

Surplus Spectrum

700 MHz divestitures raise questions about value of TV spectrum for wireless

NEWS, FLASH: The world as we know it will not end if the remaining TV spectrum is not commandeered for the wireless industry. It seems the wireless industry doesn't have any use for the TV channels it obtained in 2008 auction of 700 MHz spectrum. Both Verizon and Cox are now trying to dump 700 MHz spectrum, which, if you recall, was absolutely vital just a few years ago to the wireless future of the United States. Wireless carriers have been talking about a spectrum crunch since the mid-'80s, when they convinced Congress to push through the digital transition (at a cost of billions to taxpayers), and redesignated TV Chs. 52-69—the 700 MHz allocations—for wireless communications.

Now, there appears to be a spectrum surplus, though we've known that. The so-called "spectrum crisis/crunch" has always been "looming," like Boo Radley, behind a door. Even the Federal Communications Commission said in 2010 that of 547 MHz licensed for wireless communications, only around 170 was in use. (*"McAdams On: Fun With Numbers."*) And now we know what's going on with the rest of it—squatting!

Recall that broadcasters were accused of spectrum squatting when the digital transition took longer than the arbitrary timetable set by Congress. Remember that much of the necessary technology had not yet been invented when the transition was initiated, and that there was no requisite receiver technology as of the original 2006 deadline. Broadcasters were nonetheless vilified as spectrum squatters because of the delay.

What exactly is a spectrum squatter? When you receive a TV facility construction permit on a 6 MHz license, you have to build a TV station and transmit a signal within three years, according to FCC rules. I have to wonder how this comprises “squatting.” Especially compared to what’s *not* going on in the 700 MHz spectrum. Recall again that this spectrum had been carrying 18 free TV channels across the country before the 2009 digital transition. Nearly three years later, most of those channels appear to lay fallow, enough such that Verizon and Cox are now trying to get rid of their holdings.

Does the FCC not have build-out rules for wireless licensees? It does. Cellular licensees generally have four years to build out to 35 percent coverage, and 10 years to reach 70 percent. Construction notifications on the 700 MHz licenses are due to the commission June 28, 2013, and will be made available for public comment. **Interim performance** reports were due to the FCC on Jan. 13, 2012. I can’t find these in the commission’s Universal Licensing System. I’d love to hear from anyone who can. I think the commission would, as well, because its Wireless Bureau chief asked Verizon this week what was going on with its 700 MHz spectrum. *(Addendum: Thank you to the individual who directed me to these reports in the FCC database. I should clarify here that Verizon is seeking to get rid of its lower A and B block spectrum, while it appears to be building out the upper C block of 700 MHz spectrum it won.)*

Verizon more or less said, “Look, we’ll sell this 700 MHz spectrum if we get FCC approval to buy the SpectrumCo licenses.” Verizon made a co-marketing deal with SpectrumCo partners Time Warner Cable, Comcast and Bright House to buy the group’s 2 GHz licenses for \$3.6 billion. The 2 GHz spectrum works better for wireless services in urban areas than does the 700 MHz because of a difference in reach characteristics. So much for bringing broadband to underserved areas.

This is a bit like Verizon taking 700 MHz to the dance and leaving with 2 GHz. The FCC isn't all that keen on the move, nor has it taken kindly to the aforementioned ultimatum.

“Would Verizon Wireless abandon its plan to sell its lower 700 MHz licenses if the commission does not consent to the sale of all the AWS licenses at issue to Verizon Wireless?” FCC Wireless chief Rick Kaplan inquired in a letter to Verizon's vice president and deputy general counsel, John T. Scott III. Kaplan asked for a response by next Tuesday. Scott will undoubtedly blame the commission for not resolving the “interference” issue involving Ch. 51, the top end of the TV allocation.

Even though Verizon, along with every other bidder in the 700 MHz auction clearly knew they were vying for spectrum adjacent to a TV channel, it suddenly became a problem after the fact. The FCC froze applications for new TV stations on the channel last year, although why anyone would file for one is a mystery, given the commission's intention to redesignate Ch. 51 and the 19 below it to wireless as well.

So should Mr. Scott plead Ch. 51 interference as the carrier's reason for doing little or nothing with its 700 MHz spectrum, we here at *McAdams On* might have to conclude that's absurdly disingenuous.

There is but one takeaway from these proposed divestitures of 700 MHz spectrum that fit the law of parsimony: There's a spectrum surplus. From a more generous perspective, this surplus of former TV channels happens to be materializing just months after Congress authorized the FCC to auction off more TV channels. Does anyone doubt the potential impact on the market price of TV spectrum? Any stations or groups hoping for an incentive windfall need to pay close attention to the 700 MHz allotments.

You may be whistling in the wind.