

FCC enacts wireless auction reform, but critics say not enough

by Matthew Lasar

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The FCC took action today to prevent bidders in the Commission's upcoming Advanced Wireless Service (AWS) auction from rigging the spectrum selling procedure to their advantage. But one critic called the move "only a baby step" towards meaningful auction reform.

For years economists and analysts have warned that wireless bidders in open information auctions signal each other "to coordinate bids," in the FCC's own words, "retaliate against bidders that do not cooperate, or engage in other undesirable strategic behavior."

"The ongoing susceptibility of our auctions to these practices is no secret," declared FCC Chair Kevin Martin in press statement on the decision. "I believe it is essential that we make an effort to foreclose anti-competitive bidding behavior in this auction."

The Commission's new procedures for its scheduled June 29th auction set an openness formula based on the amount of competition expected. If not enough bidders participate in the auction, the FCC will not release the identities of the players until the auction is concluded.

The FCC plan is similar to a proposal submitted by the wireless industry earlier this month. On April 4, representatives of T-Mobile filed auction reform recommendations backed by Cingular Wireless, MetroPCS, and seven other firms. Their proposal advocated a "Competitiveness Ratio," which, if not met, would trigger blind auction proceedings.

But media reform groups say the FCC's new rules do not go far enough.

"The FCC has chosen to bet billions of dollars and the future of the wireless industry on an untested theory proposed by the very industry that manipulated the old rules," said Harold Feld, Senior Vice President of the Media Access Project (MAP) in a response to today's FCC ruling.

Feld called today's decision a "baby step" towards solving the problem.

"We can only hope that, if the conduct of the AWS auction shows the FCC bet wrong, it will reconsider its decision before it auctions the returned analog television channels in 2008," he concluded.

On April 5th, MAP, the Consumers Union, the National Hispanic Media Coalition, and three other groups filed a statement with FCC urging the Commission to reject T-Mobile's proposal and instead enact a comprehensive blind auction plan without any competition threshold.

Designated Entity problem unresolved

The FCC also did not address the problem of big wireless companies posing as small business "Designated Entities" (DEs) in order to win the standard 25% discount DEs get in FCC wireless auctions.

"As the record has shown, large wireless carriers use 'sham' DEs to block genuine new entrants and receive a 25% discount off the bid price," the April 5th Media Access Project filing noted. "This game playing has cost the American public billions of dollars in lost revenues and lost competition."

The media reform group wants the FCC to prohibit big wireless carriers from "maintaining significant relationships" with smaller groups classified as DEs.

In his statement on the new auction policy, FCC Commissioner Michael Copps urged the FCC to address this issue.

"We must not allow deep-pocketed companies or individuals to erode the integrity of our auctions by masquerading as small carriers," Copps said.

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