

May 11, 2023

**Ex Parte**

Marlene Dortch,  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

*Re: Proposed Corrections to Certain Reference to Unlicensed Operations in the 6 GHz Band in the Public Copy of Expanding Flexible Use of the 12.2-12.7 GHz Band, WT Docket Nos. 20-443 et al., Report and Order and Further Notice of Proposed Rulemaking and Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use, Notice of Proposed Rulemaking and Order, GN Docket No. 22-352*

Dear Ms. Dortch:

The Dynamic Spectrum Alliance (“DSA”)<sup>1</sup> review of the Public Copy of *Expanding Flexible Use of the 12.2 – 12.7 GHz Band*,<sup>2</sup> has identified certain references to unlicensed use in the 6 GHz band in the text that we believe would benefit from crisper language to make it consistent with the Commission’s 6 GHz Report and Order and Future Notice of Proposed Rulemaking.<sup>3</sup> Further, a footnote in the Public Copy of the *Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use*, referring to the D.C. Circuit’s decision to uphold the Commission’s 6 GHz rules should be clarified and corrected. Specifically,

- Paragraph 54 says that the Commission’s Part 15 rules “require that unlicensed devices protect the licensed incumbent services.” The direct verb “protect” arguably implies that the device itself take some action, and the sentence does not even say what the licensees must be “protected” from. A more accurate formulation based on the Commission’s rules would be that the rules “subject operation of unlicensed devices to the condition that no harmful interference is caused.”

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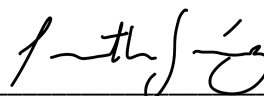
<sup>1</sup> The Dynamic Spectrum Alliance is a global, cross-industry alliance focused on increasing dynamic access to unused radio frequencies. The membership spans multinational companies, small- and medium-sized enterprises, academic, research, and other organizations from around the world, all working to create innovative solutions that will increase the utilization of available spectrum to the benefit of consumers and businesses alike. A full list of the DSA members is available on the DSA’s website at [www.dynamicspectrumalliance.org/members/](http://www.dynamicspectrumalliance.org/members/).

<sup>2</sup> *Expanding Flexible Use of the 12.2-12.7 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking – WT Docket No. 20-443; *Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband or Other Expanded Use*, Notice of Proposed Rulemaking and Order – GN Docket No. 22-352, Public Copy, released 28 April 2023.

<sup>3</sup> *Unlicensed use of the 6 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 18-295; GN Docket No. 17-183, 35 FCC Rcd 3852 (2020). (6 GHz R&O and FNPRM)

- Paragraph 54 also describes the power spectral density (PSD) limit for Low Power Indoor (LPI) devices operating in the 6 GHz band. Given the pending proposal in the 6 GHz R&O and FNPRM for a higher PSD limit,<sup>4</sup> it would be more accurate to describe these as the “current” rules.
- Paragraph 56 describes Automated Frequency Coordination (AFC) as a possible model for sharing in the 12.2 GHz band, but inaccurately describes AFC as having been “adopted for unlicensed outdoor deployments in the 6 GHz band.” Standard-power (SP) unlicensed device operations in the U-NII-5 and U-NII-7 portions of the 6 GHz can and will be both indoors and outdoors.
- In paragraph 87, footnote 297, regarding 12.7 GHz band the text states that the D.C. Circuit “did remand a portion of the 6 GHz band unlicensed rules to the Commission”. First, paragraph 87 discusses SP operations under control of an AFC. The remand relates to the operations of LPI devices. It is not clear there is any need for text in the footnote outside of citing the relevant sections of Part 15. But more importantly, the sentence in the footnote is incorrect. The Commission’s 6 GHz rules remain in place—the court remanded part of the 6 GHz Order. The DSA believes the sentence in footnote 297 is unnecessary and proposes it be deleted. But if this is not possible, the DSA urges the Commission to correct that inaccuracy and revise the sentence to more accurately identify that the focus of the remand was just for a better response to the particular arguments NAB and others had raised about the experience in 2.4 GHz ISM band.

Respectfully submitted,



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Martha SUAREZ  
President  
Dynamic Spectrum Alliance

Cc: Jonathan Campbell  
Danielle Thumann  
Shiva Goel  
Erin Boone

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<sup>4</sup> See 6 GHz R&O and FNPRM at ¶¶ 244 – 245.