



Institute For Policy Innovation

ISSUE BRIEF

SHOULD THE U.S. FAVOR A FREE NATIONWIDE WIRELESS NETWORK PROVIDER?

by Solveig Singleton

Synopsis: FCC and legislative proposals to reserve a segment of spectrum for a content-filtered national wireless broadband provider would deprive many more entrepreneur-driven wireless services, small and large, of spectrum and capital. The risky business plan means a politically favored broadband provider looking for special treatment or bailouts in years to come.

Amid controversy about the growth of broadband in the United States and problems with FCC auctions, policymakers are developing plans for a free nationwide wireless broadband network. The FCC has proposed to auction 25 megahertz of spectrum on condition it be used for a free national wireless network offering filtered content run by a single provider.¹ Rep. Anna G. Eshoo (D-CA), has proposed a bill to do essentially the same. Both proposals resemble an earlier application by the company M2Z to operate an exclusive nationwide wireless network rejected by the FCC in 2007.²

This paper finds significant problems in the idea. Risks inherent in the top-down business model proposed make the plan unlikely to speed the spread of broadband effectively. The spectrum would be better put to uses supported by consumer demand expressed through markets.

SETTING UP A FEDERAL FAVORITE

Another entrant into the broadband market on equal terms with existing services would simply be another welcome competitor. But the nationwide wireless provider envisioned as a part of a more proactive federal broadband policy as described by the FCC or legislators would be a federal favorite—another thing entirely.

How would the nationwide provider end up with special treatment? First, as soon as having a sole provider use this spectrum is described as being “in the public interest,” to further broadband or auction reform goals, political actors could not allow it to fail, essentially a de facto broadband government sponsored enterprise (GSE).³ As a result of similar political logic, government sponsored enterprises Freddie Mac and Fannie Mae were not

allowed to fail or even appear to face the risk of failure; the recent bailout will cost taxpayers hundreds of millions of dollars.

And the risk of failure is substantial. The entity will have little flexibility to change business models if it finds itself in trouble. The FCC plan might allow some leasing or other spectrum trades, but the new provider must offer service on the same terms as the old. The fate of some would-be providers of municipal Wi-Fi service is instructive. The firm contracted to offer municipal Wi-Fi in Portland, Oregon, found the deal uneconomical and tried to bow out, but found no buyers.⁴ The nationwide wireless proposal sets up a future bailout at taxpayer expense.

Supporters of the proposal should ask themselves whether, if the auction winner is headed for bankruptcy, they are prepared to let the entity fail. To sell off or lease spectrum unconditionally to save itself? How much taxpayer money would be needed for a bailout? Would holding the spectrum off the market and away from alternative uses continue to be in the “public interest” if deployment goes awry?

That policymakers already think of this network as under federal responsibility is implied by their determination that the network offer only filtered “child-safe” content. The need to ensure that the content is uncontroversial stems from their sense that this network is to be the one “brought to you by” federal policy. And a difference in content between this network and others invites bias in future disputes over interference, anti-trust, tax policy, and liability for copyright infringement. In disputes with the filtered network and competitors, competitors could be portrayed as irresponsible or tainted.

Furthermore, the combination of federally overseen carriers and content is not friendly to free speech. The creation of a filtered wireless broadband provider in a dedicated auction invites the

argument that the provider is “waiving” rights of free speech. The model sidesteps civil liberties and sets poor precedent for future auctions.

A FAVORED LATE-COMER BETRAYS INVESTORS AND SMALL ENTERPRISES

The spectrum would be better put to use supported by consumer demand expressed through markets.

Many firms have already invested substantially in wireless broadband. Federal intervention in support of one business model will undermine these investments. Sprint and Clearwire plan a \$3.5 billion joint venture with Google, Time Warner, and others to provide a nationwide 4G wireless broadband service open to any device.⁵ AT&T and Verizon spent about \$10 billion each on spectrum for 4G wireless broadband.⁶ Cablevision plans such a network as well.⁷ Globalstar partner Open Range has obtained a \$267 million broadband loan from the Department of Agriculture for wireless broadband.⁸

Dozens of early entrants into wireless broadband are small regional players such as Thunderbird Broadband of Lake Stevens, Washington,⁹ or Dotspot.net, serving the Pulaski-Lawrenceville area of Tennessee.¹⁰ These regional players deserve a chance. Low-cost nationwide wireless phone coverage came about through the consolidation of regional networks as growth rewarded the best operators. Consumers of one firm bootstrapped into nationwide coverage would never benefit from this learning process.

The combination of federally overseen carriers and content is not friendly to free speech.

Investors might have foreseen that more spectrum would be opened up to broadband networks in competition with their own. But hardly anyone would have foreseen the entry of an exclusive entrant across a single large block of spectrum. The occupation of this spectrum could limit the success of other wireless ventures that need more spectrum, such as WiMax. Keeping a federal thumb off the scales in the competitive process between providers is important to maintain a stable climate for investment and maintain accountability to consumers.

MOVING AWAY FROM FLEXIBLE SPECTRUM USE POSES AUCTION PROBLEMS

Congress authorized spectrum auctions because auctions beat comparative licensing at the FCC in moving spectrum quickly into the hands of entrepreneurs to bring services supported by demand to consumers.¹¹ Now critics note that auctions, too, occasion delays as potential bidders dispute complicated rules. It has been alleged that some bidders enter and “warehouse” spectrum solely to impede competitors or forestall new entrants.¹²

But moving away from flexible use policies to dictate the business plans of bidders would not solve this problem. The business plan proposed for the nationwide wireless broadband network is risky—so risky that the main value of winning might well be keeping the spectrum unavailable to competitors. Risk factors include:

- The draw of “free” compared to higher speeds.
- The sufficiency of revenues generated by advertising.
- The best tech; Wi-Fi, WIMAX, UMB, and LTE and others are all in play.¹³
- The draw of a filtered “clean” network.¹⁴
- Political risks; one nationwide wireless broadband network was cancelled by the Australian government after the auction was held.¹⁵

A constrained wireless broadband plan will attract fewer bidders; the FCC’s “public safety” auction had only one. Dr. George Ford of the Phoenix Center estimates that the spectrum slated for the nationwide wireless proposals would raise \$2.8 billion unconstrained, and expects the constraints would reduce that figure by at least forty percent.¹⁶ That is less money for the taxpayers. Bidders willing to take the risk would likely include big players, or overreaching bidders like NextWave.

Certainly, the legislation originally establishing spectrum auctions emphasizes that the goal of auctions is “fostering the rapid development of new services” rather than simply focusing on maximizing receipts.¹⁷ Consistent with this goal of fostering new services, one proponent of nationwide wireless

stated “There’s a social obligation in making sure everybody can participate in the next generation of broadband services because, increasingly, that’s what people want.”¹⁸ But while a nationwide wireless plan is roughly consistent with the law, the

law certainly does not require it. Indeed, other language seems to preclude it. The Telecom Act’s “universal service” provisions address the problem of broad participation very specifically and at length, making it unlikely that Congress intended the auction provisions to empower the FCC to establish an entirely different sort of safety net of an unspecified nature—or dozens of them—by means of an entirely unspecified auction process.

Most importantly, the nationwide wireless proposal turns the thrust of the auction law upside down. Economists warn that using auctions

just to raise money would lead to pressure on the government to release spectrum slowly over time in limited lots, driving up the price by creating an artificial scarcity and depriving consumers of services supported by demand. The nationwide wireless plan will foster a similarly undesirable artificial scarcity of spectrum. That it will do so without any relieving taxpayers of any part of the burden of federal spending is not an argument in its favor. Even if one discounts revenue raising entirely as a goal of auction policy, reduced interest in restricted federal auctions is a red flag that entrepreneurs see risk, not reward.

And if the auction did result in the creation of a national wireless network, would it be worth it? No. The spectrum would still not be available to other uses, uses that investors and consumers demonstrate need for by their willingness to pay. The value of these services is the spectrum’s “opportunity cost.” Spending \$5.00 to set up a puppet show and sell \$7.00 worth of tickets to your mom and dad is nice, but not if you could have used the money to set up a lemonade stand, made \$10.00 in profits, and served thirty thirsty people.

CONCLUSION

Proposals that spectrum be auctioned only to one willing to provide a free wireless broadband network offering filtered content nationwide are unwise.

Keeping a federal thumb off the scales in the competitive process between providers is important to maintain a stable climate for investments and maintain accountability to consumers.

- The proposals set the stage for federal handouts to the only “clean” network, including a bailout.
- Granting the spectrum to one big provider unfairly undermines investments in networks under construction now, including startups.
- The business model proposed is high-risk for business, technical, and political reasons.
- Auctioning spectrum for flexible use will yield better returns and eliminate the opportunity costs of keeping spectrum away from uses supported by consumer demand.

Policymakers should keep the federal thumb off the broadband competition scales, and stay out of the business of designing broadband business models.

ENDNOTES

- 1 Further Notice of Proposed Rulemaking, Service Rules for Advanced Wireless in the 2155-2175 MHz Band (June 20, 2008), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-158A1.doc.
- 2 Anne Broche, “FCC Rejects Free Wi-Fi Startups Spectrum Plans,” CNET News Blog, September 1, 2007, available at http://news.cnet.com/8301-10784_3-9770197-7.html
- 3 Typically a GSE refers to a privately held corporation with public purposes created by the U.S. Congress in the financial markets.
- 4 Richard Martin, “Portland Says C’Est La Vie to Wi-Fi Shutdown,” InformationWeek, June 20, 2008.
- 5 Joseph Menn, “Sprint Beefy Up Wireless Venture,” LA Times (May 7, 2008) available at http://www.latimes.com/business/la-fi-sprint7-2008may07_0,6858211.story; Jacqueline Emigh, “Sprint/Clearwire Launches with \$35 Billion in Funding,” BetaNews, May 7, 2008.
- 6 “AT&T & Verizon to Use 700 MHz for 4G,” Unstrung, April 3, 2008, available at http://www.unstrung.com/document.asp?doc_id=150165.
- 7 Georg Szalai, “Dolan Opens Wireless Wallet,” The Hollywood Reporter, May 9, 2008.
- 8 “Open Range Gets \$267 Million Loan to Deploy Broadband,” TeleService News, May 2008.
- 9 See <http://thunderbirdbroadband.net/CoverageMap/tabid/71/Default.aspx> (“Thunderbird Broadband is a Local, Family Owned and Operated business”).
- 10 See <http://www.dotspot.net/>.
- 11 See e.g. Budget Reconciliation Act, P.O. 103-66, Legislative History, House Report No. 103-111. (“Comparative hearings have frequently been time consuming, causing technological progress and the delivery of services to suffer. . . . A competitive bidding system, therefore, will encourage innovative ideas, and give proper incentive to spur a new wave of products and services . . .”).
- 12 “For far too long our nation’s carriers have stockpiled spectrum, gamed auctions, and provided poor service to consumers,” Rep. Anna G. Eshoo, “Public Use of Public Airwaves for Free Internet Access; Letter to the Editor,” The Wall Street Journal, June 19, 2008, available at http://www.news.com/8301-10784_3-9922319-7.html.
- 13 See, “WiMax Fails Badly in Australian Deployment,” The Online Reporter, March 29, 2008, p. 1.
- 14 “DirectTV Could Offer Family Tier Lesson,” Satellite Business News Volume 11 No. 42, May 4 2005, p. 2. (family-friendly cable television tier met little demand).
- 15 “A Better Plan for Broadband,” The Advertiser, April 3, 2008 (Australia) (“Communications Minister Stephen Conroy yesterday cancelled the \$958 million Opel project, using wireless broadband, in favour of fibre-optic cable.”).
- 16 George Ford, “Calculating the Value of Unencumbered AWS-III Spectrum,” Phoenix Center Policy Perspective No. 08-01, available at <http://www.phoenix-center.org/perspectives/Perspective08-01Final.pdf>.
- 17 In designing auctions for spectrum licenses, the FCC is required by law to meet multiple goals and not focus simply on maximizing receipts. Those goals include ensuring efficient use of the spectrum, promoting economic

opportunity and competition, avoiding excessive concentration of licenses, preventing the unjust enrichment of any party, and fostering the rapid deployment of new services, as well as recovering for the public a portion of the value of the spectrum.” US Government, Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2001 – 2010*. (Washington, DC., 200) Appendix B.

18 USA Today, 20 August 2008, http://www.usatoday.com/tech/news/techpolicy/2008-08-19-fcc-martin_N.htm

ABOUT THE AUTHOR

Solveig Singleton is an Adjunct Fellow and communications policy specialist at the Institute for Policy Innovation. She is a frequent speaker at technology policy events and the author of many provocative articles on technology law and policy; these articles have appeared in the national press as well as academic journals. In addition, she is the co-editor of two books: *Regulators’ Revenge* and *Economic Casualties*.

ABOUT THE INSTITUTE FOR POLICY INNOVATION

The Institute for Policy Innovation (IPI) is a non-profit, non-partisan educational organization founded in 1987. IPI’s purposes are to conduct research, aid development, and widely promote innovative and nonpartisan solutions to today’s public policy problems. IPI is a public foundation, and is supported wholly by contributions from individuals, businesses, and other non-profit foundations. IPI neither solicits nor accepts contributions from any government agency.

IPI’s focus is on developing new approaches to governing that harness the strengths of individual choice, limited government, and free markets. IPI emphasizes getting its studies into the hands of the press and policy makers so that the ideas they contain can be applied to the challenges facing us today.

© 2008 Institute for Policy Innovation

Editor & Publisher Tom Giovanetti

IPI Issue Brief is published by the Institute for Policy Innovation (IPI), a non-profit public policy organization.

NOTE: Nothing written here should be construed as an attempt to influence the passage of any legislation before Congress. The views expressed in this publication are the opinions of the authors, and do not necessarily reflect the view of the Institute for Policy Innovation or its directors.

Direct inquiries to: **Institute for Policy Innovation**
1660 S. Stemmons Freeway, Suite 475
Lewisville, TX 75067

(972) 874-5139 (Voice)
(972) 874-5144 (FAX)

Email: ipi@ipi.org
Internet Web site: www.ipi.org