

The "Spectrum Gap" v. The "Spectrum Crunch."

The "spectrum gap," the difference between the largest spectrum providers and competitors, is at least as pressing an issue as any purported "spectrum crunch." The Commission needs to seriously consider the long-term anticompetitive implications of imbalanced spectrum holdings among carriers. Public Knowledge one of the public interest groups opposed to the Verizon Wireless SpectrumCo and Cox transactions notes that both issues can be addressed with a revised spectrum screen. Not only could a revised spectrum screen help the Commission better allocate spectrum among various carriers to ensure healthy competition, it can encourage efficient use and build-out goals that ensure allocated spectrum benefits the public. For example, to address the spectrum gap, spectrum should be weighted by its suitability for mobile data use, and spectrum that is held by dominant carriers or carriers with already substantial spectrum holdings should be weighted more highly. This would ensure that spectrum is actually counted for the purposes of the screen correctly, by dispensing with the false notion that all spectrum is equal. This also could counter the "foreclosure value" that some carriers might see in spectrum, whereby they are willing to pay for licenses just to keep them out of the hands of competitors. And to address any spectrum crunch, spectrum that has not yet been built out or that uses inefficient technologies could also be weighted more highly. This ensures that carriers that wish to obtain more spectrum are already making maximal use of the spectrum they already have, and allows fallow spectrum to go to the carriers that could best use it, as opposed to those who can bid the most for it.

There are several areas in which further research and analysis will benefit the Commission's understanding of the effect of spectrum efficiency and further spectrum aggregation on smaller wireless carriers and on consumers. Specifically:

- What incentives could wireless carriers have to decrease output in the face of increasing network congestion?
- How will the instant proposed spectrum transfer affect parties' incentive to raise prices for wireless services?
- What can past spectrum auctions and spectrum transfers tell us about the relationship between a carrier's market dominance or existing spectrum holdings and its incentive to build-out or decrease output in wireless service?

Public Knowledge continues to advocate that the Commission deny the proposed transactions, including both the spectrum transfer and side agreements. If the Commission decides to approve the spectrum transfer contingent on certain conditions, strong roaming obligations will better protect competition than divestment. Even if Verizon divests some licenses, the transfer will still increase its dominance in spectrum holdings over smaller carriers, particularly as a nationwide carrier. Ensuring that Verizon will provide roaming to smaller carriers on reasonable terms is the only way that will preserve their competitive viability. Although behavioral conditions are often more difficult to monitor and enforce than divestments, the overwhelming benefits of roaming obligations make this condition appropriate.