

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

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In the Matter of )

Auction of Advanced Wireless Services )  
Licenses Scheduled for June 29, 2006 )

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AU Docket No. 06-30

**REPLY COMMENTS OF T-MOBILE USA, INC.**

The comments submitted in response to the Public Notice (“Auction PN”)<sup>1</sup> highlight the critical need for the Commission to commence the auction of Advanced Wireless Services spectrum (“AWS Auction”) on June 29, 2006,<sup>2</sup> in a single simultaneous multiple round (“SMR”) auction with full transparency as to upfront payment amounts, license selections and round results. Virtually all commenters agree that, because the AWS Auction is the most significant Commercial Mobile Radio Service (“CMRS”) auction in a decade in terms of number of licenses, total spectrum, and projected revenues, it is too important for risky innovation or experimentation. The Commission should start the AWS Auction on time following proven auction procedures familiar to potential bidders.

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<sup>1</sup> FCC Public Notice, *Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006*, AU Docket No. 06-30, DA 06-238 (rel. Jan. 31, 2006) (“Auction PN”). All comments filed on or about February 17, 2006, in response to the Auction PN hereinafter will be short cited.

<sup>2</sup> The Commission recognized the need to commence the auction as soon as possible when it chose June 29, 2006 as the start date, as this date coincides with the schedule outlined by the Commercial Spectrum Enhancement Act (CSEA). *See* Letter to Hon. Michael D. Gallagher, Assistant Secretary, NTIA, from Michael K. Powell, Chairman, FCC, at 2 (Dec. 29, 2004) (“NTIA Letter”) (commencing the eighteen month clock under CSEA). *See also* NTIA’s Report to Congress and to the Commission of estimated costs and other key information related to the relocation of Federal incumbents from the AWS band (Dec. 27, 2005) (provides required six months’ notice) *available at* <http://www.ntia.doc.gov/osmhome/reports/sprelo/index.htm>.

**I. THE RECORD DEMONSTRATES THE NEED TO COMMENCE THE AUCTION WITHOUT DELAY.**

The Commission's decision to commence the AWS Auction on schedule is supported by the comments. T-Mobile USA, Inc. ("T-Mobile"), CTIA - The Wireless Association ("CTIA"), US Cellular, Alltel and Rural Telecommunications Group all advocate starting the auction without delay on June 29, 2006.<sup>3</sup> Significantly, these commenters represent nationwide, regional and rural interests. Like US Cellular, T-Mobile "agree[s] with Chairman Martin and Commissioners Copps and Adelstein that the public interest in having additional commercial spectrum for broadband services demands auctioning the AWS-1 licenses starting on June 29, 2006."<sup>4</sup>

Of the fifty-five comments filed, three assert that a short delay of the AWS Auction, or at least of the short-form filing deadline, might be warranted. Verizon, for example, supports a mid-summer auction start and suggests only a two-week delay to avoid starting the AWS Auction immediately prior to the Fourth-of-July holiday weekend.<sup>5</sup> Similarly, Columbia Capital Partners/MC Ventures' ("Columbia/MC") proposal that the Commission allow 123 days after the release of the final procedures until the auction start would mean a deferral of about two weeks in the AWS Auction commencement if final procedures are released in mid-March.<sup>6</sup> Although

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<sup>3</sup> See Alltel Comments at 1; CTIA Comments at 2-3; Rural Telecommunications Group Comments at 9; United States Cellular Corporation ("USCC") Comments at 4; T-Mobile Comments at 2-3.

<sup>4</sup> See USCC Comments at 4.

<sup>5</sup> See Verizon Comments at 1 n.1.

<sup>6</sup> From any perspective, the June 2006 start date is consistent with auction precedent. In Auction Number 58, cited by Columbia/MC, the Commission stated that "[t]he Bureau originally provided more than six months for bidders to prepare for Auction Number 58, which normally should provide *more than sufficient time* for planning purposes." FCC Public Notice, *Broadband PCS Spectrum Auction Start Date Rescheduled For January 26, 2005*, 19 FCC Rcd 19945, 19946 (2004) (emphasis added). In Auction Number 35, the Commission provided less than four

MetroPCS urges that the Commission allow sixty days after the adoption of the final auction rules before the short-form deadline, it recommends that the time between the short-form and the auction commencement be shortened so as not to “impact in any significant manner the proposed auction start date.”<sup>7</sup> Professor Peter Cramton confirms that a timely auction “is needed to enhance competition for advanced wireless services.”<sup>8</sup>

The Commission should not consider delaying an auction of such critical importance to a major industry sector in the absence of compelling support in the record to deviate from its announced auction date. The importance of rapid dissemination of licenses outweighs any possible marginal benefits of allowing a longer period following adoption of final rules before the auction start.

## **II. THE VAST MAJORITY OF COMMENTERS SUPPORT A SINGLE AUCTION WITHOUT PACKAGE BIDDING FOR THE AWS LICENSES.**

Almost all of the commenters support a single SMR auction that does not include package bidding. The record demonstrates that the AWS band plan, which includes multiple blocks of large regional licenses, will afford bidders the opportunity to create efficient aggregations of licenses in the context of a customary single SMR auction.<sup>9</sup> Any added benefit of package bidding is doubtful and does not justify the risks arising from further complicating

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months from the time it issued proposed rules to the auction start date. Here, the Auction PN set an auction start date five months out, demonstrably providing “more than sufficient time for planning purposes.” Moreover, the Commission originally announced its intention to commence the AWS Auction in June of this year back on December 29, 2004, in a letter to NTIA required by the CSEA (“The Commission plans to commence such auction [of the 1.7 GHz and 2.1 GHz bands] in June 2006”). *See* NTIA Letter at 2.

<sup>7</sup> *See* MetroPCS Comments at 5 n.11.

<sup>8</sup> *See* attached Declaration of Peter Cramton ¶ 3 (Feb. 28, 2006) (“Cramton Decl.”).

<sup>9</sup> *See generally* *Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, Order on Reconsideration, 20 FCC Rcd 14058, 14062-64 (2005).

the auction of the large and geographically varied group of AWS licenses with untested procedures.

The sole potential bidder supporting multiple auctions and/or package bidding may well support package bidding to enable it to dominate the auction and win the spectrum it needs at a discount.<sup>10</sup> Regardless of its motivations, Verizon has failed to carry the burden of persuading the Commission to depart from its initial proposal. Verizon incorrectly asserts that mere passage of time since the Commission’s first consideration of package bidding as an auction format is a sufficient basis for implementing it here.<sup>11</sup> Further, Verizon only generally addresses auction theory and does not advance any convincing argument that the specific characteristics of the AWS auction are ripe for package bidding.<sup>12</sup> Verizon even concedes that a package bidding auction for all AWS licenses is “infeasible.”<sup>13</sup> Dividing the AWS bands between two sequential auctions as Verizon suggests would result in unmanageable and confusing complexity and would sacrifice the significant benefits of simultaneity, *i.e.*, making all these licenses available at the same time in a single auction.<sup>14</sup> As Professor Cramton explains, a hybrid approach, with some licenses sold in any SMR auction and others in a package auction, would undermine the efficient arbitrage across substitutable licenses, “which is the hallmark of success” of the FCC’s auction program.<sup>15</sup>

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<sup>10</sup> See Cramton Decl. ¶ 12.

<sup>11</sup> See Verizon Comments at 2.

<sup>12</sup> See *id.* at 3 (“It is *likely* that the conditions...are present in *most* spectrum auctioned for use by commercial mobile service (“CMRS”) providers....” (emphasis added)).

<sup>13</sup> *Id.*

<sup>14</sup> See MetroPCS Comments at 7 (“There is a significant risk that a bidder who has to straddle two simultaneous auctions could end up with duplicate unwanted licenses.”)

<sup>15</sup> Cramton Decl. ¶ 3.

### **III. THE OVERWHELMING MAJORITY OF THE COMMENTERS AGREE THAT THE AWS AUCTION SHOULD BE FULLY TRANSPARENT.**

The vast majority of commenters have opposed concealing information about bids and bidder identities and argue instead for full transparency based on the manifold benefits of revealing all information during the auction process. First, disclosing license selections, upfront payments and round-by-round results is a “tried-and-true” practice.<sup>16</sup> The Commission and the potential bidders are well acquainted with transparent auctions, so there will be less chance for confusion or mistakes. Second, transparent auctions will ensure that bidders with known spectrum needs, such as T-Mobile, are not disadvantaged by disparity of information on market interest. Third, transparency will avoid information leaks during this important auction. A worst-case scenario for both the Commission and interested bidders like T-Mobile is for leaks to undermine the integrity of the auction, at the very least skewing results and possibly even leading the Commission to cancel the auction after it has started. Fourth, transparency promotes rational bidding that also can result in higher auction revenues. Conversely, concealing bidder information will deprive bidders of important and valid intelligence about potential competitors in a market, carriers in adjacent bands or territories, potential roaming opportunities, and likely availability of equipment for the AWS band. Lacking this information could chill participation in the auction.<sup>17</sup> Finally, disclosure of bidder information will allow all bidders to act as “third party enforcers” in the event of any collusive bidding activity.<sup>18</sup>

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<sup>16</sup> See MetroPCS Comments at 4; *see also generally* Alltel Comments at 3.

<sup>17</sup> See Leap Comments at 10-11.

<sup>18</sup> MetroPCS Comments at 15.

Of the carriers commenting on the Auction PN, the only carrier opposing transparency is Verizon.<sup>19</sup> Verizon argues that concealing information about bidders and bidding will lead to an auction environment more focused on licenses and their value than on bidders and their strategies.<sup>20</sup> Verizon fails to acknowledge, however, that the identity of bidders seeking the same and related licenses is important to the valuation of specific licenses during the course of the auction. Withholding important intelligence about bidders' license selections and eligibility and round-by-round bidding results (including bidder identities) would impair bidders' ability to track such relevant factors as interference characteristics and adjacent carriers' technologies in assessing license values. Additionally, Verizon concedes that "the Bureau must disclose any information about applicants necessary for bidders to remain in compliance with the Commission's anti-collusion rules."<sup>21</sup> Verizon's "self serving"<sup>22</sup> advocacy of broad concealment of bidder data, however, would be insufficient for bidders to detect violations of the anti-collusion rules.<sup>23</sup>

Although Professor Cramton acknowledges that there are costs and benefits associated with full transparency, he confirms that "there is now substantial empirical evidence that the benefits outweigh the costs in the AWS auction."<sup>24</sup> He further states that it would be unwise to eliminate transparency for this major auction, based on the excellent track record of the FCC's fully transparent auction format. He notes that any minor problems caused by transparency in

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<sup>19</sup> See Verizon Comments at 5-7. Professor Cramton notes, however, that Verizon supports full transparency in the package auction in a two-auction format, without any justification for this inconsistent treatment in information policy in the two auctions. See Cramton Decl. ¶ 13.

<sup>20</sup> See Verizon Comments at 5.

<sup>21</sup> *Id.*

<sup>22</sup> Cramton Decl. ¶ 4; see also *id.* ¶¶ 12-13.

<sup>23</sup> See MetroPCS Comments at 15.

<sup>24</sup> Cramton Decl. ¶ 3.

some earlier auctions (such as Auction No. 11) have been remedied with rule changes and improved auction management. Significant reserve prices, incremental bidding, and improved pacing all mitigate the potential costs of full transparency. “In the AWS auction, full transparency is likely to improve both efficiency and auction revenues.”<sup>25</sup> Other than Verizon, all of the other commenters not embracing transparency are university professors who do not address in any way the particular characteristics of the AWS Auction.<sup>26</sup> Although Professor Cramton acknowledges that these commenters “made some useful points,” he states these comments were “generally uninformed about critical economic issues in the AWS auction” and that their “conclusions were not well supported.”<sup>27</sup> The Commission should not conceal bidder information when there are much more compelling arguments supporting transparency rooted in the circumstances of the AWS auction.

#### **IV. THE RESERVE PRICE SHOULD BE SET AT 110 PERCENT OF RELOCATION COSTS, NOT DOUBLE THAT AMOUNT.**

In the Auction PN, the Commission interpreted the CSEA to require that *one-half* of total winning bids in AWS auction meet 110 percent of estimated costs to relocate incumbents, on the grounds that one-half of the AWS frequencies (1710 to 1755 MHz) would authorize use of CSEA-eligible spectrum. Verizon correctly argued that CSEA only requires that the auction taken as a whole raise 110 percent of the relocation estimates, not double that amount,<sup>28</sup> and

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<sup>25</sup> *Id.*

<sup>26</sup> *See* Center for the Study of Auction, Procurements and Policy Comments; SIEPR Comments, Univ. of Chicago and Univ. of Michigan Comments; and State Univ. of New York at Stony Brook and Duke Univ. Comments.

<sup>27</sup> Cramton Decl. ¶ 5. He further states that these comments do not reflect “knowledge of the particular features of the AWS auction, the current competitive landscape, the current enhancements to the FCC’s SMR auction format, and the long history of successful auction using the format both in the US and elsewhere.” *Id.*

<sup>28</sup> *See* Verizon Comments at 7-10.

T-Mobile concurs that the satisfaction of the CSEA requirements should not be limited to the percentage of the spectrum that is CSEA-eligible. Any attempt to separate out the CSEA-eligible spectrum (1710-1755 MHz) is contrary to the fact that that spectrum derives its full value from being paired with the spectrum previously relocated by the Commission (2110-2155 MHz).<sup>29</sup> Furthermore, the 2110-2155 MHz spectrum remains encumbered with Fixed Microwave and Broadband Radio Service incumbent license holders.<sup>30</sup> These encumbrances must be accounted for during the competitive bidding process and will necessarily reduce the inherent value placed by bidders for the 2110-2155 MHz spectrum. The inconsistencies of segmenting out a portion of the AWS spectrum are underscored by the fact that failure to reach the necessary percentage of estimated relocation costs (regardless of the computation method) will invalidate the entire auction, not just the auction results pertaining to the CSEA-eligible spectrum. Accordingly, the Commission should establish a reserve based only on the specific statutory requirement that the auction raise 110 percent of the NTIA's estimated relocation costs.

## **V. CONCLUSION.**

The AWS Auction is too important to experiment with multiple auctions, package bidding or concealment of bidder information. The Commission should experiment with these methods in a smaller, less high-profile auction. Additionally, the Commission should not impose excessive reserve requirements that are not required by the CSEA. Most importantly, the

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<sup>29</sup> See *id.* at 9.

<sup>30</sup> See *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems*, Eighth Report and Order, Fifth Notice of Proposed Rule Making and Order, 20 FCC Rcd 15866 (2005).

Commission should conduct the AWS Auction on schedule so carriers like T-Mobile can meet consumer demand for an increasing range of affordable wireless services

Respectfully submitted

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