

Statement of FCC Commissioner Mignon L. Clyburn
Committee on Energy and Commerce
Subcommittee on Communications and Technology
United States House of Representatives
Wednesday, December 12, 2012

Chairman Walden, Ranking Member Waxman, and distinguished Representatives, good morning. Thank you for the opportunity to discuss spectrum policy and the efforts of the Federal Communications Commission to implement the historic legislation you passed in February of this year.

Over the past few years, consumer demand for wireless services has been increasing at a startling pace and the Nation needs legislation and regulation that can promote deployment of services. It's hard to believe that when I first started at the Commission in the summer of 2009, tablet devices had not yet been introduced to the U. S. consumer. And now, according to the most recent data for this year, 22 percent of American adults now own such a device. That figure is up from 11 percent in 2011. When you consider these statistics, with the fact that tablets consume 121 times more spectrum than ordinary cellphones, you immediately realize that our Nation's demand for wireless spectrum is on such an exponential trajectory that two elements of spectrum management have become critical policy priorities. First, we must find quicker ways to repurpose spectrum for commercial mobile services. Second, we must promote more efficient uses of spectrum.

Congress understood this when it passed, on a bipartisan basis, the Middle Class Tax Relief and Job Creation Act of 2012. The plain language of the spectrum management and public safety communications sections of that Act make clear that, through a voluntary incentive auction, Congress was giving the Commission authority to find a quicker tool to reallocate spectrum from broadcast TV services to wireless services. Congress directed that the incentive auction of broadcast television spectrum have three major pieces: a "reverse auction" in which broadcast television licensees submit bids to voluntarily relinquish spectrum usage rights in exchange for payments; a reorganization, or "repacking" of the broadcast television bands in order to free up a portion of the ultra-high frequency (UHF) band for other uses; and a "forward auction" of initial licenses for flexible use of the newly available spectrum. For those broadcast TV licensees who want to continue to use their spectrum to provide those services, the Act mandates that the Commission make all reasonable efforts to preserve, as of the date of the enactment of this Act, the coverage area and population served of each broadcast television licensee.

The Act also had clear directives for the proceeds from the forward auction. The Act requires that the incentive auction result in proceeds that are greater than the sum of the total amount of compensation the Commission must pay successful bidders in the reverse auction, the cost of administering the broadcast television spectrum incentive auction, and the estimated amount of the relocation cost reimbursements. The first \$1.75 billion of the proceeds would go into a fund to repay broadcast TV licensees reasonably incurred costs for being required to change frequencies as a result of the repack process. The rest of the proceeds would be deposited in the Public Safety Trust Fund to fund a national first responder network, state and local public safety grants, public safety research, and national deficit reduction.

Congress also gave the Commission authority to promote the use of unlicensed spectrum. The Act allows the Commission to implement guard bands that are technically reasonable to prevent harmful interference between licensed services outside the guard bands. The statute also permits the use of such guard bands for unlicensed use.

I am pleased to report that the Commission has been moving carefully but expeditiously to comply with both the spirit and plain language of all the mandates in the Act. I also particularly appreciate that the Commission staff members has been proactive in seeking the active engagement of the public and all stakeholders. They began conducting webinars and workshops even before Congress passed the Spectrum Act and it plans to hold several more such events throughout this proceeding. In addition, FCC staff members have been trying to implement these statutory directives with the same bipartisan approach that resulted in Congress passing the Act. Just two months after its enactment, a unanimous, three-member Commission released an Order that set some basic ground rules for preparing for incentive auctions. For example, it identified the specific broadcast TV licensees who may participate in channel sharing and clarifies that channel sharing will be voluntary and flexible.

This past September, the Commission, this time at full complement, unanimously adopted a Notice of Proposed Rulemaking that sought comment on the full range of procedural and technical rules that the Commission would have to adopt to conduct the voluntary incentive auctions. That Notice proposes a band plan, with six megahertz guard bands, that meet specific requirements that they be no larger than technically reasonable to prevent harmful interference between licensed services. It seeks comment on the plan and asks the public to provide alternative band plans.

I believe it was important for the NPRM to propose a band plan with an appropriate balance of unlicensed and licensed spectrum. Unlicensed spectrum plays a critical role in advancing more efficient use of spectrum, and commercial wireless carriers are increasingly using unlicensed Wi-Fi services and small cell architecture to offload their smartphone traffic. In November of last year, the Consumer Federation of America found that unlicensed Wi-Fi offload resulted in wireless carriers not having to construct 130,000 cell sites. This resulted in annual cost savings of more than 25 billion dollars. The unlicensed spectrum proposals in the NPRM would also encourage development of wireless services that can make effective use of unused spectrum, or White Spaces, in broadcast TV bands. In addition, promoting continued innovation in the unlicensed service industry is important to our National economy. As Representatives Anna Eshoo and Darryl Issa pointed out in a letter they presented to ensure the Act contained statutory provisions for unlicensed spectrum use, it is estimated that unlicensed spectrum generates between 16 and 37 billion dollars each year for the U.S. economy.

The Incentive Auction Notice also appropriately seeks comment on ways the Commission could design the incentive auction to accomplish all the funding goals of the Act including funds for a national first responder network. I believe the public safety goals of the Act are very important. When Congress created the FCC in 1934, it made one of the Commission's foundational obligations "the promotion of safety of life and property through the use of wire and radio communications." The devastation and service outages caused by Derecho and Super Storm Sandy show that obligation remains as vital today as it did almost eighty years ago. We may not be able to prevent natural disasters, but we can and must improve our Nation's ability to respond to these events. Doing our best to make First Net successful would go a long way toward enhancing our responses to these crises.

Thank you for allowing me to make these opening remarks. I look forward to your questions.