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Is The FCC Blocking Wireless Competition?



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With the nationwide expansion of fiber-optic wiring and digital delivery at the turn of the century, the federal government reclaimed and is still reclaiming large amounts of spectrum. Much of it, according to a former government official, has remained unused for seven years, and he blames the Federal Communications Commission for stifling competition in the wireless space.



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M2Z Networks created quite a stir and sort of speeded its own rejection by hammering the FCC into a decision about the company's proposed free, advertising-supported wireless broadband network. But also, M2Z has sparked fierce public debate over a host of issues that aren't easy to resolve, including debates about [free speech](#) and [Net Neutrality](#).

Perhaps the most pressing (if not the largest) issue: What to do with all that unused spectrum?

 [Listen to the Muleta Interview](#) 

[M2Z CEO John Muleta](#), whose venture-funded Silicon Valley company proposed the FCC carve out the 2155-2175 MHz band that had lain fallow since 2000 for their "family friendly" network, [says](#) the FCC is "sitting" on a lot of unused spectrum that could be used to create new wireless broadband competition.

Muleta brings not just his vested interest in the proposal, but also a Washington Beltway insider pedigree. From 2003 to 2005, he served as the chief of the FCC's Wireless Telecommunications Bureau.

In an interview with WebProNews, Muleta describes M2Z as an answer to the telecom/cable broadband duopoly, and an anticompetitive market he suggests the FCC has helped to create by blocking startups such as his own.

M2Z was quite vocal in the final days leading to the dismissal of its proposal, noting the speed with which the Commission approved the largest merger in US history – the AT&T/BellSouth merger – and comparing it to the relative slowness of considering uses for fallow spectrum.

"The FCC has spent 15 months looking at our proposal and decided to think some more about it," said Muleta.

Commissioners criticized the proposal for not being aggressive enough in its build-out plans, and for not offering fast enough speeds. Muleta

rejected both arguments, saying that the goal to reach 95 percent of the US population was "aggressive" and that 384 Kbs was comparable to the wireless broadband offerings of AT&T and Verizon, who charge \$60-\$90 per month.

Though the FCC said it needed time to devise rules and invite public comment on what to do with the spectrum (M2Z proposed a 5 percent of profit trade out), for deciding to license or not license, to auction or not to auction, etc., one Commissioner, Jonathan Adelstein, expressed disappointment that the Commission had not sought comment on service rules for this band before now.

"Why does it take 15 months to [initiate rule making]?" echoed Muleta. The answer may lie in that it's more complicated than throwing spectrum to the first startup that asks for it.

Though there is certainly evidence that the FCC has sat on its heels in divvying up spectrum to would-be wireless competitors, or indeed, as Muleta put it, is flat out "getting in the way" of competition, M2Z's proposal introduced two new and quite sticky elements to the debate: a Constitutional element; and a Net Neutrality element.

M2Z said content coming across its free network would be "family friendly," which means filters would be in place to block adult content. A premium service would also be available where the filter could be turned off.

Muleta equates it to free over-the-air broadcast television and radio, which has been (quite arguably) family friendly for decades, self-regulated by the networks with oversight by the FCC.

"If we granted a free service," he said, "we think it's common sense that children don't inadvertently get to pornographic material."

 [Listen to the Feld Interview](#) 

But [Harold Feld](#), Senior Vice President of Media Access Project, a 35-year-old nonprofit organization dedicated to free speech in media issues and, more recently, opening up spectrum bands for unlicensed public use, [says](#) that the FCC granting a license allowing a network operator to filter content would be "an outright violation of the First Amendment."

Feld differentiates between broadcast and wireless broadband with some classic communication theory that involves passive versus active users.

"The problem was you'd be sitting there with your kids huddled around the television set or listening to the radio in this sort of Norman Rockwell type picture and then suddenly this terrible indecent content would jump out at you before you even knew it was there and your kids were exposed to it before you could even turn the dial."

Those were passive users. Active users, as with Internet users, seek out content.

On the Net Neutrality side of the debate, you might imagine, this would involve a government sanction for allowing a network operator to sniff around data packets, separate content, and ultimately decide what the end user can view. And that, says Feld, "sets an extraordinarily bad precedent."

Muleta is quick to answer, though, falling back on the argument that the free market will cure all ills and that the FCC has created the problem of Constitutional concern by clogging up the market in favor of incumbents, and preventing new entrants by doing nothing with the available spectrum.

In the rejection to M2Z's proposal, Muleta notes not even these concerns were addressed. "What are they thinking?" he asks. "What are they doing out there? Are they fighting fires?"

[FCC M2Z John Muleta Harold Feld Media Access Project Net Neutrality Broadband Wireless Spectrum](#)

About the Author

Jason Lee Miller is a WebProNews editor and writer covering business and technology.