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January 10, 2023

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C. 20554

Re: ET Docket No. 18-295
***Ex Parte* Letter**

Dear Ms. Dortch:

While the Enterprise Wireless Alliance (“EWA”) and others are on record disputing many of the positions taken by the Wi-Fi Alliance (“Alliance”) in its January 5, 2023 *ex parte* letter in this proceeding,¹ one element of that filing requires particular attention. The Alliance refutes any need for real world testing of 6 GHz unlicensed devices, including LPI devices, claiming that FCC rules establish safeguards needed to minimize the risk of interference. Specifically, it cites language from ¶ 149 in the FCC Order that reads, in relevant part:

...our Part 15 rules in section 15.5 (b)-(c) require that such operations cease, and the Commission’s Enforcement Bureau has the ability to investigate reports of such interference and take appropriate enforcement action as necessary. Also, as AT&T correctly points out, once interference to a protected service crosses the relevant threshold specified in section 15.3(m) for harmful interference, it is immediately actionable for enforcement purposes. Any user causing interference may be required to cease operating the U-NII device, even if the device in use was properly certified and configured, and will not be permitted to resume operation until the condition causing the harmful interference has been corrected.²

The issue, however, as the Alliance is well aware, is not whether there are rules that enable the FCC to take action in response to interference from unlicensed 6 GHz devices or other devices that cause interference. The issue is the difficulty of identifying

¹ Wi-Fi Alliance, Written *Ex Parte* Communication (filed Jan 5, 2023).

² *Unlicensed Use of the 6 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3852 at ¶ 149 (2020)(*citations deleted*).

the source of interference, especially from 6 GHz devices that are not tethered to an AFC, the lack of any agreed upon process for reporting interference from such devices assuming the source can be identified, and the limited FCC resources available to investigate and resolve the problem in a timely fashion.³

The latter point has been amply demonstrated in the interference being experienced by Miami-Dade County, Florida, as documented in the November 22, 2022 *ex parte* letter in this proceeding filed by APCO International.⁴ The Alliance attempts to discount that exceedingly troubling situation by emphasizing that the interference-causing transmitter is an illegally operating licensed device. But as the Alliance and the FCC surely recognize, the concerning factor is the inability to date to eliminate the interference **even though** the transmitter is licensed and identified, despite what EWA is confident have been the FCC Enforcement Bureau's best efforts. If interference cannot be controlled in that situation, it does not bode well for unlicensed 6 GHz devices, since all parties, including the FCC, acknowledge, that the rules are not assumed to eliminate, but rather to minimize, their potential for interference.

This issue resulted in an impasse documented in the 6 GHz Multi-Stakeholder ("MSG") report filed on July 11, 2022.⁵ The report noted that "Consensus was not reached within the 6GHz MSG on a set of recommended procedures and recommended course of action for interference reporting by FS operators."⁶ Without an agreed upon process for reporting interference, it is, at best, unclear how the rules cited by the Alliance would be enforced by the FCC, assuming it has the resources to pursue such matters to a satisfactory conclusion.

Incumbents have already refuted many of the technical and legal arguments presented by the Alliance and EWA will not belabor those matters here. But it must emphasize that the lack of a defined process for presenting interference information to the FCC, thereby triggering its enforcement capabilities, is a glaring hole in this proceeding that demands FCC attention.

³ The Alliance also discounts any responsibility of the unlicensed community for the costs that will be incurred by 6 GHz incumbents in addressing potential and actual interference.

⁴ APCO *Ex Parte* Letter (filed Nov. 22, 2022).

⁵ Letter from Richard Bernhardt, Don Root, Edgar Figueroa, and Brett Kilbourne, Chairs of the 6 GHz Multi-Stakeholder Group (filed July 11, 2022), attaching "Best Practices and Recommended Procedures for Interference Detection, Reporting, and Resolution to Protect Fixed Microwave Service Receivers in the 6 GHz Band".

⁶ *Id.* at 28.

Ms. Marlene H. Dortch

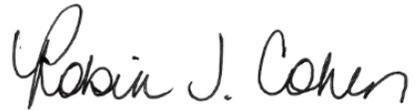
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Please feel free to contact me if you have any questions or comments.

Sincerely,

ENTERPRISE WIRELESS ALLIANCE

A handwritten signature in black ink that reads "Robin J. Cohen". The signature is written in a cursive style with a large initial 'R'.

Robin J. Cohen

President/CEO

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