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ON
OVERSIGHT OF INCENTIVE AUCTION IMPLEMENTATION
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Thank you, Chairman Walden and Ranking Member Eshoo, for inviting AT&T to join in the discussion today.

To quote former FCC Chairman Julius Genachowski, “this is a big deal.”¹ Spectrum is the lifeblood of the mobile revolution, but with exploding bandwidth consumption, the United States faces a looming spectrum crisis. “[V]irtually every expert confirms the vital need to free up new spectrum, because demand is rapidly exceeding supply.”² This auction presents the next, best opportunity to achieve that goal, and the only one like it for years to come. Its success is critical to ensuring that sufficient bandwidth is available to sustain the United States’ world leadership in mobile broadband services and to fueling the continued virtuous cycle of investment, innovation, and jobs creation that have resulted from that status.

But as crucial as it is, this auction is not just about freeing up spectrum to keep the United States on the cutting edge of the mobile broadband revolution. It is also about public safety. In passing, the Middle Tax Relief and Job Creation Act of 2012³ Congress included a list of

¹ Statement of Julius Genachowski , Incentive Auction Notice of Proposed Rulemaking, Oct. 2, 2012.

² *Id.*

³ P.L. 112-96 (Feb.22, 2012)

priorities, with specific dollar amounts, where the funds raised by the auctions must be allocated. For example, the auction is expected to generate up to \$7 billion to fund construction of the first nationwide, interoperable, wireless broadband public safety network, a recommendation of the 9/11 Commission that has yet to be implemented. And the auction is expected to generate specific additional revenues to support public safety research, support for next generation 911 services, and deficit reduction.

The importance of these goals was underscored in a letter sent just last week by Chairman Dingell and seven other Members urging the Commission “not to adopt policies... that will jeopardize the ability of the auction to generate winning bids that are sufficient to fund each of these important public policy goals.

But success in achieving these goals is by no means a guarantee. This is by far the most complex set of spectrum auctions ever held by any country. Unlike past auctions, where the Commission simply defines the frequency blocks it commits to clear and solicits bids for those blocks, the Commission must persuade two different sets of auction bidders to participate in two separate auctions designed to create forward-auction revenues that exceed winning reverse-auction bids by an amount sufficient to meet the overall objectives of the auction.

In the face of this enormous complexity, there are certain basic principles that should guide Commission decision-making to help ensure a successful outcome. I’d like to discuss a few of the most important principles today. Notably, both relate directly to what must be the central guiding force as the FCC devises auction rules – ensuring the revenues needed for a successful auction.

Auction Participation

The first principle is straightforward: allowing unfettered participation in the auction by all qualified bidders will maximize auction revenues and thereby maximize the chances for a successful auction that addresses all of Congress' stated goals. Conversely, if qualified bidders who might place the highest value on certain spectrum blocks are excluded from bidding for them, that spectrum will sell for a lower price, reducing auction revenues and diminishing chances for a successful auction. Chairman Dingell and the other signators of last week's letter recognized this common sense principle and accordingly urged the Commission to "adopt transparent and simple rules to encourage participation by the broadest possible group of broadcasters and wireless providers because doing so will contribute in great part to a successful auction that, in turn, will generate the revenues needed to fulfill our shared commitment to public safety and achieve the other goals of the Act."

Unfortunately, as is always the case in regulatory proceedings of significant import, there are some who want the Commission to game the rules to favor certain competitors over others. These proposals vary in their specifics but they share a common thread: restricting or preventing AT&T and Verizon from participating in the spectrum auction, while steering spectrum to others, in particular, Sprint and T-Mobile.

These proposals are as ill-advised as they are unlawful. For starters, they are unnecessary. Sprint already has by far the largest spectrum portfolio of any U.S. wireless provider, vastly exceeding that of both AT&T and Verizon Wireless, despite having fewer subscribers. Indeed, a report issued by Deutsche Bank just last week noted that "Sprint has more spectrum free-and-clear to deploy LTE than [AT&T, Verizon, and T-Mobile] combined" and

concluded that Sprint is thereby positioned “to deploy the highest capacity (and potentially highest speed) LTE network in the US.”⁴

In addition to having the deepest spectrum position in the industry, Sprint also has at its disposal a substantial cash infusion from its new owner, Japan-based Softbank, as well as Softbank’s considerable resources to fund any spectrum purchases it might choose to make at the 600 MHz auction. Indeed, given the spectrum it already has at hand, it is by no means a given that Sprint even will choose to invest substantial resources at the upcoming 600 MHz auction.

For its part, T-Mobile is owned by Deutsche Telekom, one of the largest telecommunications companies in the world; and it has recently acquired substantial amounts of spectrum from AT&T, Verizon Wireless, and the former MetroPCS. T-Mobile recently has been running ads claiming that its network is less congested than AT&T’s.

The salient point here is that there is no basis upon which to conclude that Sprint and T-Mobile have a greater need for spectrum resources at this auction than other providers, including AT&T. Nor, more importantly, is there any basis for concluding that, to the extent these carriers choose to participate in the auction, they lack the resources to bid competitively without regulatory favors that make it easier and cheaper for them to do so. To the contrary, in the

⁴ See Deutsche Bank Markets Research, Sprint Nextel Corp., The New Spectrum Powerhouse: Reinstating Coverage at Buy (July 11, 2013) attached to the July 17, 2013 Ex Parte filed by Verizon “Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions, GN Docket No. 12-268; Policies Regarding Mobile Spectrum Holdings, WT Docket No. 12-269,” The filing is available at <http://apps.fcc.gov/ecfs/document/view?id=7520931273>

AWS-1 auction, among a field of 168 bidders, T-Mobile emerged as the top winner of spectrum, without any rules that handicapped the other bidders. Neither Sprint nor T-Mobile won spectrum at the FCC's 700 MHz auction but that is because they chose not to participate. As Chairmen Upton, Chairman Walden, Chairman Whitfield, Vice Chairman Blackburn, Vice Chairman Latta and Representative Long aptly put it, in an April 19 letter to the FCC, if "the highest use value of the spectrum would come from rivals to [AT&T and Verizon], those rivals should be able to raise the capital needed to win the licenses at auction."⁵

But restrictions on the ability of AT&T and Verizon to participate in the auction are not merely unnecessary and unwarranted. They also will necessarily drive down the price paid by others, thereby reducing auction revenues. Such restrictions would thus effectively force US taxpayers in effect to subsidize the spectrum purchases by those other carriers, a perverse result for sure in this time of massive deficits, spending cuts, and debates about possible tax increases. Moreover, those reduced revenues would artificially constrain the amount of spectrum freed up at the auction, as well as jeopardize funding for the public safety network, E911, and the anticipated reduction in the national debt. Indeed, they could suppress auction bidding to such a degree that the auction would fail altogether.

Accordingly, AT&T urges the Commission to adhere to its statutory mandate and conduct an open and competitive auction that awards spectrum to the highest bidder. That approach not only would comply with the law, but would also offer the best prospect for a successful auction that meets all of Congress' stated goals.

⁵ See April 19, 2013 letter to the FCC from Chairman Upton, Chairman Walden, Chairman Whitfield, Vice Chairman Blackburn, Vice Chairman Latta; and Representative Long at 3.

The Band Plan

The second principle that should guide FCC decision making is that maximizing the utility of the spectrum to be auctioned will maximize revenues and chances for success. Simply put, the better the band plan addresses interference and technical challenges, the more the spectrum will be worth to wireless carriers. From AT&T's perspective, the guiding principle must be to get the engineering right.

Understanding the importance of this principle, a broad array of wireless carriers, broadcasters, and equipment vendors have reached a consensus supporting a particular band-plan framework that retains some key characteristics of the FCC proposal, but modifies some others. AT&T participated in this coalition and believes this consensus approach strikes the best balance between addressing interference challenges and meeting the other goals of the proposed auction. We also believe that, given the extensive support for this approach in the Commission's record, the Commission should focus on resolving any remaining differences on how this framework should be implemented and seek to finalize a band plan for the auction this year.

In that regard, AT&T believes that unlicensed services can and should be permitted in appropriate portions of the 600 MHz band, but only if prospective providers of such services can demonstrate that their operations will not cause harmful interference to licensed commercial wireless services. It would make no sense to build a technically strong band plan, only to undermine it by permitting unlicensed uses that introduce new interference challenges. This would devalue the spectrum for auction and suppress auction revenues.

Finally, a word about broadcaster participation. Broadcasters who come to the auction table are not selling a broadcast business. They are relinquishing their rights to 6 MHz of spectrum much needed for mobile wireless use. Any valuation mechanism adopted in the reverse auction should be consistent with that reality and opening prices should be set at a level that will encourage participation. The two-sided nature of the auction will discipline pricing once the auction is underway.

Conclusion

This auction presents enormous opportunity and risk. The stakes are as high as the issues are complex. AT&T has every hope that, under the able leadership of Chairwoman Clyburn, Commissioners Pai and Rosenworcel, and Commission Staff, the FCC will devise auction rules that maximize prospects for a successful auction with all the attendant benefits Congress envisioned.