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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 27, 2007

DENNIS B. FITZGIBBONS, CHIEF OF STAFF  
GREGG A. ROTHSCHILD, CHIEF COUNSEL

The Honorable Carlos Gutierrez  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Room 5516  
Washington, D.C. 20230

The Honorable Rob Portman  
Director  
Office of Management and Budget  
Executive Office of the President  
725 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20503

Dear Mr. Secretary and Director Portman:

We are writing with respect to the implementation of the provisions of the Commercial Spectrum Enhancement Act (CSEA), Public Law 108-494, which recently enabled the Federal Communications Commission (FCC) to conclude one of its most successful and important spectrum auctions ever.

On September 10, 2006, FCC concluded the auction of Advance Wireless Services (AWS) in the 1.7 GHz and 2.1 GHz bands, raising nearly \$14 billion for the U.S. Treasury and laying the groundwork for the release of 90 MHz of needed spectrum into the marketplace for broadband wireless services. There were 104 winning bidders in the auction. Because the spectrum is currently allocated to Federal Government users, the CSEA established a spectrum relocation fund to pay the cost of clearing Federal users from the band out of the proceeds of the auction. Pursuant to the terms of the CSEA, Government agencies occupying the auctioned spectrum specified to the Office of Management and Budget (OMB) and to Congress the timeframes and dollars needed to relocate their systems. On March 19, 2007, OMB's CSEA Report to Congress on agency plans for relocation was approved by Congress. We understand that on March 26, 2007, OMB transferred funds to each of the 12 affected agencies, thereby triggering the relocation timeframes specified to Congress.

The bids in the AWS auction were predicated on the information furnished to potential bidders by the agencies, and most importantly, on the agencies' commitment to vacate the frequencies on a very specific timetable. Permitting any agency to delay its relocation efforts beyond the date to which it committed prior to the commencement of the auction would undermine the efficacy and the integrity of the auction process. We are extremely concerned about this potential and ask your help and cooperation to ensure that this unsatisfactory result is not permitted to occur.

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The Honorable Rob Portman  
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This program presents a positive opportunity for Government spectrum users to obtain funds for new, more advanced equipment, while also making way for important new broadband commercial uses. Following the transfer of funds, we understand the relocation process to have started in earnest. We ask OMB, the Department of Commerce, and the agencies involved to keep us apprised of progress with respect to the availability of this spectrum for winning bidders. We request a status report on a quarterly basis with the first report due July 13, 2007, more than three months after the start of the relocation process, with subsequent reports due on October 12, 2007, and January 11, 2008. We also remind the agencies of their responsibility to coordinate in good faith with AWS licensees prior to relocation, as was intended by CSEA and outlined in the April 2006 joint public notice issued by FCC and National Telecommunications and Information Administration. Bidders who paid the U.S. Government billions of dollars for licenses are entitled to make use of these frequencies as long as there is no harmful interference demonstrated.

Your leadership and attention to the CSEA relocation process is instrumental in helping these Federal agencies modernize their equipment and, at the same time, will help ensure that additional spectrum is rapidly deployed for wireless broadband services. We look forward to your prompt response to this letter, and to receiving the requested status reports on the dates noted above. If you have any questions, please contact us or have your staff contact Tim Powderly, Majority Counsel at (202) 226-2424, or Neil Fried, Minority Counsel at (202) 225-3641 with the Committee staff.

Sincerely,



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John D. Dingell  
Chairman




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Joe Barton  
Ranking Member



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Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations



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Ed Whitfield  
Ranking Member  
Subcommittee on Oversight and Investigations

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The Honorable Rob Portman  
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Edward J. Markey  
Chairman  
Subcommittee on Telecommunications  
and the Internet



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Fred Upton  
Ranking Member  
Subcommittee on Telecommunications  
and the Internet