

## **700 MHz Auction Approaches With Loose Ends Galore**

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The FCC doesn't have much time left to adopt a final band plan for the remaining 700 MHz spectrum, and the heat is definitely on. Congress has set a deadline of January, 2008, for the Commission to initiate the 700 MHz auction, which means that the Commission must have the band plan in place and the auction rules set in the very near future in order to allow the necessary lead time before auction applications are due. The proceeding has drawn an enormous amount of scrutiny from carriers large and small as well as a number of potential new entrants into the field. It is unusual this late in the game for so many key issues to remain unresolved. At stake are 60 MHz of highly desirable spectrum in the band which must be cleared of UHF television operations by February, 2009. The spectrum is coveted because of the favorable propagation characteristics of the 700 MHz band compared to higher frequencies and the availability of large chunks of unencumbered spectrum for broadband and 4G applications.

Still up in the air are:

Whether the band will be allocated by huge geographic territories available only to the largest carriers or offered in a combination of large, medium and small sizes to make some of the spectrum accessible to all.

Whether "combinatorial" or package bidding will be permitted. This type of bidding is considered to favor large carriers because it permits them to bid on combinations of smaller markets at one time and thus outbid firms who desire only a smaller subset of the markets.

Whether the spectrum can be leased out by the winning bidders on a sort of carriers' carrier basis without regard to the Commission's latest rules limiting leasing by Designated Entities.

Whether the current 700 MHz guard band channels should be restructured.

Whether the last-minute "Frontline" proposal to associate a channel block with the adjacent public safety spectrum to permit a commercial build-out of public safety facilities should be adopted in some form.

Whether tight construction benchmarks should be established for licensees

Whether the technical parameters of operations should be tweaked.

The Commission can be expected to endure a barrage of comments and a swarm of visitors on these subjects during June as the time to make a final decision nears. In addition to the smaller carriers who have formed coalitions to espouse their positions and the largest mobile carriers like Verizon and AT&T, new giants like Google have waded into the fray. One envisions something

like the administrative equivalent of the battle of Waterloo, where all the armies of Europe's kingdoms, dominions and principalities marched toward Belgium to converge in a single massive test of strength and will. Here battalions of lawyers and legions of lobbyists are already launching *ex parte* missiles, making 8<sup>th</sup> floor sallies, mobilizing all the forces at their command, and forming strategic alliances. At stake are several billion dollars worth of spectrum and, possibly, the mid-term future of wireless broadband in America. Keep your heads down and your powder dry.