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# FCC Releases Plans to Open Satellite Spectrum for Wireless Use

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The FCC has released a draft order and auction procedures for a December 8 auction of C-band spectrum. C-band spectrum is now used by satellite companies and will be reclaimed for use by wireless providers. If adopted at the FCC's February 28 meeting, the order would allow an initial portion of the spectrum to be repurposed by September 2021 and a total of 280 MHz to be repurposed by September 2023. This represents the largest swath of spectrum ever repurposed by the FCC for wireless use and is more than three times the spectrum made available in 2016 through the broadcast incentive auction. This spectrum is particularly valuable because it is located in the mid-band, which is ideal for 5G wireless services.

The spectrum that will be made available, in what is known as C-band, is located in the 3.7 to 4.2 GHz range. The FCC will reallocate the lower portion of the band and satellite companies will retain access to the upper portion of the band. Reallocation of the spectrum will require both satellite companies and their customers to modify their equipment so that satellite service is restricted to that portion of the band.

Key elements of the proposed order and procedures include:

- 280 MHz of the 500 MHz in the C-band will be reallocated to terrestrial wireless use and 200 MHz will remain available for satellite service. The remaining 20 MHz will be left as a guard band between wireless and satellite services
- All of the reallocated spectrum, including the guard band, must be vacated by September 30, 2025
- The order grants up to $9.7 billion in incentive payments for satellite operators if they vacate the lower 100 MHz of the band (plus a 20 MHz guard band) in 46 of the 50 largest markets by September 30, 2021, and the remaining 180 MHz by September 30, 2023. The payments will be made in two tranches, but if an operator meets the first deadline and misses the second one it will be required to return the initial payment
- In addition to the incentive payments, current users of the band will be reimbursed for their actual costs of accommodating the reallocation. The expenses eligible for reimbursement include the costs of launching new satellites, changes to ground stations and filters on receive-only earth stations. These costs currently are estimated to be between $3 and $5 billion. Earth station owners also will have the option of receiving a fixed lump-sum payment per earth station, rather than being reimbursed for their actual costs. Those fixed payments may be used for any purpose, including substituting fiber for satellite service
- The financial aspects of the transition will be managed by a relocation payment clearinghouse, which will be a neutral entity that will be selected by October 15, 2020
- The auction of the reclaimed C-band spectrum will begin on December 8, 2020. There will be one auction, with separate bidding for the lower 100 MHz and upper 180 MHz blocks and each block divided into 20 MHz subblocks. The geographic area for the licenses being auctioned will be Partial Economic Areas. There are 416 PEAs
- The FCC will make credits in the auction available to small businesses and rural carriers. Small business can have up to $25 million in credits and rural carriers can have up to $10 million in credits
- Winning bidders in the auction will be responsible for their pro rata shares of the incentive payments made to satellite operators and the costs of relocation. Bidders' shares of these costs will be determined based on their winning bids, not considering any credits for small businesses or rural carriers

Both the order and the auction procedures are expected to be adopted, as all three Republican FCC Commissioners have announced that they support the proposal. While there has been some Congressional opposition to making significant payments to the satellite operators, it does not appear there will be legislative action to stop or overturn FCC action.

Cooley lawyers can provide advice on the implications of the proposed decisions and how interested parties can participate in the upcoming auction.

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