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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives  
Committee on Energy and Commerce  
Washington, DC 20515-6115

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June 30, 2008

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The Honorable Kevin J. Martin  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Martin:

We applaud your decision to release proposed service rules for the Advanced Wireless Services 3 spectrum. However, we suggest that you allow for a longer comment period than the 3 weeks provided for in the notice and would further urge you to drop the conditions. We are also concerned that the proposed allocation may result in interference between the AWS-3 licensee and existing licensees of the AWS-1 spectrum. Finally, we believe that the AWS-3 order should not proceed until after the 700 MHz D-Block re-auction so that Congress and the FCC can take the results of the re-auction into account.


In a bipartisan, June 2007 letter on the 700 MHz auction, we expressed support for unencumbered auctions and warned that dictating particular business models would: (1) discourage private-sector partners from helping to create a public safety network; (2) fail to produce a new entrant to build a nationwide broadband network; (3) crowd out smaller and rural wireless carriers; and (4) reduce the auction proceeds. Our predictions proved right.


We think your proposed rules could repeat this mistake by tailoring the AWS-3 spectrum largely to the business model of a single party. It seems to us that your proposed auction conditions are going to discourage certain parties from bidding. Our understanding is that there are more than 40 small, medium, and large carriers that would be interested in bidding on the spectrum if it didn't have the service conditions. Thus, placing these conditions would result in the Commission choosing winners and losers, as well as denying taxpayers the added revenue the spectrum would likely fetch if auctioned without the conditions.

You recently sought comment in the 700 MHz D-Block re-auction proceeding on how much money the AWS-3 and other spectrum would raise if auctioned without conditions. We need answers to this question to evaluate whether Congress should direct those proceeds toward construction of a public safety network, especially if a D-Block auction with public safety conditions were to fail again.

For these reasons, we urge you to drop the proposed conditions from the AWS-3 service rules, to develop rules that protect licensees and consumers in adjacent bands, and to wait until after the 700 MHz D-Block re-auction before adopting final AWS-3 service and auction rules. Thank you for your attention to this matter. We ask that this letter be included in the dockets for the 700 MHz D-Block re-auction and AWS-3 proceedings.

Sincerely,

  
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Joe Barton  
Ranking Member  
Committee on Energy and Commerce

  
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Cliff Stearns  
Ranking Member  
Subcommittee on Telecommunications  
and the Internet

cc: Commissioner Michael J. Copps  
Commissioner Jonathan Adelstein  
Commissioner Deborah Taylor Tate  
Commissioner Robert M. McDowell