



Wed Jul 31 2013

Acting Chairwoman Mignon Clyburn
Federal Communications Commission
445 12th Street SW
Washington D.C. 20554

Dear Acting Chairwoman Mignon Clyburn:

As the FCC works to craft rules for its new incentive auction scheduled for January 2014 I would like to share with you my thoughts on how the auction should be structured hence this letter. As you are aware the U.S. Department of Justice sent a letter to the Federal Communications Commission recently urging the FCC to enact caps on how much spectrum anyone company can acquire to ensure smaller carriers actually have a chance compared to the Big Two Cellular Giants or Twin Cells AT&T Mobility and Verizon Wireless. AT&T and Big Red who don't like the idea of their participation in the upcoming auction being limited of course criticized the proposal as did some Republican lawmakers who see the auction mainly as a way to generate more revenue for the government and think excluding bigger carriers capable of bidding higher amounts for crucial airwaves deprives the government of getting more revenue.

However, from the viewpoint of the Justice Department's Antitrust Division enabling smaller carriers to have a greater chance of winning spectrum is better than allowing AT&T and Verizon full participation in the auction who are more likely to just squat on spectrum to prevent competitors from gaining access to any additional airwaves. More unlicensed spectrum for WIFI should also be made available as widely as possible (like the Super WIFI idea). Super WIFI can travel greater distances with less interference. In the U.S. incentive auctions work with winner take all bids with big companies taking it all whereas in Europe there is more competition with caps on how much spectrum anyone company can win.

In the coming weeks I will post documents indicating there is no spectrum crisis plaguing AT&T and Verizon's networks. They say they face a spectrum crisis to justify their arbitrary and capricious data caps and unreasonable network management policies discriminating against competing online services - for example AT&T when blocking FaceTime over cellular initially stated that its network was not strong enough to allow all their subscribers to use it. At the time AT&T said of you wanted to use Apple's FaceTime over cellular you needed to sign up for their Mobile Share plan. On WIFI users could have unlimited access to FaceTime but on the AT&T network they were limiting user's access to it. After numerous complaints and public pressure AT&T began to relent and said all users of their tiered data plans on 4G networks could use FaceTime on their network. This was of course still not good enough for public interest groups as it excluded consumers with iPhone 4s and iPhone 4S smart-phones from using FaceTime over cellular on the AT&T network so AT&T further relented saying it would allow all users of its tiered data plans regardless of whether they use 3G or 4G LTE phones. Of course this still excluded users of their grandfathered unlimited data plans resulting in public interest groups stating that until AT&T stops blocking FaceTime completely they would continue to pursue Net Neutrality complaints against the company. Yet AT&T and Verizon Wireless are announcing plans for new toll free data services where a content provider can pay to get around their data caps. This proves the bandwidth scarcity they have created is artificial in nature and that they do not have a spectrum shortage. They say they lack spectrum so they have to block competitive and innovative online services that compete with their own wireless video services but then they say if a company pays their toll they can get around the data



caps. This violates the principle of Network Neutrality and shows there is no spectrum crisis at least there isn't any affecting AT&T and Verizon's businesses.

When you compare the big 2 carriers to their smaller competitors Sprint Nextel and T-Mobile USA (now T-Mobile US since the T-Mobile MetroPCS merger) AT&T and Verizon with more spectrum often provide better quality service than their competitors.

Despite their T-Mobile merger being rightly denied in 2011 AT&T has been allowed to acquire a lot of 700 MHz spectrum over the last few years thanks to deals with Qualcomm, 700 MHz LLC and even some WCS and AWS airwaves. Verizon Wireless has plenty of 700 MHz spectrum and is proposing to sell its lower 700 MHz holdings it still hasn't used to AT&T after regulators conditionally approved the Verizon Wireless SpectrumCo transaction on the condition Verizon Wireless voluntarily sells some of their 700 MHz holdings. Issues of device carrier interoperability and more specifically 700 MHz interoperability are yet to be resolved. Smaller carriers like C-Spire Wireless (formerly Cellular South) that have been pushing for the FCC to adopt an interoperability mandate are right to do so as the lack of interoperability makes it harder for smaller carriers to compete with the big 2. AT&T's deal for WCS spectrum and regulatory approval of that deal further proved AT&T never needed T-Mobile but it wanted to erect an anti-competitive Ma Cell over the wireless market. Now they are back proposing to buy up what's left of AllTel Wireless - the remaining pieces that regulators required Verizon Wireless to divest in exchange for approval of the Verizon Wireless Alltel Wireless merger. That deal should be denied, as should AT&T's deal to buy Leap Wireless. In any case even without participating in this auction AT&T and Verizon are acquiring more spectrum anyways directly from other companies in deals like the ones I've mentioned above some of which are approved and others are denied.

I join the Justice Department and consumer groups in calling for caps on how much spectrum anyone company can acquire if AT&T and Big Red are allowed to participate. In the coming weeks I'll provide documentation proving there is no spectrum crisis affecting AT&T and Verizon. Certainly some of the smaller carriers are spectrum starved and deserve a chance to get more airwaves for their mobile broadband and cellular phone services. Since the first iPhone came out and the first iPad one can honestly say some carriers networks may be under greater stress from higher data usage and they may need more spectrum to keep up with advances in wireless technologies. When users can download music, movies, TV shows, e-books, apps all in HD over a cellular connection carriers may need more spectrum to handle greater data usage whether through downloads or streaming. -It is technically possible for consumers to utilize such services over cellular connections (capability now exists) but would not do so using a carrier with data caps that charge overage fees or throttle users exceeding a cap. Therefore I submit there is indeed a spectrum shortage but it mostly affects the smaller carriers. When AT&T and Verizon can get all the spectrum they want from outside deals and they have stockpiled a lot already they don't need to get more from the government and if they do the amount they can win should be capped to 10 or 15 MHz.

Verizon Wireless had plenty of spectrum before the SpectrumCo transaction but some spectrum is more valuable than others which is why they were willing to voluntarily relinquish some of their lower 700 MHz frequencies to get the AWS frequencies in that transaction. Fortunately they also had to transfer some of the AWS airwaves to T-Mobile to get approval for that deal. Therefore I submit there is a spectrum crisis but it does not affect all companies. Don't be fooled by AT&T and Verizon's rhetoric. They'll come calling for more spectrum saying they are spectrum starved because they want to buy up all the licenses and sit on them to stop competitors from getting any more airwaves. There should by the way be reasonable build-out requirements for any companies winning these licenses. Since the spectrum at issue is unused



broadcast frequencies I submit broadcasters should not feel compelled they have to participate in the auction – that is provide their airwaves back to the government to re-sell for mobile broadband use but those willing to do so can and should participate. They may provide some of their unused airwaves but certainly don't have to provide all their airwaves back to the government for resale to cellular companies. Finally, I end this letter with this question to consider well it's a statement in question form: What Spectrum Crisis Sprint, T-Mobile, MetroPCS In Unlimited Data War.

Sincerely,

[Maneesh Pangasa}

PS: I will file a Submission for the Record containing the relevant documentation I've mentioned later and a public comment on any proposals concerning this proceeding.