

Spectrum Inefficiencies Caused by FCC Renewal Policies in Spectrum Auctioned for Fixed Microwave

Radio spectrum is a limited resource that must accommodate burgeoning needs. Yet current laws and regulations use the resource inefficiently. Inconsistencies in the spectrum licensing and renewal processes are partly to blame—particularly as to renewal standards for spectrum auctioned on a geographic basis for fixed wireless use.

Auctions work well for wide-area applications such as broadcast and mobile phone service. The current scheme governing geographic-area auctions for fixed wireless services, however, can be problematic. Fixed wireless relies on point-to-point communications that do not require exclusivity. Multiple users can usually coordinate non-interfering point-to-point links in the same region using the same spectrum band. Geographic licensing, in contrast, limits use of the spectrum to only one licensee. In some cases, that licensee must attempt to recover its auction costs by selling service to others. Where demand exists, auctions have succeeded, and geographic licensing has allowed the licensee and its customers to deploy quickly and efficiently.



The problem arises with the FCC’s policies for renewal after the ten-year license term in areas where demand is light. To qualify for renewal, the licensee must show it is providing “substantial service,” a term that is not clearly defined. A “safe harbor” allows renewal if the licensee has constructed four point-to-point links per million population in the license area. This standard creates a perverse incentive for the licensee to build “links to nowhere” using obsolete and useless equipment merely to preserve its license rights. The spectrum remains functionally unused.

If the licensee lacks enough business to support the four-links-per-million standard, and does not play the game of constructing pointless links, the public-interest consequences are worse. The FCC has canceled hundreds of licenses for non-construction despite, in some cases, substantial investments by licensees to prepare the spectrum for offering service. The FCC has never attempted to re-auction that spectrum—although, given the renewal policy history, a rational bidder would be unlikely to offer much.

Rather than incentivize licensees’ efforts to serve the public interest, the present policy produces exactly the result the FCC most wants to avoid: out-of-service spectrum that no one can use.

An update to the Communications Act must remedy these problems. Certain changes to the current policies would be welcome improvements:

1. If Congress continues to favor area-wide auctions for fixed service spectrum, then license renewal standards should better evaluate whether spectrum is under development, using criteria calculated to discourage both competitive warehousing and the construction of useless links.
2. To promote construction, a licensee should be allowed to continue operating point-to-point links that have already been built, even if the rest of the license is cancelled.
3. After a license is cancelled and beyond all appeals, the affected spectrum should become available for shared licensing by anyone.

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