

WIRELESS FOUNDERS COALITION FOR INNOVATION
265 MADISON AVENUE, 4TH FL, NEW YORK, NY 10016

Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, SW
TW-A325
Washington, D.C. 20554

Re: WT Docket No. 06-150, PS Docket No. 06-229, WT Docket No. 96-86

Dear Chairman Martin

We are writing as members of the Wireless Founders Coalition for Innovation, which is a group of seasoned wireless industry entrepreneurs who have founded wireless companies that now generate billions of dollars of revenue and have created thousands of jobs. We have brought innovation to the wireless industry by creating new business models, launching new services, and addressing pressing consumer needs that were previously ignored by the large wireless carriers.

Our members are responsible for a number of “firsts” in the U.S. wireless market. For example:

- Fabrice Grinda founded Zingy, one of the first mobile content companies, which built the market for ringtones and mobile entertainment in the United States. Zingy grew from \$0 to over \$50 million in revenue in 4 years.
- John Tantum and Amol Sarva co-founded Virgin Mobile USA as its first President and Director of Finance, respectively. The first mobile virtual network operator (MVNO) in the United States, Virgin Mobile pioneered pre-paid calling plans and has made wireless accessible to millions of customers – especially younger people, lower income and lower credit people and ethnic minorities – who were previously underserved by the major operators. Virgin Mobile has achieved over \$1 billion in annual revenues in 5 years and transformed the wireless industry.
- Jason Devitt was the founder of Vindigo, which publishes more than twenty different applications for mobile phones including its famous city guide.
- Pat McVeigh was CEO of Omnisky, one of the first service providers to market a national wireless data product. He was CEO of PalmSource, the company that created the revolutionary Palm operating system.
- Sam Leinhardt founded Penthera, which has created one of the world’s first software platforms for mobile television broadcasting, as well as founding three prior technology

companies and having served as CEO of a mobile email software maker acquired by Nokia.

- Martin Frid-Nielsen founded Soonr, a novel service that very flexibly gives consumers access to their PC data from any mobile device or network, and holds four patents in wireless data synchronization.
- Alex Asseily founded Aliph, which created revolutionary, military-grade audio technology for wireless phones and the Jawbone wireless headset.

These are just a few examples: the full group of 15 founders is listed below. Additionally, many other very successful and ambitious entrepreneurs have shared their support for this approach with us in private as colleagues, but are stifled from articulating these views publicly for fear of reprisals by the large carriers who control access to national wireless networks today.

Having started successful wireless businesses, we are not resting on our laurels. We are entrepreneurs through-and-through. We are now working on our second, third, or fourth wireless startups, many of which are still in the “garage stage.” We continue to seek new applications for wireless technology and to push the envelope to help Americans be more productive, save money, feel more secure, and—not to be ignored—have more fun by using wireless services.

Executive Summary

We write in support of an Open Access E Block, as described in Frontline’s proposal. We believe the wireless industry is ripe with opportunities for innovation and economic growth, but the large wireless carriers currently act as gatekeepers to block or deter many of these opportunities. From firsthand experience we know that negotiating with the large carriers for access to their networks can be a difficult and time-consuming process that can add months if not years to the launch of a new venture and hinder the “trial and error” process intrinsic to the entrepreneurial process. An Open Access framework, by contrast, would enable innovation at “Internet speed.”

As entrepreneurs we are not only visionaries, we are pragmatists. We know it is difficult to for the FCC to force the large carriers to open up their existing networks retroactively. Nor do we ask the FCC to apply Open Access rules to the entire 700 MHz band. However, we think it is eminently reasonable for the FCC to consider setting aside a single 10 MHz block in the upcoming auction – a small fraction of the 700 MHz spectrum allocated to commercial use – as a sandbox for entrepreneurs. We applaud the Commission for paving the way for the DTV transition and freeing this valuable spectrum for new and exciting services. We believe, however, that this effort will have been wasted if it does not create opportunities for entrepreneurs to freely explore new ideas, services, and business models.

The 700 MHz Auction could prove to be a pivotal event in the history of the wireless industry, marking the transition to the age of the “wireless Internet.” But this will only happen if the FCC takes some entrepreneurial steps of its own, and gives the American people a chance to participate in the upside from a new and improved approach to wireless policy.

The Problem: Obstacles to Innovation in Wireless

Wireless entrepreneurship is not for the faint of heart. Believe us, we have been there and done that. The wireless industry is dominated by four large nationwide carriers: Verizon, AT&T, Sprint, and T-Mobile, a.k.a., “The Big 4.” We have dealt extensively with the Big 4, as partners, suppliers, customers, and competitors. We have developed business relationships at all levels of management and some of these relationships have even grown into friendships. The Big 4 counts among its ranks many bright and talented people, including more than a few visionaries and technical wizards. Dealing with these people is often a pleasure; dealing with their organizations is more difficult. The Big 4 are large, generally risk-averse companies, who exercise very tight control over their networks.

An entrepreneur looking to create a new device or service that somehow touches one of these networks typically has to get some measure of approval from the carrier. For a new device this might involve waiting six months or longer while it undergoes “compliance testing,” even when the device is merely a cosmetically-altered variant of some previously tested device. For a new software application this might involve lengthy negotiations over “deck placement” of the software, which may compete with an inferior product offered directly by the carrier itself. For an MVNO, the approval often requires convincing the carrier’s wholesale arm that a new retail service targets an under-served market niche and will not compete for customers with the carrier’s retail arm. And carrier Terms of Service prohibit many cutting edge applications that involve passing data traffic “over the top” of carrier networks. Of course, it is possible to navigate through these obstacles. We have done it before. Our experience tells us, however, that the path can be arduous, especially when compared to our experiences in other sectors of the telecom industry, especially the Internet. Experience also tells us that these efforts often do not succeed or do so slowly or at substantial costs.

Wireless entrepreneurship would take a huge step forward if wireless was more like the Internet. What makes the wireline Internet so friendly from an entrepreneur’s perspective is its Openness. One does not have to ask Comcast or Time Warner Cable or even Verizon’s DSL division for permission to launch a new product, service, or device. To borrow the Nike slogan, you can “just do it.” In wireless, on the other hand, you can “just ask the Big 4”. If you are skillful—or lucky—enough to make it through to the other side, the upside can be large. Yet entrepreneurship is an iterative, trial-and-error process. Having to engage with the Big 4 at each cycle in the process can slow time to market and increase risks and costs for the entrepreneur. One should not have to negotiate with an access provider to offer a product elsewhere in the value chain.

The Solution: Open Access

We believe that an Open Access requirement on the E Block provides a concrete and actionable way to carve out a portion of the wireless market for entrepreneurial activity. Specifically, we believe the FCC can unlock a wave of entrepreneurial energy if it implements three forms of Open Access in the E Block: Open Services, Open Devices, and Open Auction.

Open Services

An Open Services rule would require that the E Block service provider allow customers to access “over the top” Internet-style applications of all kinds. These would include many kinds of services currently prohibited under the Big 4 subscriber contracts. Verizon Wireless, for example, prohibits the use of VoIP, webcams, and other media services. Under the Open Access rule, these kinds of terms of service would not be allowed. Entrepreneurs would be free to create a low cost voice offering or, say, a mobile social network with videoblogging capabilities. The only limits on new service ideas would be the entrepreneur’s imagination, not the wireless operator’s terms of service.

Open Devices

The Open Devices rule would ensure that users can connect any device of their choosing to their wireless network, provided it meets certain publicly specified technical standards. The consumer device industry has undergone a revolution in the past few years. Modular design and contract manufacturing now make it possible for even an upstart to sell sophisticated, purpose-built devices. In particular, RF technology is becoming increasingly commoditized, which means that it is now possible to embed wireless capabilities into devices using off-the-shelf component parts. We envision a wave of opportunity in the device space, including the evolution of cell phones toward “broadband communicators,” the addition of wireless community features to portable media and gaming devices, and even using wireless to provide cheap connectivity to otherwise “dumb” appliances. We are starting to see these kinds of devices emerge with local area WiFi capabilities, but the possibilities are even greater once the devices can access the sort of wide area 4G networks that will operate in the 700 MHz band. Bringing a new product to market is always a risky proposition, but it is made more risky by the need to pass a carrier’s certification process, which as noted above can take many months. Under the proposed Open Devices rule, entrepreneurs would be free to bring new devices to market, gauge customer reaction, and evolve the product all in the time that it otherwise would have spent languishing in a Big 4 lab somewhere. Especially when the underlying RF components have been shown to meet a “do no harm” technical standard, there is no reason to subject the entrepreneur—or her customers—to needless bottlenecks.

Open Auction

Finally, we applaud the recent suggestion made by Google and Frontline that a portion of the E Block wholesale capacity be made available to all comers via an auction. This will ensure a range of new MVNO opportunities at fair and transparent market-clearing prices. Moreover, we can envision the connectivity being used in some non-traditional ways. For instance, someone

could offer an inexpensive wireless service subsidized by location-based advertising. Or, in another example, an entrepreneur starting an “over the air” online music store could include the cost of wireless connectivity in the price of the song download, so that the customer never has to subscribe to a wireless service to gain access to the music store. And of course there are many more ideas that we haven’t even thought of yet (but check this space ... if the proposal becomes the law of the land).

Pragmatic Considerations: The E Block as Starting Point

Perhaps the best aspect of the E Block proposal, in our view, is that while it is forward thinking, it is also realistic. We believe it would be an eminently reasonable approach to apply Open Access only to the E Block. We observe that 10 MHz is a relatively small portion of the commercial 700 MHz spectrum and only about 2.7% of more than 350 MHz that will have been allocated for CMRS use following this auction and last year’s AWS auction.¹ Over time, the provision of Open Access services by at least one carrier in the market could apply competitive pressure to the others to open up as well. A slight regulatory nudge could result in a major push by market forces.

Finally, we want to point out that the Open Access proposal also raises the possibility that entrepreneurs like us can bring new ideas and energy to the public safety market. Open Access would create new opportunities for specialized public safety devices and services, just as it would for commercial uses. Indeed, we note that the openness of the Internet has spawned many important and vital technologies such as firewalls, VPNs, routers, and other products geared toward network security. An Open Access regime, by unbundling network functionalities, allows for the development of “best of breed” security tools that bring state-of-the-art thinking to each layer of the network stack. Openness increases competition to meet public safety’s unique requirements, by enabling customers to assemble an end-to-end framework using the best available component piece parts.

As entrepreneurs, we subscribe to the old maxim, “nothing ventured, nothing gained.” In our opinion, an Open Access E Block is a venture worth pursuing, because the gains are potentially enormous. It is ironic, in our view, that many of the companies opposing this innovative proposal are descended from a company started by the quintessential American entrepreneur. If the young Alexander Graham Bell were here today, we have no doubt he would be a member of our Coalition.

¹ After the 700 MHz auction there will be approximately 358 MHz allocated for CMRS. This includes 50 MHz for cellular licenses, 120 MHz for Broadband PCS, 14 MHz for ESMR, 90 MHz for AWS, and 84 MHz at 700 MHz. This does not include nearly 200 MHz of EBS/BRS spectrum and over 50 MHz of MSS/ATC spectrum becoming available for CMRS-like services.

Respectfully submitted,

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Co-Founder, Blue Mobile

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Alex Asseily

Co-Founder and CEO, Aliph

Pat McVeigh

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cc: Commissioners Copps, Adelstein, McDowell and Tate
Ms. Marlene Dortch, Secretary