

Oral Statement for E&C Incentive Auction Hearing
7/23/13

Chairman Walden, Ranking Member Eshoo, thank you very much for inviting me to testify here today.

Two years ago, I testified before this Subcommittee that a properly structured Incentive Auction could be a rare public policy trifecta, a win-win-win that provided more licensed spectrum and more efficient access to unlicensed spectrum in this extremely useful set of frequencies. In addition to raising revenue for an interoperable public safety network – now called “FirstNet” – the auction of licenses in this band for mobile broadband could also enhance competition to the benefit of consumers.

At the same time, while reallocation of a portion of the TV band from broadcasting to licensed wireless service would mean

the loss of spectrum for white spaces in some areas, it raised the possibility of creating more access in crowded urban markets.

Through the reallocation of the spectrum and subsequent repacking of the remaining broadcasters, the FCC could create a national unlicensed band that would encourage developers to build new devices and offer more innovative services that take advantage of the unique properties of these frequencies.

The last two years have proved both the importance of unlicensed access – especially in the TV bands – and the importance of stimulating competition on the licensed side. In this time period we have seen the cable industry recognize the value of offering unlicensed access as a supplement for their broadband networks. Ad hoc unlicensed networks proved their value in the aftermath of Superstorm Sandy. We now talk of “carrier grade Wi-Fi” as a critical tool for the wireless industry. Wireless ISPs are using unlicensed spectrum – including TV white spaces – to bring affordable broadband to rural America.

We have also seen the value of regulatory steps to promote competition. In 2011 the FCC imposed data roaming rules, and with the Department of Justice jointly blocked the effort of AT&T to acquire T-Mobile. In 2012 they pushed Verizon to divest spectrum to competitors as part of its acquisition of SpectrumCo licenses.

As a result, we have seen more investment in the wireless market in the last year than we had for many years before. Billions of dollars of new investment flowed into the market as both T-Mobile and Sprint attracted new interest. These revitalized competitors have offered new equipment and service plans. In response, AT&T and Verizon have redoubled their efforts to deploy 4G LTE networks as rapidly as possible, while responding with their own new pricing plans.

All of this highlights the importance of getting the rules for this incentive auction right. The Department of Justice has identified access to “low band” spectrum as critical for competition. This spectrum is highly valued for its propagation qualities—also known as its ability to travel long distances and penetrate buildings and trees. Companies looking to invest in unlicensed, such as Comcast, Google and Microsoft, have likewise identified the broadcast band as critical for developing the next generation of unlicensed services.

What does “getting it right” mean? First, it means we must stop creating false choices and pushing the FCC to choose sides.

Congress passed a compromise bill that gave the FCC authority to use the auction to enhance unlicensed and promote competition, but within limits. We should collectively embrace this compromise rather than refighting old battles.

The priorities of this auction must work together, not push against each other and fly apart.

Second, we need to respect the FCC staff as they work through this difficult process. We cannot have the transparency and trust we need if people unhappy with the substance of staff choices browbeat them over procedure.

We should recognize that well structured guard bands will both provide adequate spectrum for unlicensed use and increase the value of the service as a whole. This is not about artificially inflating guard bands to the point where it would undermine the licensed service. This is about being mindful to achieve all our goals. Instead of setting this up as a false choice where every MHz of guard band is seen as “lost revenue,” we should recognize that well structured guard bands will serve the interests of licensed and unlicensed alike.

Finally, we need to make sure that we have enough participation in the auction to make it worth holding. The best way to ensure that enough bidders show up is what we call a “No Piggies Rule.”

Don’t ban anyone from the auction, but limit the number of licenses that any one company can win.

Opponents of a No Piggies Rule argue that we need to have AT&T and Verizon in the auction. But the beauty of the No Piggies Rule is it lets AT&T and Verizon participate. It just makes sure there are enough licenses to make it worthwhile for competitors like Sprint and T-Mobile to show up as well. An auction with only AT&T and Verizon will be just as much a failure as an auction that banned AT&T and Verizon.

To conclude, key to a successful incentive auction is a balanced approach. We get there by continuing on our current deliberative process. We can still achieve a public policy trifecta, a win-win-win for mobile broadband competition, unlicensed access, and

public safety. It would be a shame to miss this chance by fighting old battles instead of working together.

Thank you and I look forward to your questions.