Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of:  

Reallocation of 470-512 MHz (T-Band) Spectrum  

PS Docket No. 13-42

COMMENTS OF  
THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL

The National Public Safety Telecommunications Council (NPSTC) submits these comments in response to the Notice of Proposed Rulemaking (NPRM) in the above captioned proceeding to reallocate and auction the public safety T-Band spectrum and relocate public safety operations from the band.¹

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I. Executive Summary

As addressed in these comments, and as the Commission is well-aware, there is no public interest benefit in implementing the T-Band auction and associated steps mandated by Congress. If Congress fails to repeal the T-Band mandate it adopted in 2012, the result is significant disruption to public safety, the likelihood of a failed auction, an unfunded mandate for public safety relocation and unnecessary cost to taxpayers. NPSTC appreciates the Commission’s dilemma in implementing the law as Congress mandated and provides guidance on the proposals and issues raised in the NPRM that relate to the public safety T-Band spectrum.
II. The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of being a resource and providing advocacy for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 16 organizations serve on NPSTC’s Governing Board:  

- American Association of State Highway and Transportation Officials
- American Radio Relay League
- Association of Fish and Wildlife Agencies
- Association of Public-Safety Communications Officials-International
- Forestry Conservation Communications Association
- International Association of Chiefs of Police
- International Association of Emergency Managers
- International Association of Fire Chiefs
- International Municipal Signal Association
- National Association of State Chief Information Officers
- National Association of State Emergency Medical Services Officials
- National Association of State Foresters
- National Association of State Technology Directors
- National Council of Statewide Interoperability Coordinators
- National Emergency Number Association
- National Sheriffs’ Association

These comments represent the views of the NPSTC Governing Board member organizations.
Several federal agencies are liaison members of NPSTC. These include the Department of Homeland Security (the Federal Emergency Management Agency, the Emergency Communications Division, the Office for Interoperability and Compatibility, and the SAFECOM Program); Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, Communications Technology Program). Also, Public Safety Europe is a liaison member. NPSTC has relationships with associate members: The Canadian Interoperability Technology Interest Group (CITIG) and the Utilities Technology Council (UTC), and affiliate members: The Alliance for Telecommunications Industry Solutions (ATIS), Open Mobile Alliance (OMA), Telecommunications Industry Association (TIA), TETRA Critical Communications Association (TCCA), Project 25 Technology Interest Group (PTIG), the Government Wireless Technology & Communications Association (GWTCA), and the Safer Buildings Coalition (SBC).

III. NPSTC Comments

A. There is No Public Interest Benefit in the T-Band Mandate

In February 22, 2012, Congress passed the Middle Class Tax Relief and Job Creation Act, also known as Public Law 112-96 (P.L.112-96). In addition to addressing spectrum at 700 MHz and providing funding and a governance structure for a new public safety broadband network, P.L. 112-96 also included Section 6103 that addresses the public safety T-Band spectrum as follows:

SEC. 6103. 470–512 MHZ PUBLIC SAFETY SPECTRUM
(a) IN GENERAL.—Not later than 9 years after the date of enactment of this title, the Commission shall—
(1) reallocate the spectrum in the 470–512 MHz band (referred to in this section as the “T-Band spectrum”) currently used by public safety eligibles as identified in section 90.303 of title 47, Code of Federal Regulations; and
(2) begin a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for the use of the spectrum described in paragraph (1).

(b) AUCTION PROCEEDS.—Proceeds (including deposits and upfront payments from successful bidders) from the competitive bidding system described in subsection (a)(2) shall be available to the Assistant Secretary to make grants in such sums as necessary to cover relocation costs for the relocation of public safety entities from the T-Band spectrum.

(c) RELOCATION.—Relocation shall be completed not later than 2 years after the date on which the system of competitive bidding described in subsection (a)(2) is completed.

There simply is no public interest benefit in implementing these steps mandated by Congress in Section 6103. Public safety needs the certainty that Congress has repealed Section 6103 rather than having the threat of the T-Band auction and relocation continuing to hang over its head. If Congress fails to repeal this “T-Band mandate” it adopted in 2012, the result is significant disruption to public safety, the likelihood of a failed auction, an unfunded mandate for public safety relocation, no viable identified spectrum relocation home, and unnecessary costs ultimately borne by taxpayers. Accordingly, NPSTC appreciates the Commission’s dilemma in implementing the law as Congress mandated, and thanks the Commission for including some common sense proposals in its NPRM, as addressed more fully further in these comments.

Subsequent to passage of P.L. 112-96/Section 6103, NPSTC conducted a comprehensive study of its impact to public safety, and issued the **NPSTC T-Band Report** released March 15, 2013. The study concluded that 1) in at least 5 of the 11 metropolitan T-Band areas, there is insufficient public safety land mobile spectrum to accommodate displaced T-Band operations; 2) the cost of public safety relocation in all 11 T-Band areas would be approximately $5.9B if such

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relocation were possible; 3) and that such costs are likely to exceed any net auction revenue, given significant broadcast and industrial/business operations also in the band. In summary, the NPSTC T-Band Report concluded:

Given the lack of alternative spectrum, cost of relocation, major disruption to vital public safety services, and likelihood that the spectrum auction would not even cover relocation costs, NPSTC believes implementing the T-Band legislation is not feasible, provides no public interest benefit, and the matter should be re-visited by Congress.

A subsequent NPSTC T-Band Update Report issued May 31, 2016 concluded that with the exception of releasing 24 channels from the 700 MHz reserve and prioritizing those to help accommodate T-Band relocation, very little had changed since the original analysis.⁴ The update report mapped out all the counties included in each of the eleven T-Band metropolitan areas and calculated that approximately 90 million people live in the T-band areas at risk of losing the public safety T-Band spectrum. The update report also catalogued the hundreds of TV stations in the band to be protected that would impact the spectrum if it were auctioned. In fact, the Commission’s subsequent incentive auction and repacking of TV stations, some of which landed on channels 14 through 20, affects any potential deployment of the T-Band spectrum even further.

In June 2019, the U.S. General Accountability Office (GAO) issued its own report that also addressed the public safety disruption, cost of relocation, and likely shortage of any T-Band auction proceeds to meet relocation costs that would result from implementation of Section 6103.⁵

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GAO recommended that “Congress should consider legislation allowing public safety users continued use of the T-Band spectrum.”

In its report, GAO also elaborated on a previous study:

In December 2018, we reported that it is vital for first responders—such as police officers and firefighters—to have (1) timely communications; (2) sufficient capacity to handle the communications; and (3) interoperable communications systems that enable first responders to connect with their counterparts in other agencies and jurisdictions, even if their counterparts’ systems or equipment vendors differ. As noted previously, public safety users rely on LMR systems as their primary means to gather and share information. For public safety users that rely on the T-Band for interoperable communications and that lack alternative spectrum to build new interoperable systems, losing access to the T-Band would mean public safety officials in multiple large metropolitan areas would be unable to communicate with first responders within their community, neighboring jurisdictions, and the federal government. [Emphasis added].

The Commission has also recognized the need for Congress to repeal Section 6103. On December 2, 2019, Chairman Pai issued a statement which in part, said the following:

The agency has extensively analyzed the T-Band and concluded that moving forward is not viable—relocation costs for public safety licensees would likely far exceed any potential auction revenue, making it impossible to fund the relocation and comply with the mandate. The Government Accountability Office has agreed—reporting to Congress that the T-Band mandate is unworkable and could deprive first responders of their current ability to communicate by radio.

Because of these concerns, I’m calling on Congress to repeal the T-Band mandate. I’m hopeful that Congress can resolve this matter without delay. Doing so will not only protect public safety communications in the T-Band but will also allow our dedicated auction staff to focus in 2020 on auctions that will make new airwaves available for 5G, like spectrum in the 3.5 GHz and 3.7 GHz bands.

The need to repeal the T-Band Mandate is further addressed by Verizon and AT&T, two nationwide carriers that have routinely sought additional spectrum through auctions.

The T-band has limited commercial value for mobile broadband. It is, however, critically important to public safety agencies," said Robert Fisher, Verizon’s senior vice president,
federal government affairs. “We urge the House Energy and Commerce Committee to take prompt action on the bill in order to provide the nation’s first responders with the assurance that their communications systems will not be adversely affected.”

There are public safety agencies currently utilizing T-band spectrum to support daily operations and emergency events, including the current COVID-19 public health crisis. The decision by Congress in 2012 to mandate auction of the T-band next year must be repealed.

NPSTC, NPSTC member organizations, jurisdictions that rely on the T-Band, the GAO, the FCC Chairman, and two major wireless carriers have all called on Congress to repeal the T-Band reallocation, auction and clearing mandate in Section 6103. It is clear that the provisions of Section 6103 contain no public interest benefit, despite the law not yet being repealed, as of the submission of these comments.

B. Relocation Alternatives

As addressed in detail in the NPSTC T-Band Report and the NPSTC T-Band Update Report, actual relocation of public safety systems is problematic. First, in many of the T-Band areas, sufficient spectrum does not exist to which public safety entities can relocate and maintain the operational characteristics of their mission critical systems that currently operate in the T-Band. The Commission states in the NPRM that “…the destination spectrum bands are not yet determined” and further notes that “the T-Band Mandate does not identify spectrum bands to which public safety entities could be relocated.” The NPRM seeks comments on relocation spectrum alternatives.

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10 AT&T Urges Congress to Repeal Mandate to Auction T-Band Spectrum, blog statement by Tim McKone, AT&T Executive Vice-President of Federal Relations, May 20, 2020.
11 NPRM at paragraphs 36 and 37, respectively.
NPSTC fully addressed the potential relocation of public safety in its 2013 T-Band Report and concluded that five of the eleven T-Band areas did not have sufficient alternative spectrum to support public safety relocation. The NPSTC analysis included the 150-170 MHz, 450-470 MHz, 800 MHz and 700 MHz bands. Given 700 MHz was the most recent band made available, NPSTC conducted its relocation cost analysis on the basis of moving from T-Band to the 700 MHz public safety band. However, we noted that there is not enough spectrum to support actual relocation.

The NPRM advises there is an extensive record in the proceeding and the Commission presumably has had its staff analyze that record. Still, the Commission requests comments in the NPRM on options for spectrum relocation. NPSTC believes the request for comments instead of a firm proposal underscores there is no viable relocation home.

Previous NPSTC reports, the Commission and the GAO have addressed at various times the potential for public safety T-Band operations to be moved to FirstNet. The GAO Report states the following regarding a potential relocation from the T-Band to FirstNet:

According to FCC officials and a FirstNet official, public safety users on the T-Band may subscribe to services on FirstNet’s nationwide public safety broadband network, which offers some voice functionality. However, officials said the network currently does not accommodate the need of public safety users for mission-critical voice functionality. For example, FCC officials told us that FirstNet’s network is not a substitute for mission critical voice systems operated by public safety licensees in the T-Band because the network does not support such capabilities and because there is no plan or schedule in place for the network to begin offering such services.

According to an official at FirstNet, this network is intended to complement LMR systems with broadband capabilities, not replace LMR systems in the near future. In the interim, public safety users electing to use FirstNet’s broadband network will need to continue to use LMR networks for their mission critical voice needs while evaluating whether their future
voice needs require continued maintenance of their LMR networks or whether FirstNet broadband services could fulfill their wireless communications requirements.\textsuperscript{12}

NPSTC concurs. While FirstNet has proven to be very beneficial to public safety as a broadband network primarily for data and video, it is not a viable replacement for mission critical voice systems such as those on T-Band or other public safety land mobile bands. Comparable mission-critical voice on LTE is not yet in place. There are still no direct-mode devices for FirstNet viable for public safety tactical use. Even if/when such capabilities become available, it would be irresponsible for public safety to abandon trusted land mobile systems before there has been sufficient public safety field testing of any new capabilities on FirstNet. Such testing would need to include the variety of environments and situations public safety faces in which reliable communications can mean the difference between life and death, and therefore would take significant effort and time to accomplish.

C. T-Band Spectrum Reallocation and Auction

As addressed above, NPSTC does not believe the provisions of Section 6103 are in the public interest. However, NPSTC understands the Commission must take steps to address the potential T-Band reallocation, auction and public safety relocation in the event Congress fails to repeal Section 6103.

The GAO report notes “FCC officials told us that the Act and its legislative history do not explain the purpose of the T-Band auction and relocation, and we confirmed the absence of legislative history for the auction mandate.”\textsuperscript{13} Given the lack of any substantive rationale to auction and clear the spectrum, NPSTC recommends the Commission consider issuance of the NPRM as meeting the requirement in Section 6103 to “\textit{begin a system of competitive bidding…}” by February 22, 2021.

\textsuperscript{12} GAO Report 19-508, pages 21 and 22.
\textsuperscript{13} GAO Report 19-508, page 8.
If the Commission agrees that issuance of the NPRM qualifies to meet that portion of Section 6103 requirements, then there is no need to rush to start an actual auction that the Commission, the GAO, and the community all know has no real purpose, will fail, and will disrupt public safety communications in the process. Furthermore, there are no provisions in Section 6103 that defines when the auction must be completed.

In the event an auction is held, NPSTC supports the Commission’s common sense proposal not to issue new licenses in the band if auction proceeds are insufficient to cover public safety relocation costs, a costs that NPSTC, GAO and the Commission have estimated to be at least $6 billion, and which auction proceeds are unlikely to meet. In making its proposal, the Commission asks for comments on the following:

…how to address any deficit in net winning bids—should we require public safety licensees to relocate on a city-by-city basis if the bids for a particular urbanized area meet or exceed the cost estimates to relocate public safety licensees in that particular area? Similarly, should licensees be required to relocate on a channel-by-channel basis within urbanized areas where bids for that channel meet or exceed the cost of clearing the channel?\(^\text{14}\)

NPSTC looks forward to input from public safety jurisdictions that would be faced with potential relocation. However, NPSTC will offer some general guidance. In T-Band areas, the spectrum supports both individual agency needs and mission-critical voice interoperability among multiple agencies and jurisdictions. Therefore, NPSTC believes the auction proceeds must be sufficient to fund all relocation costs incurred to relocate entire systems and associated mobile and portable units to comparable facilities for all departments and all jurisdictions currently on the T-Band in each T-Band urban area.

\(^{14}\) NPRM at paragraph 24.
While a jurisdiction may need a phased approach in relocating from T-Band to some viable alternative spectrum, NPSTC does not believe the adequacy of auction revenue should be assessed on a channel-by-channel basis. Any jurisdiction or department that needs to relocate would need sufficient funding to cover relocation of an entire system, which of course may incorporate multiple channels. Therefore, at minimum, the adequacy of auction revenues should be assessed based on the relocation costs of all public safety facilities for a T-Band urban area. NPSTC also has no objection to assessing the adequacy of auction funding on a nationwide basis for all T-Band system relocations, subject to further input from public safety T-Band licensees.

The NPRM also raises questions whether public safety T-Band systems authorized by waiver fall under the T-Band Mandate of Section 6103. NPSTC believes that qualification for relocation funding is a separate question from whether a public safety licensee authorized by waiver is required to relocate under the T-Band Mandate of Section 6103. NPSTC recommends that any T-Band public safety licensee should be qualified for sufficient relocation funding, whether its use of T-Band was authorized under the provisions of Section 90.303, or by a waiver, or some combination of the two. For “hybrid systems” with some sites or spectrum authorized under the rule and other sites or spectrum authorized by waiver, sufficient auction revenue to cover relocation of the entire system is the relevant factor.

If a public safety T-Band licensee has a stand-alone system completely authorized by waiver with no nearby T-Band licensees with which it needs to interoperate, the Commission may find that it does not need to move under the provisions of Section 6103. However, if it chooses to move, it should be qualified to receive relocation funding, and the amount of that funding should be included in the assessment of whether auction proceeds are sufficient.
D. Relocation and Comparable Facilities

Any reimbursement for relocation funding must cover the relocation entirely. The COVID-19 pandemic that has gripped our nation has caused the closure of many restaurants, hotels, and numerous other businesses, and has severely reduced travel. Most jurisdictions are facing a significant unplanned shortage in tax revenues. This essentially eliminates the possibility of a jurisdiction providing any matching funds to help in supplementing T-Band relocation funding drawn from auction revenue. Accordingly, any public safety T-Band relocation must be fully funded by external means, not from dwindled local or state tax revenues.

Public safety entities have spent significant effort and millions of dollars of federal, state and local government funds sourced from the public tax dollars to plan and construct their T-Band networks to meet mission critical voice requirements. The result is battle-tested public safety networks designed for the operational needs of each area. These T-Band networks provide resilient mission critical voice coverage, building penetration, reliability, the option for off-network unit-to-unit operations, local control, specialized operations like paging and alerting of firefighters and emergency medical personnel, and regional interoperable voice communications in large metropolitan areas.

It is counterproductive to dismantle these public safety mission critical voice networks, especially in the face of ever-increasing threats and incidents from terrorism and civil unrest, growing gang activity, increased violent crime in major cities, natural disasters, the current pandemic, and other health and safety threats. However, if Congress fails to repeal Section 6103, NPSTC understands the Commission must have a potential plan in place for public safety relocation from the T-Band.
NPSTC supports the Commission proposal to require that comparable facilities be provided to relocated licensees. The NPRM states:

Consistent with our approach to mandatory relocation in other services, we propose that public safety licensees relocated from the T-Band will be compensated for reasonable relocation costs and provided with comparable facilities. Provision of comparable facilities should ensure that public safety eligibles are not unduly burdened and that their operations are not inordinately disrupted by mandatory relocation from the T-Band. Importantly, we seek to ensure that, in providing comparable facilities, the relocation process does not result in degradation of existing service or cause an adverse effect on important public safety communications operations. We propose to define “comparable facility” as a replacement system that is at least equivalent to the public safety eligible’s existing T-Band system with respect to the following four factors: (1) system, (2) capacity, (3) quality of service, and (4) operating costs. We seek comment on this proposal.15

The NPRM also includes some proposed guidelines for each of these four broad categories. For example, the Commission proposes that a comparable system would be functionally determined from the end user’s point of view, that capacity would have the same overall capacity as the original configuration, including signal capacity, baud rate, and access time, and must achieve equivalent coverage with that of the original system. Comparable quality of service would require the same level of interference protection and reliability, as measured by the percent of time audio quality meets an established threshold. The Commission also proposes that with respect to operating costs, compensable costs would include all reasonable engineering, equipment, site and Commission fees, as well as any reasonable, additional costs that the covered incumbent may incur as a result of mandatory relocation.

In general, NPSTC concurs with the comparable facilities proposal and enthusiastically supports the Commission’s statement that it is committed “…under any scenario to ensuring the continuity of such licensees’ public safety mission-critical communications.”16

15 NPRM at paragraph 30.
16 NPRM at paragraph 25.
recommends the Commission include all costs associated with relocation as allowable. We do note that T-Band systems are customized to meet the needs of a given agency or group of agencies, and therefore the specific categories of costs that should be reimbursable may vary somewhat from one system to another. NPSTC recommends that the Commission define an approach that ensures the entire relocation and cost reimbursement process will in fact be determined from the end user’s point of view. Public safety entities with their lives on the line are the ones who must rely on these communications systems.

IV. Conclusion

There simply is no public interest benefit in implementing the steps mandated by Congress in Section 6103 of Public Law 112-96. NPSTC, NPSTC member organizations, jurisdictions that rely on the T-Band, the GAO, the FCC Chairman, and two major wireless carriers have all called on Congress to repeal the T-Band reallocation, auction and clearing mandate it adopted in 2012. If Congress fails to repeal the T-Band mandate, the result is significant disruption to public safety, the likelihood of a failed auction, an unfunded mandate for public safety relocation, no viable identified relocation home, and unnecessary costs ultimately borne by taxpayers. Accordingly, NPSTC appreciates the Commission’s dilemma in implementing the law as Congress mandated.

Neither the Commission nor GAO could find any legislative history to explain the purpose of the T-Band Mandate. Therefore, NPSTC believes that issuance of the NPRM already meets the requirement that the Commission initiate a system of competitive bidding by February 22, 2021. However, as addressed in NPSTC’s T-Band Report and T-Band Update Report, actual relocation of public safety systems is much more problematic. NPSTC enthusiastically supports the Commission’s commitment to ensure the continuity of licensees’ public safety mission-
critical communications under any scenario ultimately adopted, even if Congress fails to repeal
the T-Band mandate. NPSTC also supports the Commission’s common sense proposal not to
issue new licenses in the band if auction proceeds are insufficient to cover public safety
relocation costs, an overall cost that NPSTC, GAO and the Commission have estimated to be at
least $6 billion.

Given T-Band systems in an urban area are used for both day-to-day mission critical
communications and interoperability across agencies and jurisdictions, NPSTC recommends the
assessment of auction funding adequacy be made based on an entire T-Band urban area at
minimum, or on a nationwide basis. NPSTC supports the Commission’s proposal to require that
relocation funding cover the cost of comparable facilities and notes that such funding must cover
all costs associated with relocation, especially given the tax revenue reductions that jurisdictions
will experience from the COVID19 pandemic. In determining the adequacy of relocation
funding, the full involvement of public safety jurisdictions and departments affected is essential.

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