



NEWS

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See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

FOR IMMEDIATE RELEASE:
August 23, 2012

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FCC CONCLUDES REVIEW OF VERIZON WIRELESS-SPECTRUMCO DEAL AND APPROVES RELATED SPECTRUM TRANSACTIONS

Commission Approves Transfers of Spectrum between Verizon Wireless and SpectrumCo, Cox, Leap, and T-Mobile

Washington, D.C. – The Federal Communications Commission has concluded its review of the Verizon Wireless-SpectrumCo deal and approved four significant spectrum transfer applications involving Verizon Wireless, subject to a number of binding commitments and conditions. The applications include, among other things, the assignment of AWS-1 licenses held by Cox and SpectrumCo (a joint venture among subsidiaries of Comcast, Time Warner Cable, and Bright House Networks) to Verizon Wireless; a spectrum “swap” between Verizon Wireless and Leap; and Verizon Wireless’s net assignment of AWS-1 licenses to T-Mobile. The full Order further explaining the Commission’s reasoning and the commitments and conditions is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-95A1.pdf.

The Commission’s decision is based on a thorough review of the record, which includes extensive data and analysis from the applicants, as well as thousands of comments from interested parties and substantial public input. In addition, Commission staff coordinated closely with the staff of the U.S. Department of Justice’s Antitrust Division (“DOJ”) throughout the review. That coordination helped result in a Consent Decree between DOJ and SpectrumCo and Cox, which requires significant modifications to the commercial agreements in order to prevent anti-competitive and anti-consumer conduct.

To address staff concerns regarding spectrum concentration, Verizon Wireless undertook an unprecedented divestiture of spectrum to a competitor, T-Mobile. In addition, the Commission’s Order includes enforceable commitments from Verizon Wireless to accelerate buildout of its newly acquired spectrum, as well as to offer data roaming on commercially reasonable terms and conditions. The Commission’s Order also finds that the significant concerns raised in the record concerning the Applicants’ related commercial agreements have generally been addressed by the Consent Decree. In particular, the Order finds that the Consent Decree preserves Verizon’s incentives to build out FiOS, ensures that the proposed technology venture is pro-consumer and that its products cannot be used in anti-competitive ways, and protects and potentially enhances wireless competition. Because the commercial agreements are in the early stages of implementation and relate to evolving markets, however, the FCC is placing an independent reporting obligation on Verizon. In addition, the FCC is opening a docket to allow the public to file complaints or petitions alleging that the parties are acting in violation of the conditions imposed by this order or engaging in anti-competitive conduct relating to this transaction.

More specifically, the Order imposes as conditions the following four voluntary commitments made by Verizon Wireless:

Divested Spectrum

- Verizon Wireless must close its proposed spectrum transfer with T-Mobile within 45 days of its

closing of the SpectrumCo, Cox, and Leap transactions.

Buildout

- Within three years, Verizon Wireless will provide signal coverage and offer service to at least 30 percent of the total population in the Economic Areas or the portions of Economic Areas in which it is acquiring AWS-1 license authorizations (calculated by summing the population for each of these areas); and
- Within seven years, Verizon Wireless will provide signal coverage and offer service to at least 70 percent of the population in each Economic Area in which it is acquiring AWS-1 license authorizations, or, where a portion of the Economic Area is acquired, to at least 70 percent of the population of the total acquired portion of the licensed Economic Area.

Roaming

- In the event the current data roaming rule is not available to requesting providers, Verizon Wireless will continue to offer roaming arrangements for commercial mobile data services on any of its spectrum in the areas where it is acquiring AWS-1 spectrum to other commercial mobile data service providers on commercially reasonable terms and conditions, and providers may negotiate the terms of their arrangements on an individualized basis. This commitment will remain in place for five years following the date of the Commission's order.

Reporting

- Verizon must provide on a semi-annual basis, subject to an appropriate protective order, reports concerning trends in DSL subscribership following the implementation of the commercial agreements.

Action by the Commission, August 21, 2012, by Declaratory Ruling, Memorandum and Order (FCC 12-95). Chairman Genachowski, Commissioner Clyburn and Commissioner Rosenworcel approving; Commissioner McDowell and Commissioner Pai approving in part and concurring in part. Separate statements issued by Chairman Genachowski, Commissioners McDowell, Clyburn, Rosenworcel and Pai.

Docket No. 12-4.

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