



March 7, 2020

Ms. Marlene Dortch  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: ET Docket No. 19-138, Use of the 5.850-5.925 GHz Band

Dear Ms. Dortch:

The American Highway Users Alliance (the “Highway Users” or “we” or “our”) strongly recommends that the Federal Communications Commission withdraw the proposed rule in this docket. See Notice of Proposed Rulemaking (NPRM), 85 Federal Register 6841 et seq. (February 6, 2020).

The proposed rule would radically change the purpose of the 75 MHz band that is the subject of this docket. Today, all 75 MHz are assigned to transportation safety purposes, while also providing mobility benefits. Under the proposed rule, 45 MHz of the 75 MHz would be reassigned to unlicensed purposes. Implementation of the proposed rule would have significant adverse impacts on public safety and the economy.

The Highway Users is the united voice of the motoring public -- promoting safe, uncongested highways and enhanced mobility for people and business. The Highway Users is a non-profit organization with approximately 300 member organizations, including companies, trade associations, safety advocacy groups, and motoring clubs. Our members represent or support millions of road users from the truck, bus, auto, RV, and motorcycling modes.

### **Objection to the NPRM is Wide and Strong**

We agree with national transportation leaders who have opposed the proposed rule, properly emphasizing safety concerns. The proposed rule in this docket has been challenged by U.S. Transportation Secretary Chao, whose November 20, 2019 letter to Chairman Pai recommended retaining the full 75 MHz for transportation safety, found that the Commission’s proposal was “insufficiently grounded,” and recommended that the Commission not issue the proposed rule.<sup>1</sup>

Equally significant, a bipartisan/nonpartisan letter to all five Commissioners by Chairman DeFazio and Ranking Member Graves of the House Transportation and Infrastructure Committee (January 22, 2020), joined in by many Committee Members, expressed disapproval of the proposed rule.<sup>2</sup> AASHTO, the

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<sup>1</sup> Hereinafter “Chao Letter.” Link: <https://www.highways.org/wp-content/uploads/2019/12/sec-chao-letter-5.9-11-20-19.pdf>

<sup>2</sup> Hereinafter “T&I Letter.” Link: <https://transportation.house.gov/imo/media/doc/2020-01-22%20Full%20TI%20Letter%20to%20FCC.pdf>

automobile industry, the trucking industry, ITS America and other transportation organizations have also opposed the Commission's proposal, as described in the T&I letter and elsewhere.<sup>3</sup>

### **The Basis for the Commission's Proposal is Unsound and Underestimates Safety and Transportation Benefits**

While the breadth and depth of opposition itself should cause the Commission to rethink this NPRM, we and others also disagree with the apparent bases for the proposed action.

The Commission has apparently concluded that the 75 MHz has not been promptly or widely deployed, that technologies to further transportation safety and efficiency are being developed outside the 75 MHz band, and that the remaining 30 MHz that the NPRM would reserve for transportation is adequate (see NPRM at 6842-43).<sup>4</sup>

However, while the 75 MHz was allocated to transportation in 1999, it was not until 2008 that a needed spectrum sharing agreement was reached allowing vehicle to everything (V2X) technologies to function in that band without interference. Shortly thereafter, a statute required study of whether unlicensed devices could operate in that 75 MHz band without interfering with transportation uses. Then, in 2015, Congress asked the FCC to test that point. That testing is not complete. So, the transportation industry did not have a clear opportunity to develop use of the band for years after it was allocated and then has faced overt interest by some in enabling other uses of the band, uses that raise questions of technical interference with the transportation uses.

Despite this uncertainty, there is growing use of the band, including in a majority of states.

At the same time, advances in the automobile and trucking industries continue. Vehicles rely more and more on advanced electronics that interact with other vehicles and with the surrounding infrastructure and other environment. The proposed rule would shrink spectrum available for transportation safety as the increasingly sophisticated vehicles can make more and better use of the spectrum.

The 75 MHz also can help ease congestion, facilitate safe vehicle operation in challenging weather, and provide other tangible benefits.

Secretary Chao's letter noted costs in 2017 alone from the 37,000 lives lost on our nation's highways, plus injuries and other impacts, as totaling \$800 billion. Traffic congestion costs of \$140 billion annually were described by the Secretary as additional. See Chao letter. Preserving the 75 MHz band for transportation holds promise to greatly reduce those costs and save lives and prevent injuries, as well as increase transportation efficiency – if it is allowed to work! The "benefits" claimed for the proposal

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<sup>3</sup> See ITS America January 14, 2020 press release, link:

[https://static1.squarespace.com/static/596fb16003596e0fa70a232f/t/5e1e07688f22f026cd4e6019/1579026280116/TRB+V2X+stakeholder+mtg+release+1-20\\_f.pdf](https://static1.squarespace.com/static/596fb16003596e0fa70a232f/t/5e1e07688f22f026cd4e6019/1579026280116/TRB+V2X+stakeholder+mtg+release+1-20_f.pdf)

<sup>4</sup> The docket also raises questions regarding specific uses within the spectrum to be reserved for transportation, with implications as to use by DSRC as opposed to or in addition to V2X technologies within certain channels. This comment does not address such issues. What is of overriding importance is preserving the full 75 MHz band for transportation purposes. After this NPRM is withdrawn, the Commission can consider technical issues regarding use of the spectrum within the 75 MHz band.

to open up most of the 75 MHz to unlicensed devices cannot approach the potential benefits of preserving the 75 MHz for transportation.

And, qualitatively, saving lives is a peerless benefit that policymakers must prioritize above all. Failing to preserve the full 5.9 GHz spectrum for connected vehicle technologies will make achieving zero fatalities on our roadways extremely difficult.

Further, the Commission has overestimated the value of the 30 MHz that its proposal would continue to assign to transportation. The various states that have developed uses for the band are collectively using the full range of the 75 MHz, not the 30 MHz that would remain.

In addition, and importantly, USDOT research to date indicates that with a reduction to 30 MHz, operations in the transportation safety band would suffer interference. This would further degrade the value of the band to transportation safety. Put another way, the proposed rule would, as a practical matter, reduce the band available to transportation by an even greater extent than the Commission purports, a negative impact not weighed by the Commission in issuing this proposal.

In short, the proposal would reduce spectrum available to enhance transportation safety. As less spectrum means less safety, there also would be significant negative economic consequences.

### **Conclusion**

For at least the reasons set forth above, and so that the full 75 MHz band can work to enhance public safety, the Highway Users strongly recommends prompt withdrawal of the proposed rule in this docket.

Sincerely,

*Laura C. Perrotta*

Laura C. Perrotta, CAE  
President & CEO