

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Expanding the Economic and Innovation) WT Docket No. 12-268
Opportunities of Spectrum Through Incentive)
Auctions)

COMMENTS OF SELECT SPECTRUM LLC

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TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
I. INTRODUCTION	3
2. DISCUSSION.....	3
A. Comments on Determining Value of Continuing to Broadcast for Television Stations and Reverse Auction Procedure	3
B. Scoring of Spectrum Licenses.....	5
C. Clearing an Optimal Amount of Spectrum.....	6
III. CONCLUSION.....	9

COMMENTS OF SELECT SPECTRUM

I. INTRODUCTION

Select Spectrum respectfully submits these comments in response to the Federal Communications Commission's Notice of Proposed Rulemaking.¹ The FCC has decided to increase United States innovation and economic efficiency by reallocating 600 MHz spectrum to more productive usage. However, since the regulations of this spectrum band go back decades, devising a fair and cost-effective means of doing so is, as the FCC is well aware, complicated at best. The overall design of the combined reverse auction to clear broadcast spectrum and forward auction to allocate it efficiently to wireless carriers appears well considered. However, since this has never been tried before in the US or another country, the FCC understands that issues could arise, and has welcomed public comment. Select Spectrum appreciates the straightforward manner in which the overall design was proposed, complete with various alternatives, and focuses its comments on how to fairly and transparently compensate station owners to create optimal participation in the reverse auction.

2. DISCUSSION

A. Comments on Determining Value of Continuing to Broadcast for Television Stations and Reverse Auction Procedure

According to Appendix C, one of the more challenging parts of the reverse auction for broadcasters is determining the value of continuing to broadcast. While the possibility of moving to the VHF band adds a complicating dimension for the procedure; most broadcasters

¹ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Docket No. 12-268, *Notice of Proposed Rulemaking*, FCC 12-118 (rel. Oct. 2, 2012) (“*NPRM*”).

will continue to participate in the auction until they hit some pre-determined reserve price. Basically, the idea proposed in Appendix C is that all broadcasters will participate if their reserve price for their licenses is lower than the initial price set by the FCC at the start of the auction. As the price is lowered from round to round, participants will exit until the number of participants equals the number of licenses the FCC intends to clear. The FCC claims that most of the difficulty of the auction is derived from the computational difficulty of determining winners and prices.

One problem with the reverse auction procedure is that it assumes that the value of spectrum licenses to broadcasters is independent of the auction. However, the auction will reduce the number of stations, thereby reducing competition for those TV stations that will continue to broadcast after the auction. While at some level broadcasters can take this into consideration before the auction, they cannot know exactly how many TV stations will be left after the auction or which stations will relinquish their broadcast spectrum rights. This information, unknowable before the auction, is of huge importance to determining future profits for any broadcaster. For example, imagine if two stations, A and B, have very similar content. If station A were to accept an FCC offer to relinquish its license, the value of B would increase significantly. Many of the viewers of station A would shift some of their television viewing to station B, allowing B to collect higher revenues from advertisers.

Additionally, in a simplified situation where there are three stations in the market and station B competes directly with station A but only indirectly with station C, then even if management for station B knows in advance of the auction that either A or station C will be leaving the market, it will not know in advance which station will cease operation. In such a

case, the post-auction value of station B will be higher if its direct competitor leaves the market and lower if its indirect competitor leaves.

In these simple examples, the post-auction value of a particular station is not accurately predictable before the auction. In the real world with a very complex auction situation, this difficulty in prediction is greater than this highly simplified model. Since the auction creates a novel and highly complicated variable on business value for TV broadcasters, the FCC should not require station managers to make their final decisions about valuation until as much as possible about the future state of the market is known. If the FCC were to force final decisions too early, the types of calculations posed in the simplified examples may lead to many stations avoiding the auction in hopes that their competitors exit the industry.

Since the results of the auction are an important variable on the value of TV stations after the auction, transparency and a mechanism for analysis is critical during the auction. If the broadcasters don't have access to enough information and time between rounds to plan, they will be less likely to participate in the reverse auction; furthermore, those station managers who choose to participate in the auction may set their reserve prices prohibitively high.

B. Scoring of Spectrum Licenses

In the reserve auction methods proposed, station license holders signal their reserve prices and depend on the FCC to determine and pay the threshold price. The difference between these two prices is the premium that motivates the broadcasters to participate in the reserve auction process. While the FCC has not yet determined how they will determine the auction winners, the scoring method described in paragraph 42 is clearly critical to determining reverse auction winners and prices. Given the non-homogenous nature of spectrum, Select Spectrum

understands the need for the scoring process. However, Select Spectrum believes that the FCC must provide a high degree of transparency and some form of dialogue during the scoring process. Obviously, the score will be affected by a variety of factors, including the ones stated in paragraph 42. Prior to the auction, the FCC should publish a proposed numerical model indicating the weighting importance of the various factors. License holders should have the opportunity to comment on whether this standard is appropriate or not. We request that there be a clear-cut manner in which each of the attributes that affect the score is graded. Finally, we request that there be both sufficient time and an established process between the initial scoring and the auction for any readjustments in score to promote fairness. Since there are thousands of television licenses and a variety of factors affect license value before and during the auction process, it is likely that some of the initial scores will not reflect the true value of the licenses. We think it crucial to create a process that will pay broadcasters the full threshold price of their spectrum to shift to other frequencies, agree to share license rights or to exit the industry. This goal will only be accomplished if the process allows broadcasters receive fair scores for their participation.

C. Clearing an Optimal Amount of Spectrum

The purpose of the auction is largely to grant spectrum rights to those who can use it most productively. In order to do so, the market price of spectrum in the forward auction and the value of spectrum for remaining broadcasters must be aligned; thus, a high degree of transparency between the two auctions should be helpful in achieving the goals of the auction set by Congress in the Spectrum Act and the rules of the FCC.

As television station owners consider whether to participate in the reverse auction, they will carefully analyze the opportunity in the same way they would consider the possible sale of their businesses. Based on its experience in assisting clients with buying and selling businesses, Select Spectrum knows that exiting the industry is a difficult decision; business owners will want to have as much information as possible as they make their decision to participate. Once the participation decision is made, station owners will want to follow the auction and be in a position to maximize their return. Select Spectrum believes that if the FCC is to obtain maximum participation from station owners, then the FCC will be well advised to conduct a process that provides full information to the station owners. If the FCC chooses a single round sealed bid procedure process such as that described in paragraph 38, Select Spectrum believes that many station owners will choose not to participate or will set a prohibitively high reserve price.

Select Spectrum understands that some auction theorists may claim that the station owners' return will equal the license threshold-price in the closed-bid method proposed in paragraph 38 or a sequential method where the sellers and buyers of spectrum do not gain useful information from the opposite auction. In an academic theoretical environment this might be accepted, but if TV broadcasters don't have faith in a transparent auction process, the auction may not achieve sufficient participation. Broadcasters will be most likely to participate if they can enter the auction and watch the prices and action in the both the forward and reverse auctions. Even if in theory such information will have no impact on the results, the increased transparency could be instrumental to a successful auction.

The broadcasters understand that the FCC wants to clear the spectrum at a minimum cost. In such an environment, many broadcasters will likely be hesitant to indicate the minimum

amount they would take and then hope the FCC pays them a fair price. Compounding this problem, selling of business is not a simple logical/mathematical decision. Business owners have invested many years in developing the stations and have an emotional investment as well. Given these non-pecuniary aspects of the decision, many broadcasters will have significant difficulty in determining a reserve price. If the process is set up so that the procedure for determining reverse auction prices is very transparent, Select Spectrum believes they will be far more likely to participate. While a reserve auction will theoretically minimize the cost of clearing 600 MHz spectrum, the amount cleared will be far lower than optimal if broadcasters are reluctant to participate due to lack of understanding or trust in the process. For these reasons broadcasters will want to be actively involved in the sale process with the ability to make decisions as the process moves along.

Beyond the traditional and even emotional decision processes described above, in many cases station managers will have to demonstrate to their investors that they have followed the best possible process in the potential sale of their business. If the station managers are actively involved in the auction, and they are in a position to adjust strategy and tactics as the auction evolves, they will be in a better position to make decisions that favor their investors and to demonstrate to their investors that they have made the best possible choice under the circumstances. Station managers actively manage these businesses today and will want to show that they also actively manage station auction decisions.

Meanwhile, wireless carriers who want to expand mobile internet coverage need as much information about the exact amount of both downlink and uplink spectrum to be provided in each geographic area. The value of each 5 MHz cleared in the 600 MHz block is partially a function of how much spectrum is offered. For example, technological limitations related to

filtering may require additional filters if more Spectrum is cleared, increasing operational costs and therefore decreasing the value of Spectrum. More generally, as the amount of available mobile spectrum increases, if one assumes that the overall demand curve is not a function of the available supply, the unit clearing price will decline even as the total auction proceeds increase.

III. CONCLUSION

The FCC has proposed an ambitious plan to advance the mobile broadband industry and generate billions of dollars for the US treasury. Select Spectrum has identified several reasons why the auction process must be made open, transparent and interactive. Allowing station license holders to fully participate in the reverse auction while understanding the progress of the forward auction will make the entire process more successful. Additionally, the FCC's scoring process for licenses entered in the auction should be documented, made available for comment and subject to review by station managers.

Respectfully submitted,

/s / Robert Finch