

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on “Keeping the New Broadband Spectrum Law on Track”
Subcommittee on Communications and Technology
December 12, 2012

Today we hold an important hearing on the FCC’s implementation of spectrum legislation that Congress passed with strong bipartisan support. I am grateful that Chairman Genachowski, Commissioner Clyburn, Commissioner Rosenworcel, Commissioner McDowell, and Commissioner Pai are here to talk about their work, and I welcome them back to the Committee.

Earlier this year, Congress enacted landmark legislation to provide American citizens and first responders with critical access to spectrum and advanced wireless broadband communications.

The Public Safety and Spectrum Act implemented one of the last remaining recommendations from the 9/11 Commission and created a nationwide interoperable public safety broadband network for first responders.

It also provided new authority to the Federal Communications Commission to conduct incentive auctions with the purpose of alleviating the spectrum crunch fueled by ever growing demands for mobile broadband services and providing a down payment for the public safety network. Overall the new law will help drive our national economic growth while keeping the American people safe through state-of-the-art communications infrastructure for public safety.

The Public Safety and Spectrum Act was the result of months of bicameral, bipartisan negotiations that included many elements of compromise. The FCC is now grappling with several of these areas, and I would like to highlight two in particular.

The first is unlicensed spectrum. Unlicensed spectrum has been an incredible economic success story. Innovative services like WiFi and Bluetooth are now ubiquitous parts of our communications system.

The law advances unlicensed use in several ways. It allows the FCC to use the existing white spaces in the broadcast band for unlicensed use. It gives the FCC authority to reorganize these existing white spaces to maximize their value. And perhaps most important, it allows the FCC to create “guard bands” in the repurposed broadcast television spectrum that may be used for new unlicensed services like “Super WiFi.” This is smart spectrum policy that recognizes the increasingly interdependent nature of licensed and unlicensed operations. The guard bands will both enhance the value of the spectrum to be auctioned by protecting it from interference and create a nationwide band of prime spectrum that can be used for new innovations in unlicensed use.

That is why I am pleased that the FCC’s proposed rules are faithful to congressional intent to promote innovation in unlicensed use.

Second, the law preserves the FCC’s ability to use auction rules to promote competition in the wireless industry while ensuring no single carrier is unfairly excluded from the auction process. As the steward of the public’s airwaves, the FCC must have the authority to write auction rules that aim to avoid the concentration of spectrum in the hands of just a small group of companies. The Act strikes the proper balance in recognizing that while every carrier should be eligible to participate in some fashion in a “system of competitive bidding,” the FCC can continue to promote competition through its spectrum policies.

To implement this part of the law, the FCC is appropriately seeking comment on whether to establish spectrum aggregation limits or other rules to achieve these aims.

The conferees on the Public Safety and Spectrum Act spent significant time debating, and ultimately rejecting, other proposals on unlicensed and bidder eligibility. No conferee’s position was accepted outright and our carefully crafted compromise is what became law. So I am troubled by attempts by some to re-litigate issues that were resolved earlier this year, when the bill passed Congress with widespread support. After-the-fact spin that unfairly twists the language of the law deserves little weight.

My judgment is that the FCC is off to a good start in proposing incentive auction rules. I commend Chairman Genachowski and his colleagues on the Commission for these efforts and look forward to hearing their testimony.