

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Auctions of Upper Microwave Flexible Use	)	AU Docket No. 18-85
Licenses for Next-Generation Wireless Services	)	
	)	
Comment Sought on Competitive Bidding	)	
Procedures for Auctions 101 (28 GHz) and 102	)	
(24 GHz)	)	

**COMMENTS OF VERIZON**

Verizon supports the Commission’s plan to conduct separate auctions for the 28 GHz band and 24 GHz band licenses, and believes the proposed auction procedures are generally reasonable and practical.<sup>1</sup> We offer a few suggestions on the procedures to improve the auctions and not unduly constrict the wireless marketplace. Use of the standard simultaneous multiple round (SMR) auction design for Auction 101 makes good sense, but bidders in that auction should be allowed to withdraw a bid in only one round, not two. Verizon also supports the proposal to begin the bidding in Auction 102 after Auction 101 has concluded and the 28 GHz results are known. But the Commission must carefully sequence the timing of Auctions 101 and 102 so as to separate application of the prohibited communications rule (47 C.F.R. § 1.2105(c)) for the two auctions.

**I. The Simultaneous Multiple-Round Design Should Work Well for Auction 101.**

The SMR auction format has been employed to auction spectrum licenses for more than 20 years, and it has proven to be an efficient and effective mechanism for assigning licenses to the

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<sup>1</sup> See *Auctions of Upper Microwave Flexible Use Licenses for Next-Generation Wireless Services*, Public Notice, AU Docket No. 18-85, FCC 18-43 (rel. April 17, 2018) (“*Auction Comment Public Notice*”).

bidders that value them most highly. The Commission should adopt its proposal to employ its standard SMR auction format for Auction 101, with bidding for all licenses remaining open until bidding has concluded on every license.<sup>2</sup>

As the Commission observes, the license-by-license bidding approach of an SMR auction “is needed when blocks in the band are less uniformly available, as in 28 GHz.”<sup>3</sup> Here, Auction 101 features only two blocks of 425 megahertz of spectrum and these blocks will be available only in select markets. With so few blocks in a market, a SMR auction would be more efficient than a clock auction, especially one with an assignment phase. And as Auction 101 progresses and additional pricing information is revealed round by round, bidders may wish to pursue back-up strategies, which is harder in a clock auction format because a bidder may not be able to reduce its demand in a particular license area.

Verizon suggests only one tweak in the auction procedures for Auction 101. The Commission should allow each bidder to withdraw provisionally winning bids in only one round during the course of the auction, not two rounds as proposed.<sup>4</sup> One withdrawal round provides sufficient comfort to bidders that they will be able to address a mistake or make a change in strategy. But multiple bid withdrawals could enable the strategic use of bid withdrawals as a gaming tactic, and there is no reason to encourage such activity.

## **II. The FCC Should Separate the Quiet Periods For the Two Auctions.**

The Commission should schedule the deadline for filing short-form applications to participate in Auction 102 (which triggers the prohibited communications rule for Auction 102) to occur after

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<sup>2</sup> See *Auction Comment Public Notice* ¶ 42.

<sup>3</sup> *Id.* ¶ 12.

<sup>4</sup> See *id.* ¶ 78.

the down payment deadline for winning bidders in Auction 101 (when the quiet period for Auction 101 will end). The Commission already has concluded that it should use separate application and bidding processes for the licenses available in the 28 GHz and 24 GHz bands due to “differences in the characteristics of the specific inventories of licenses available,”<sup>5</sup> so there is no reason to enmesh these two auctions for prohibited communications rule purposes. For example, each 28 GHz license includes 425 megahertz of spectrum and licenses are available only in parts of the country on a county-by-county basis, whereas nearly all 24 GHz licenses include 100 megahertz of spectrum and licenses are being offered in all of the 416 Partial Economic Areas nationwide. These distinct features of the two auctions should lead the Commission to apply its prohibited communications rule separately to each auction.

It is easy to imagine scenarios where applying the prohibited communications rule across both auctions would have negative implications. For example, an Auction 101 applicant should be able to decide, based on its results in that auction, whether to apply to participate in Auction 102. So, an Auction 101 applicant should have the opportunity to assess the results of Auction 101 and choose not to participate in Auction 102, without remaining subject to the prohibited communications rule for an indeterminate amount of time while Auction 102 runs its course.

Similarly, a prospective Auction 102 bidder may want to know with certainty the results of Auction 101 to analyze whether to apply to participate in, and be subject to the quiet period associated with, Auction 102. There is sufficient time for that analysis to happen: if kept separate, the Auction 101 quiet period will end as of the deadline for Auction 101 winners to file down payments and post-auction license applications – typically two weeks after auction results are announced.

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<sup>5</sup> *Id.* ¶12.

In another example, an entity that wishes to acquire only UMFUS licenses being offered in the 24 GHz band in Auction 102 would not apply to participate in Auction 101, but simply because the Commission required its Auction 102 short-form application to be filed before the Auction 101 quiet period ended, it could be precluded from having certain discussions with Auction 101 applicants – even those that won no licenses in Auction 101 – for the duration of Auction 102.

The Commission has extended the reach of the prohibited communications rule across multiple auctions in only one other context, and that was in a much different circumstance. It was the 700 MHz Band, where Auctions 73 and 76 included licenses for the same spectrum.<sup>6</sup> Auction 76 was a vehicle through which the Commission contemplated selling licenses that went unsold in Auction 73. The Commission thus determined that the two auctions should be “treated as a single auction,” with bidding in Auction 76 open only to applicants that qualified to bid in Auction 73.<sup>7</sup> Auctions 101 and 102 are very different: the Commission plans to conduct separate auctions for two sets of licenses of different frequencies with different geographic and bandwidth characteristics. And applicants participating in Auction 102 do not need to have been qualified bidders in Auction 101. The factors that led the Commission to apply the prohibited communications rule across Auctions 73 and 76 simply do not exist with regard to Auctions 101 and 102.

The Commission has already determined that actual bidding in Auction 102 will not commence until after the close of bidding in Auction 101, so scheduling the short-form application deadline for Auction 102 on a date before the Auction 101 quiet period ends would save only a few

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<sup>6</sup> See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd 15,289, ¶¶ 306-308 (2007).

<sup>7</sup> *Auction of 700 MHz Band Licenses Scheduled for January 28, 2008*, Public Notice, 22 FCC Rcd 18141, ¶¶ 60, 284 (2007).

weeks of processing time. This minor perceived benefit pales when compared to the cost to the efficient functioning of a market and auction.

It also would create unnecessary and burdensome compliance issues. The Commission in 2015 clarified that the rule's prohibition of the communication of "bids or bidding strategies (including post-auction market structure)" covers only communications that "relate to the licenses being auctioned."<sup>8</sup> Though it was a helpful clarification that discussions about other spectrum bands are not covered by the rule, quiet period compliance in a single auction is difficult enough without extending the period to cover two separate auctions.

### **III. Conclusion**

Verizon generally supports the proposed auction procedures and urges the Commission to allow bidders in Auction 101 only one bid withdrawal and to separate the quiet periods for the two auctions.

Respectfully submitted,

/s/

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<sup>8</sup> *Guidance Regarding the Prohibition of Certain Communications During the Incentive Auction, Auction 1000*, Public Notice, 30 FCC Rcd 10794, ¶ 33 (2015).