”) also filed comments in reply to AT&T and Verizon’s oppositions of the T-Mobile petition for reconsideration.¹²

⁵ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6169-90 paras. 70-134.

⁶ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6227-29 paras. 242-251.

⁷ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6237-40 paras. 279-289.

⁸ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6193-6221 paras. 146-224.

⁹ See T-Mobile Petition for Reconsideration; Sprint Petition for Reconsideration.

¹⁰ Opposition of AT&T to Sprint’s Petition for Reconsideration, WT Docket No. 12-269, Docket No. 12-268 (filed Sept. 24, 2014) (AT&T’s Opposition to Sprint); Opposition of AT&T to T-Mobile’s Petition for Reconsideration, WT Docket No. 12-269, Docket No. 12-268 (filed Sept. 24, 2014) (AT&T’s Opposition to T-Mobile); Opposition of Mobile Future, WT Docket No. 12-269, Docket No. 12-268 (filed Sept. 24, 2014) (Mobile Future Opposition); Opposition of Verizon to Petitions for Reconsideration, WT Docket No. 12-269, Docket No. 12-268 (filed Sept. 24, 2014) (Verizon Opposition).

¹¹ T-Mobile USA Inc. Reply to Oppositions, WT Docket No. 12-269 (filed Oct. 6, 2014) (T-Mobile Reply); Reply of Sprint Corporation, WT Docket No. 12-269, Docket No. 12-268 (filed Oct. 6, 2014) (Sprint Reply). On Sept. 26, 2014, T-Mobile filed a Motion for Waiver of Page Limits in section 1.429(g) of the Commission’s rules. See T-Mobile USA, Inc., Motion for Waiver of Page Limits, WT Docket No. 12-269 (filed Sept. 26, 2014); 47 C.F.R. §1.429(g). No party has opposed this motion. We find that T-Mobile has demonstrated good cause to extend the page limits in this proceeding. Specifically, T-Mobile notes that the *Mobile Spectrum Holdings R&O* raises complex issues and the policies adopted will impact the incentive auction. T-Mobile requests permission to file a single reply to the three oppositions that were filed in response to its Petition for Reconsideration and to exceed the applicable 10 page limit. We agree with T-Mobile that permitting interested parties to exceed the page limit and file a consolidated reply would provide efficiencies and assist Commission staff in analyzing the issues. We therefore grant T-Mobile’s motion to waive the page limit in section 1.429(g) of the Commission’s rules.

¹² Reply of the Computer & Communications Industry Association, WT Docket No. 12-269 (filed Oct. 6, 2014); Reply Comments of Sprint Corporation, WT Docket No. 12-269, GN Docket No. 12-268 (filed Oct. 6, 2014) (Sprint Reply Comments).

III. ISSUES ON RECONSIDERATION

A. Spectrum Reserve

1. Background

4. In the *Mobile Spectrum Holdings R&O*, the Commission established a market-based spectrum reserve of up to a maximum of 30 megahertz in the incentive auction in each license area. This market-based reserve was designed to ensure against excessive concentration in holdings of low-band spectrum, while also promoting competition by bidders for both reserved and unreserved spectrum so that both reserve-eligible and non-reserve-eligible bidders bear a fair share of the cost of the incentive auction.¹³

5. T-Mobile argues that “a spectrum reserve of thirty megahertz or less is insufficient to promote a market with four robust nationwide wireless broadband competitors.”¹⁴ T-Mobile contends that, depending on the clearing scenario, the current spectrum reserve “deprives all - or, at best, all but one - of the non-dominant carriers of the ability to acquire the amount of contiguous low-band spectrum resources needed for an efficient nationwide broadband deployment without exposure to the foreclosure risk posed by the two dominant incumbents.”¹⁵ T-Mobile asserts that new facts about the desirability of no less than four nationwide competitors alter the viability of the Commission’s reserve framework, arguing that “[p]rior to the *Mobile Spectrum Holdings Report and Order*, neither the Commission nor the Chairman had articulated the importance of having four nationwide carriers given the current market structure. T-Mobile and other competitive carriers had no opportunity to address the size of the reserve in light of either the Commission’s apparent commitment to a four-carrier market, or the circulation of a Commission notice of proposed rulemaking that would reverse precedent permitting joint bidding among nationwide carriers.”¹⁶ T-Mobile also contends that the Commission committed a material error with regard to the size of the spectrum reserve because the reserve falls short of the Commission’s statutory mandate to avoid excessive concentration of licenses.¹⁷ T-Mobile contends that the current reserve framework gives too much to the two dominant providers at the expense of competition.¹⁸

6. In their oppositions, AT&T and Verizon argue that the Commission should not increase the size of the spectrum reserve in part because the incentive auction does not raise any foreclosure concerns.¹⁹ Verizon argues, for example, that there is “no basis to assume that any firm needs to acquire twenty megahertz of spectrum in order to avoid being foreclosed” and that T-Mobile fails to “identify any economic evidence supporting its new argument that the Commission’s foreclosure mitigation goal requires ensuring that *two* reserve-eligible bidders can each acquire a 10x10 MHz block.”²⁰ AT&T and Verizon also assert that reserve-eligible bidders can bid on both reserved and unreserved spectrum.²¹ AT&T states that “there is nothing in the rules that prevents two different reserve-eligible providers from each acquiring 20 MHz of spectrum if they place the highest value on it.”²² In

¹³ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6135, 6211, paras 4, 192-94.

¹⁴ T-Mobile Petition for Reconsideration at 2.

¹⁵ T-Mobile Petition for Reconsideration at 3.

¹⁶ T-Mobile Petition for Reconsideration at 7.

¹⁷ T-Mobile Petition for Reconsideration at 7.

¹⁸ T-Mobile Petition for Reconsideration at 7-12.

¹⁹ AT&T’s Opposition to T-Mobile at 14-15, Verizon Opposition at 10-11.

²⁰ Verizon Opposition at 9-10. *See also*, Letter from John T. Scott III, Vice Pres. & Deputy Gen. Counsel, Verizon to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268, WT Docket No. 12-269 (filed July, 1, 2015).

²¹ AT&T’s Opposition to T-Mobile at 12, Verizon Opposition at 11. *See also* Mobile Future Opposition at 6.

²² AT&T’s Opposition to T-Mobile at 12.

addition, Verizon argues that, if the reserve spectrum amount is raised as proposed by T-Mobile, reserve-eligible bidders could divide the reserve pool and avoid competing against each other for a fair market price.²³

7. In their replies, Sprint, T-Mobile, and CCIA argue that a maximum of 30 megahertz of reserve spectrum is insufficient and will not promote competition because it only allows one non-dominant provider to acquire a 20 megahertz block without the risk of foreclosure by (or directly competing with) the dominant providers.²⁴ Moreover, CCIA and T-Mobile contend, a maximum of 30 megahertz of reserve spectrum contradicts the Commission's statutory mandate to promote competition because it encourages spectrum concentration by the largest providers.²⁵ Since May of this year, several additional parties have expressed support for increasing the size of the spectrum reserve, arguing that to increase the spectrum reserve to 40 megahertz would better promote competition.²⁶ Others have opposed

²³ Verizon Opposition at 12-13.

²⁴ CCIA Reply at 3-4, Sprint Reply Comments at 5-6, T-Mobile Reply at 10-11. *See also* Letter from Charles A. Acquard, Executive Director, NASUCA, to Thomas Wheeler, Chairman, FCC, GN Docket No. 12-268, WT Docket No. 12-269 (filed March 19, 2015), at 1-2; Letter from Nebraska Public Service Commission to Thomas Wheeler, Chairman, FCC, GN Docket No. 12-268, WT Docket No. 12-269, (filed April 7, 2015) at 1; Non-nationwide wireless carriers Ex Parte, GN Docket No. 12-268, WT Docket No. 12-269 (filed April 22, 2015) at 2; Letter from Robert W. Godshall, Majority Chairman, Pennsylvania House Consumer Affairs Committee, to Thomas Wheeler, Chairman, FCC, GN Docket No. 12-268, WT Docket No. 12-269 (filed May 27, 2015); Letter from Ryan P. Aument, Chairman, Committee on Communications and Technology, Senate of Pennsylvania, to Thomas Wheeler, Chairman, FCC, GN Docket No. 12-268, WT Docket No. 12-269 (filed June 1, 2015) at 1-2.

²⁵ CCIA Reply at 4-5, T-Mobile Reply at 10-12. *See also* Letter from Trey Hanbury, T-Mobile, USA, Inc. to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268, WT Docket No. 12-269, AU Docket No. 14-252 (filed July 6, 2015) (attaching letter from Dr. William Lehr).

²⁶ *See e.g.*, Letter from Harold Feld, Senior Vice Pres. Public Knowledge to Marlene H Dortch, Secretary, FCC WT Docket Nos. 14-170, 12-269, 05-211, GN Docket No. 12-268, RM-11395 (filed May 18, 2015) at 6 (expressing support for expanding the proposed spectrum reserve to 40 MHz); Letter from Ellen Stutzman, Dir. of Research & Pub. Policy, Writers Guild of America, West to Marlene H. Dortch, Secretary, FCC WT Docket No. 12-269, GN Docket No. 12-268, AU Docket No. 14-252. (filed May 19, 2015) at 3 (urging the Commission to adopt a spectrum reserve of at least 40 megahertz in the upcoming 600 MHz auction to ensure competitive access to valuable low-band spectrum); Letter from Catherine Bohigian, Exec. Vice Pres. Gov't. Affairs, Charter Communications to Marlene H. Dortch, Secretary, FCC, AU Docket No. 14-252, GN Docket No. 12-268 (filed May 22, 2015) at 3-4 (arguing that the Commission should establish a 40 MHz spectrum reserve); Letter from Evan Engstrom, Policy Director, Engine, to Marlene H. Dortch, Secretary, FCC GN Docket No. 12-268, WT Docket No. 12-269, AU Docket No. 14-252 (filed May 29, 2015) at 1 (supporting increasing the size of the spectrum reserve to 40 MHz to "enable two carriers to compete on relatively even terms with the dominant incumbents ..."); Letter from Rebecca Murphy Thompson, Gen. Counsel, Competitive Carriers Assoc. on behalf of Save Wireless Choice Coalition, to Marlene H. Dortch, Secretary, FCC GN Docket No. 12-268, WT Docket No. 12-269, AU Docket No. 14-252 (filed June 1, 2015) at 2 (recommending increasing the size of the spectrum reserve to at least four blocks); Letter from Representatives Mike Doyle, Jared Polis, Suzan DelBene, Adam Smith, U.S. Congress to Thomas Wheeler, Chairman, FCC (filed June, 17, 2015) (urging the Commission to expand the size of the spectrum reserve to 40 megahertz to "enhance post-auction competition in the mobile broadband market by allowing for up to two non-dominant competitors to acquire the low-band spectrum they need ..."); Letter from Senators Angus S. King, Jr., Mark R. Warner, Amy Klobuchar, Chris Coons, Patty Murray, and Maria Cantwell, U.S. Senate to Thomas Wheeler, Chairman, FCC, WT Docket No. 12-269, GN Docket No. 12-268 (filed June 17, 2015) (urging the Commission to expand the size of the spectrum reserve from three to at least four blocks to "promote wireless broadband competition."); Letter from Sean T. Conway, Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 12-268, WT Docket No. 12-269, AU Docket No. 14-252 (filed July 22, 2015) (summarizing emails received by the Commission's Office of Media Relations urging the Commission to hold the auction in the near term and to reserve 40 megahertz or at least half of the available spectrum for companies other than Verizon and AT&T).

increasing the size of the spectrum reserve or proposed increasing the reserve at higher clearing target levels.²⁷

2. Discussion

8. We deny T-Mobile's petition for reconsideration seeking to increase the size of the spectrum reserve. In the *Mobile Spectrum Holdings R&O*, the Commission considered reserves of different sizes and concluded that setting a maximum of 30 megahertz of reserve spectrum "would benefit competition and consumers by giving reserve-eligible bidders the assurance that, after the spectrum reserve trigger is reached, they will have a greater opportunity to purchase licenses in the 600 MHz Band."²⁸ At the same time, the Commission found, setting a maximum reserve amount would ensure that a majority of licenses at the beginning of the forward auction will be available for bidding by all participants.²⁹ We find that T-Mobile's arguments do not warrant reconsideration of the Commission's conclusions.

9. In setting the amount of reserved and unreserved spectrum that will be available in the incentive auction, we sought to achieve a balance among a number of objectives including making additional low-band spectrum available to multiple providers with varying needs, ensuring that all bidders have an opportunity to win 600 MHz band licenses, and ensuring competitive bidding.³⁰ The Commission fully considered and rejected requests to establish a higher spectrum reserve, including T-Mobile's argument in favor of "allocating more reserved spectrum than unreserved spectrum."³¹

10. The Commission concluded instead that establishing a maximum spectrum reserve of 30 megahertz was the most appropriate way to reach its competing objectives – and those set out in the statute – and provided a detailed rationale for its conclusion. In establishing the amount of the maximum spectrum reserve, the Commission recognized arguments that 20 megahertz of contiguous spectrum was particularly valuable for deployment of next generation networks but also recognized arguments that 10x10 megahertz blocks were not necessary, including T-Mobile's argument at the time that 10x10 megahertz blocks of the 600 MHz band were "not required for effective mobile deployment."³² In its consideration of the record, the Commission concluded that "a maximum of 30 megahertz of reserved spectrum could permit at least two reserve-eligible bidders to acquire 600 MHz spectrum licenses for deployment of next-generation networks, with one of the bidders potentially acquiring 20 megahertz of reserved spectrum for such deployment."³³

²⁷ See e.g., Letter from Jonathan Spalter et al., Mobile Future, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268, WT Docket No. 12-269 (filed June 26, 2015) (arguing that there is no evidence that would justify increasing the size of the spectrum reserve); Letter from Laura Hall, Natl. Pres. National Organization of Black Elected Legislative Women to Thomas Wheeler, Chairman, FCC GN Docket No. 12-268, WT Docket No. 12-269, AU Docket No. 14-252 (filed July 9, 2015); Letter from Phillip Berenbroich, Public Knowledge, Todd O'Boyle, Common Cause, to Thomas Wheeler, Chairman, FCC, GN Docket No. 12-268, AU Docket No. 14-252 (filed June 30, 2015) at 1 (Public Knowledge/Common Cause June 30, 2015 *Ex Parte*).

²⁸ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210 para. 190.

²⁹ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210 para. 190.

³⁰ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210-11 para. 191. See also, Letter from William J. Baer, Asst. Attorney General, U.S. Dept. of Justice, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-269 (filed June 24, 2015) at 3 (recognizing that "the Commission must balance competing policy priorities in setting the appropriate reserve levels.").

³¹ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6207-08, para. 182.

³² *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210, para. 190 n. 527 (citing Letter from Trey Hanbury, Hogan Lovells, Counsel for T-Mobile to Marlene H. Dortch, Secretary, FCC WT Docket No. 12-269 (filed May 5, 2014)).

³³ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210 para 190.

11. The Commission also emphasized the importance of competitive bidding, concluding that setting the spectrum reserve at 30 megahertz, an odd number of 10 megahertz blocks, would “facilitate competition among bidders seeking to acquire 20 megahertz.”³⁴ The importance of ensuring vigorous competition by auction bidders is underscored by the statutory mandate of designing spectrum auctions to promote the “efficient and intensive use” of that spectrum.³⁵ T-Mobile argues that the Commission’s decision on the maximum amount of reserved spectrum “permits Verizon and AT&T to divide the available unreserved spectrum evenly between them at twenty megahertz each.”³⁶ Because, however, all reserve-eligible bidders are free to bid on unreserved spectrum as well as reserved spectrum, they will be able to prevent Verizon and AT&T from merely dividing the unreserved spectrum evenly at unreasonably low prices. In addition, T-Mobile argues that the Commission’s decision on the size of the spectrum reserve “deprives all -, or, at best, all but one - of the non-dominant carriers of the ability to acquire the amount of contiguous low-band spectrum resources” necessary to compete and deploy broadband nationwide.³⁷ Again, however, reserve-eligible bidders, such as T-Mobile, may bid on both reserved and non-reserved spectrum in a license area to acquire contiguous low-band spectrum. In summary, as the Commission stated, “a maximum spectrum reserve of 30 megahertz for most levels of total available spectrum licenses, on balance, will make additional low-band spectrum available to multiple providers; ensure that all bidders have an opportunity to acquire a stake in the 600 MHz ecosystem that will be critical in the future; and facilitate competitive bidding.”³⁸

12. Several parties argue that the results of the AWS-3 auction warrant reconsideration of the size of the spectrum reserve. Public interest groups argue for, example, that the AWS-3 auction “incorporated no competitive safeguards, and, as a result, helped entrench AT&T’s and Verizon’s dominance of the wireless broadband industry.”³⁹ They contend that only by increasing the size of the spectrum reserve can the Commission “prevent the two dominant carriers from using the 600 MHz auction to extinguish the handful of wireless broadband competitors.”⁴⁰ Mobile Future argues, however, that the AWS-3 auction was successful because it was an “open spectrum auction where all may compete - without set asides - for the spectrum they need.”⁴¹ Mobile Future contends that, “where the FCC has placed its hand on the scale in spectrum auctions, the intended goals have not been achieved These experiences warrant a closer evaluation, and narrowing, of the proposed set aside of spectrum in the

³⁴ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210 para 190. As noted in the *Mobile Spectrum Holdings R&O*, Cramton asserts that if two providers bid on an even number of spectrum blocks there is a tendency to split the spectrum equally to minimize bidding costs. Peter Cramton, *Auction Revenues and Competition Policy in the 600 MHz Auction* (May 2014) at 2. *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210, para. 190, n. 528.

³⁵ 47 U.S.C. § 309(j)(3)(D). As the Commission and the courts have recognized, Congress vested the Commission with broad discretion in balancing this and other competing objectives in designing spectrum auctions. *See, e.g., Fresno Mobile Radio, Inc. v. FCC*, 165 F.3d 965, 971 (D.C. Cir. 1999). *See also National Ass’n of Broadcasters v. FCC*, No. 14-1154 (D.C. Cir. June 12, 2015), slip op. at 30 (Commission “reasonably balanced the Spectrum Act’s competing imperatives”).

³⁶ T-Mobile Petition for Reconsideration at 9.

³⁷ T-Mobile Petition for Reconsideration at 3.

³⁸ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6210-11 para. 191.

³⁹ *See* Letter from Open Technology Institute at New America, Public Knowledge, National Hispanic Media Coalition, Engine, Center for Media Justice, Common Cause, Writers Guild of America – West, Institute for Local Self Reliance, Benton Foundation, to Thomas Wheeler, Chairman, FCC, WT Docket No. 12-269, GN Docket No. 12-268 (filed Feb. 24, 2015) at 3 (Public Interest Organizations Feb. 24, 2015 *Ex Parte*).

⁴⁰ Public Interest Organizations Feb. 24, 2015 *Ex Parte* at 3.

⁴¹ *See* Letter from Jonathan Spalter, Chairman, Mobile Future, to Thomas Wheeler, Chairman, FCC, GN Docket No. 12-268, WT Docket No. 12-269 filed Feb. 2, 2015 at 2 (Mobile Future Feb. 2, 2015 *Ex Parte*).

upcoming broadcast Incentive Auction.”⁴² The arguments put forward based on the results in the AWS-3 auction do not persuade us to change the amount of the maximum spectrum reserve as a balance of our various competing statutory and public interest goals.

13. As the Commission stated in the *Mobile Spectrum Holdings R&O*, in its determination of how much reserved and unreserved spectrum will be available, it balances “a number of the key statutory directives, including promoting competition, facilitating the deployment of advanced services by making spectrum available for flexible use, and sharing the costs of the Incentive Auction on a fair and equitable basis.”⁴³ While the Commission reached a different balancing decision for the AWS-3 auction, its decision was based on the circumstances relevant to that auction. Specifically, in the *Mobile Spectrum Holdings R&O*, the Commission found that there was insufficient evidence in the record to suggest that a band specific mobile spectrum holdings policy was necessary for the AWS-3 auction to ensure opportunities for access to spectrum with similar characteristics.⁴⁴ In reaching its decision, the Commission emphasized “the availability of a substantial amount of comparable high band spectrum to competitors and the significant existing holdings of multiple providers of comparable spectrum.”⁴⁵ The Commission noted that these conditions were “unlike the case with the 600 MHz Band, which has fewer ‘coverage band’ substitutes (700 MHz and 800 MHz)” and that “[m]oreover, in contrast to bands comparable to AWS-3, the bands comparable to the 600 MHz Band are held by a limited number of service providers.”⁴⁶ Accordingly, the Commission found, “while it is necessary to adopt a 600 MHz Band specific spectrum holding policy, such an approach is not necessary for the AWS-3 auction.”⁴⁷ The results from the AWS-3 auction do not change the Commission’s conclusion that establishing a maximum spectrum reserve of 30 megahertz was the most appropriate way to reach its competing objectives.

14. In a recent written *ex parte* filing, Public Knowledge and Common Cause propose that if “initial clearing targets equal or exceed 90 megahertz of available broadband spectrum, the reserve should increase from 30 to 40 megahertz at those higher initial clearing target levels.”⁴⁸ They argue that “because expectations about the total amount of spectrum available in the incentive auction have now increased, the maximum size of the reserve should increase too – at least at the highest possible clearing targets. . . .”⁴⁹ We are not persuaded that any possible changes in expectations of the amount of spectrum likely to be cleared warrant an increase of the size of the spectrum reserve. We made specific determinations in the *Mobile Spectrum Holdings R&O* regarding the maximum size of the spectrum reserve at the higher initial clearing targets based on a balance of competing priorities. We see no reason to revisit that balance on the basis that some parties may believe that those higher clearing targets are more likely to be achieved than they anticipated last year.

⁴² Mobile Future Feb. 2, 2015 *Ex Parte* at 2-3.

⁴³ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6209 para. 185.

⁴⁴ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6220 para. 222.

⁴⁵ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6220-21 para. 222.

⁴⁶ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6221 para. 223.

⁴⁷ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6221 para. 223.

⁴⁸ Public Knowledge/Common Cause June 30, 2015 *Ex Parte* at 1. See also Letter from Rebecca Murphy Thompson, General Counsel, Competitive Carriers Association to Marlene H. Dortch, Secretary, FCC GN Docket No. 12-268, WT Docket No. 12-269, AU Docket No. 14-252 (filed July 10, 2015).

⁴⁹ Public Knowledge/Common Cause June 30, 2015 *Ex Parte* at 2.

B. Spectrum Weighting

1. Background

15. In the *Mobile Spectrum Holdings R&O*, the Commission declined to establish a set of specific weighting factors to be applied to the amount of spectrum in each spectrum band for purposes of the application of its initial spectrum screen.⁵⁰ Although it declined to establish such a spectrum weighting approach, the Commission observed that the data submitted on the record did demonstrate that there are significant differences in deployment costs between low-band and high-band spectrum and indicated that it would consider those differences as a key factor in its case-by-case review of proposed secondary market transactions moving forward.⁵¹

16. Sprint contends that the Commission erred in declining to adopt a weighting approach.⁵² Sprint argues that, although the *Mobile Spectrum Holdings R&O* recognizes that not all spectrum is created equal and that differences between low-band and high-band spectrum are relevant to the Commission's mobile spectrum holdings policies, the Commission "failed to take the next logical step by adjusting the screen to incorporate spectrum weightings"⁵³ Sprint contends that the Order maintains a weight of one for all spectrum bands, which creates an inaccurate spectrum screen that will result in false positives and false negatives when reviewing transactions.⁵⁴ Sprint also argues that though the *Mobile Spectrum Holdings R&O* suggests that differences among spectrum bands will be considered as a factor in its case-by-case analysis of transactions, including through the below-1-GHz enhanced factor, it provides little guidance on how staff will take those factors into account, resulting in unclear rules of the road, and delays in transaction reviews.⁵⁵

17. In their oppositions, AT&T, Verizon, and Mobile Future argue that the Commission should dismiss Sprint's petition because its arguments have been fully considered and rejected.⁵⁶ They argue that, although the Commission has acknowledged differences in deployment costs between low-band and high-band spectrum, it has already concluded there are too many difficulties and uncertainties in establishing specific weighting factors and has instead opted to treat below-1-GHz spectrum concentration as an enhanced factor.⁵⁷ In addition, AT&T states that the Commission has already addressed Sprint's argument that adopting a revised spectrum screen without a weighting factor would prevent approval of beneficial transactions, noting that, in the *Mobile Spectrum Holdings R&O*, the Commission explained that "the revised screen would not 'prevent' any transactions because 'it is a screen, not a cap' and the Commission retains the authority to approve transactions that trigger the screen."⁵⁸ Moreover, AT&T argues, the Commission has also recognized that lower-frequency spectrum is not categorically better, and that higher frequency spectrum has many benefits such as increasing network capacity and allowing for the transmission of large amounts of information.⁵⁹ In its reply, Sprint contends that the oppositions "raise misplaced procedural objections and rehash AT&T's and Verizon's prior efforts to treat all spectrum as equal under the Commission's spectrum policies -an approach that

⁵⁰ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para. 274.

⁵¹ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para. 274.

⁵² Sprint Petition for Reconsideration at 4-5.

⁵³ Sprint Petition for Reconsideration at 4.

⁵⁴ Sprint Petition for Reconsideration at 9-14.

⁵⁵ Sprint Petition for Reconsideration at i, 5.

⁵⁶ AT&T's Opposition to Sprint at 2-4, Verizon Opposition at 3-4, Mobile Future Opposition at 2.

⁵⁷ AT&T's Opposition to Sprint at 4, Verizon Opposition at 5-6.

⁵⁸ AT&T's Opposition to Sprint at 4 citing *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236-37 para. 277.

⁵⁹ AT&T's Opposition to Sprint at 7-8.

uniquely benefits AT&T and Verizon to the detriment of promoting sustainable, national wireless broadband competition for American consumers.”⁶⁰

2. Discussion

18. We conclude that Sprint’s arguments regarding spectrum weighting were previously raised and considered by the Commission and appropriately rejected. Although Sprint argues that the Commission erred in not adopting spectrum weighting, we disagree, and we find that the Commission provided a thorough explanation of the basis for its decision. In the *Mobile Spectrum Holdings R&O*, the Commission recognized that several parties, including Sprint, argued in favor of weighting spectrum bands “to reflect the extent to which spectrum at that frequency yields lower costs for the deployment and operation of equipment.”⁶¹ The Commission outlined Sprint’s two proposals for spectrum weighting, noting for example, that under the initial proposal Sprint submitted, spectrum would be weighted “based on the cost to deploy and operate using a particular band” and that, under the second proposal Sprint submitted, spectrum would be weighted based on a three tiered system, “in which high-mid-, and low-band spectrum would be weighted by factors of 0.5, 1, and 1.5 respectively.”⁶² After thorough consideration of Sprint’s proposals, the Commission declined to adopt spectrum weighting.

19. The Commission concluded that “at this time, we cannot justify, on the basis of the record, adopting specific weighting factors for each spectrum band”⁶³ Rather than giving “short shrift” to the parties’ arguments and specific spectrum weighting proposals, the Commission described its specific concerns with the approaches that Sprint proposed. The Commission particularly expressed concern about the assumptions that would be necessary if it were to adopt a weighting approach and Sprint itself acknowledges that its spectrum weighting proposals “rely on assumptions and estimates that balance the differences among bands for competitive analysis and the need for a spectrum screen that is clear and easy to administer” and that “there is no ‘perfect’ way to strike this balance.”⁶⁴

20. The Commission expressed concern about establishing weighting factors based on propagation characteristics as well as on other factors such as spectrum value.⁶⁵ Contrary to Sprint’s argument that the Commission did not adequately consider its weighting proposals based on propagation characteristics, the Commission noted that “in rural areas, Sprint’s assumption that obstructions will have no effect on signal path loss does not take into account the likely attenuation of signal due to trees and terrain, and likely overestimates the difference in deployment costs as 14 times greater for the BRS band than the lower 700 MHz band in rural areas.”⁶⁶ In contrast, the Commission found “AT&T’s assumptions regarding the deployment of ‘4 transmit antennas and 4 receive antennas at the eNodeB’ for the BRS band likely underestimates that deployment in the BRS band only requires at most 2.7 times the number of sites than deployment in the 700 MHz band in rural areas.”⁶⁷ Rather than being vague,⁶⁸ the Commission’s explanation demonstrated how difficult it would be to establish the underlying assumptions that might be appropriate for any spectrum weighting approach. The Commission also found, with regard to Sprint’s alternative proposal, that Sprint had failed to explain “how the ‘simplified’

⁶⁰ Sprint Reply at 2.

⁶¹ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6233-34 para. 268.

⁶² *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6234 para. 269, 6235 para. 272.

⁶³ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para. 274.

⁶⁴ Sprint Petition for Reconsideration at 20.

⁶⁵ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para. 275.

⁶⁶ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para. 275, n. 728.

⁶⁷ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para. 275, n. 728.

⁶⁸ Sprint Petition for Reconsideration at 18.

weights are based on Sprint's prior proposals or other evidence."⁶⁹ Moreover, the Commission found that the specific weighting factors based on "large natural gaps" as proposed by Sprint were not supported by the record.⁷⁰ Sprint does not challenge this finding.⁷¹

21. The Commission concluded that treating below 1-GHz spectrum concentration as an enhanced factor in its case-by-case review was a more appropriate approach than spectrum weighting because it would allow it to "distinguish between the characteristics of different frequency bands without imposing a weighting schema that may fail to accurately reflect their competitive significance."⁷² Sprint's argument to the contrary is not persuasive. As Sprint recognizes, the approach for below 1-GHz spectrum that the Commission adopted consists of a number of components.⁷³ It requires "any entity that would end up with more than one third of below-1-GHz spectrum as a result of a proposed transaction" to facilitate the Commission's case-by-case review "with a detailed demonstration regarding why the public interest benefits outweigh harms."⁷⁴ Absent that, "any transaction that would result in an entity holding approximately one-third or more of suitable and available below-1-GHz spectrum will more likely be found to cause competitive harm in our case-by-case review."⁷⁵

22. The Commission also found that it would likely have even "greater concerns" where a transaction would result in "an assignee or transferee that already holds approximately one-third or more of below-1-GHz spectrum in a market acquiring additional below-1-GHz spectrum in that market, especially with regard to paired low-band spectrum."⁷⁶ In these cases, the Commission concluded "the demonstration of the public interest benefits of the proposed transaction would need to clearly outweigh the potential public interest harms associated with such additional concentration of below-1-GHz spectrum, irrespective of other factors."⁷⁷ Contrary to Sprint's argument, the Commission reached the rational conclusion that the steps it outlined for considering additional below-1-GHz spectrum concentration as an enhanced factor in the review of secondary market transactions would help ensure that further concentration of such spectrum will not have adverse competitive effects either in particular local markets or on a broader regional or national level.⁷⁸

23. The Commission also took additional steps to ensure that multiple providers are able to access a sufficient amount of low-band spectrum. Specifically, as discussed above with respect to T-Mobile's Petition for Reconsideration, the Commission established a market-based spectrum reserve of up to a maximum of 30 megahertz in the incentive auction in each license area.⁷⁹ The Commission

⁶⁹ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para. 274.

⁷⁰ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6160-61 para. 55.

⁷¹ See Sprint Petition for Reconsideration at 16.

⁷² *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236 para 276.

⁷³ Sprint Petition for Reconsideration at 10-11.

⁷⁴ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6240 para. 286.

⁷⁵ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6240 para. 286.

⁷⁶ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6240 para. 287.

⁷⁷ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6240 para. 287.

⁷⁸ In the *AT&T-Plateau Wireless Order*, the Commission applied the approach it adopted in the *Mobile Spectrum Holdings R&O* treating AT&T's potential post transaction aggregation of below-1-GHZ spectrum as an enhanced factor in its consideration of the proposed transaction. See, In the Matter of Application of AT&T Inc., ENMR Telephone Cooperative, Plateau Telecommunications Inc., New Mexico RSA 4 East Limited Partnership, and Texas RSA 3 Limited Partnership for Consent to Assign Licenses and Authorizations, WT Docket No. 14-144, *Memorandum Opinion and Order*, 30 FCC Rcd 5107(2015).

⁷⁹ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6135 para. 4.

concluded that establishing the spectrum reserve would “guard against excessive concentration in holdings of low-band spectrum while including safeguards to ensure that all bidders bear a fair share of the cost of the Incentive Auction.”⁸⁰

24. The Commission also directly addressed and rejected Sprint’s argument that the spectrum screen would result in false positives and false negatives. To the contrary, the Commission noted that the revised spectrum screen was a screen and not a cap and would not prevent the Commission from approving any transactions that were found to be in the public interest.⁸¹ It also found that the revised screen would not allow anti-competitive transactions, noting that the Commission retains the authority to deny proposed transactions that are not in the public interest even if they do not trigger the spectrum screen.⁸² For all of the above stated reasons, we conclude that Sprint has no basis for concluding that the Commission erred in deciding not to adopt spectrum weighting, nor do we find that Sprint has shown any error in that decision. Therefore, we deny the Sprint petition.

IV. ORDERING CLAUSES

25. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 405, and Section 1.429 of the Commission’s Rules, 47 CFR § 1.429, the Petitions for Reconsideration filed by T-Mobile USA, Inc. and Sprint, Corp. ARE DENIED for the reasons stated herein.

26. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Sections 1.3 and 1.429 of the Commission’s Rules, 47 CFR §§ 1.3 and 1.429, that the Motion for Waiver of Page Limits filed by T-Mobile USA, Inc. is GRANTED.

27. IT IS FURTHER ORDERED that this Order on Reconsideration SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁸⁰ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6135 para. 4.

⁸¹ *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236-37 para. 277.

⁸² *Mobile Spectrum Holdings R&O*, 29 FCC Rcd at 6236-37 para. 277.

**STATEMENT OF CHAIRMAN
TOM WHEELER**

Re: *Policies Regarding Mobile Spectrum Holdings*, WT Docket No. 12-269; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268.

By now, everybody knows that this Commission sees competition as the most effective tool for driving innovation, investment and consumer benefits. It should come as no surprise that promoting competition in the wireless industry is a high priority for the upcoming Incentive Auction.

As part of last year's update to our Mobile Spectrum Holding rules, the Commission voted to advance competition by implementing a groundbreaking "market-based reserve" in the upcoming Incentive Auction of up to 30 megahertz of spectrum per market. This reserve would provide protection that bidders without significant amounts of low-band spectrum could not be predatorily prohibited from gaining the necessary competitive capacity by those whose interest might be served by eliminating such competition. With today's Reconsideration Order, we take the important step of reaffirming the bold pro-competition policy.

The Incentive Auction offers one of the last opportunities for competitors to acquire significant quantities of low-band spectrum. This spectrum is important because of its propagation characteristics which allow it to travel farther and to penetrate buildings better. With more than 70 percent of low-band spectrum in the hands of just two providers, this decision assures that multiple providers have a meaningful opportunity to acquire these valuable airwaves.

Some parties have petitioned the Commission to increase the size of the reserve, while others have argued for its elimination. Today's Order on Reconsideration rejects both entreaties and maintains the reserve size at the previously-approved level.

To be clear, these rules are spectrum holding-based, not company-based. A company's eligibility is determined by their low-band holdings in each market, not by their overall size. In addition, the rules do not restrict any reserve-eligible bidder from also bidding on unreserved licenses. For consumers, these actions will mean more competition in more markets. And more competition will mean more benefits for consumers like greater choice, lower prices, and higher quality mobile services.

**STATEMENT OF COMMISSIONER MIGNON L. CLYBURN
APPROVING IN PART; DISSSENTING IN PART**

Re: *Policies Regarding Mobile Spectrum Holdings*, WT Docket No. 12-269; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268.

As I mentioned when we adopted the Mobile Spectrum Holdings Order last year, there is no question that the Commission has statutory authority to allocate spectrum licenses in a manner that promotes competition, for the Communications Act instructs the FCC to “avoid[] excessive concentration of licenses,” and to “disseminate[] licenses among a wide variety of applicants, including small businesses.” The plain language of the Middle Class Tax Relief and Job Creation Act reaffirms the Commission’s authority to: “adopt rules of general applicability, including rules, concerning spectrum aggregation, that promote competition.” Such a spectrum allocation rule is also consistent with our precedent. Since the 1980s, the Commission has often adopted policies designed to prevent undue concentration of spectrum licenses necessary to provide those services, so I am pleased to commend Chairman Wheeler for reaffirming that the forward auction will have reserve spectrum for those entities who hold less than 45 megahertz of below 1 gigahertz spectrum in local areas.

However, I am disappointed that we did not circulate an Order that adopts the Public Knowledge proposal which asked the Commission to change the amount of reserve spectrum from 30 to 40 MHz when we recover 114 or more MHz from broadcasters. In my opinion, such a change would have greatly incentivized competitive wireless carriers, particularly those who are reserve eligible in the vast majority of the markets, to bid more in the forward auction. It also would have created greater certainty that we could recover more spectrum from broadcasters. Increasing the amount of spectrum in the reserve in this manner would have also been consistent with the market based principles the Commission has adopted for the incentive auction. This, I feel, would have been a huge victory for mobile wireless consumers, because other wireless carriers would have the spectrum they need to compete against the two nationwide carriers who, together, hold more than 73 percent of spectrum below 1 GHz.

It would have also been important for unlicensed advocates and the wireless microphone community who are currently very opposed to placing broadcast TV stations in the duplex gap. Our proposed band plan at 114 MHz would mean an extra 10 MHz of guard bands, which unlicensed services and the wireless community could use. Such a guard band is not possible in the scenario when we recover only 84 MHz from broadcasters. This, I feel, was a missed opportunity. For these reasons, I respectfully dissent from this aspect of the Order.

The Wireless Bureau has worked extremely hard throughout this proceeding and for that and more, thank you.

**CONCURRING STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *Policies Regarding Mobile Spectrum Holdings*, WT Docket No. 12-269; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268.

Fifteen months ago, I dissented from the Commission's decision to set aside spectrum for certain preferred bidders.¹ Our record in the proceeding, as well domestic and international experience, shows that spectrum reserves do not produce long-term benefits for wireless competition. Set-asides also impose severe costs, including significant delays in the deployment of spectrum for consumers' benefit and substantially less revenue for critical national priorities.² Canada's recent AWS-3 auction is a case in point. The set-aside spectrum in that auction sold for less than 4% of the price of the unreserved spectrum (\$0.11 per MHz-pop compared to \$3.02 per MHz-pop).³

Given this context, I do not support expanding the FCC's spectrum reserves. Accordingly, I agree with the outcome of this *Order* and will concur in the result.

¹ See *Policies Regarding Mobile Spectrum Holdings, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, WT Docket No. 12-269, Docket No. 12-268, Report and Order, 29 FCC Rcd 6133, 6268 (2014) (Dissenting Statement of Commissioner Ajit Pai), available at <http://go.usa.gov/3fvgd>.

² See, e.g., Opening Remarks of FCC Commissioner Ajit Pai, Mobile Future Forum, "Designing for Auction Success: Lessons Learned from Around the World," <http://go.usa.gov/3fv49> (Apr. 24, 2014).

³ See, e.g., Jeff Lagerquist, BNN.ca, "Handouts for new carriers 'underscore government's inefficient spectrum strategy': Canaccord" (Mar. 6, 2015), available at <http://bit.ly/1wSKnyh>.

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Policies Regarding Mobile Spectrum Holdings*, WT Docket No. 12-269; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268.

I have been vocal in my opposition to the underlying action establishing reserve spectrum in the incentive auction for a privileged subset of wireless carriers, and therefore fervently oppose T-Mobile's petition to increase the reserve's size. Similarly, I disagree with Sprint's petition to weigh spectrum bands differently when imposing the secondary market spectrum screen. Therefore, I support the item before us denying these petitions.

The petition by T-Mobile embodies what happens when the government believes it is smarter than the free market. Some people think that if we just turn a knob over here or tighten a screw over there, as if in a social policy experiment, the market will provide their dream utopia. In reality, it is just the opposite: a non-manipulated market produces the most efficient and just outcome – even if it may not seem so at the exact moment it happens.

Clearly, the unnecessary and improper interference of reserve spectrum will unfairly skew the auction outcome, thereby producing less revenue for the American people who entrust the Commission to protect and maximize the value of their spectrum assets. Yet, such interference is still not enough to satisfy the unrighteous demand for special treatment by some. Requesting that the government “rectify” self-inflicted spectrum mistakes of the past represents an amazing amount of gall. I won't be a party to this – not now, not ever.