

October 19, 2015

The Federal Communications Commission ("FCC") has established the initial deadlines for its 2016 broadcast incentive auction—an auction that could involve the sale of up to 120 MHz of attractive low-band spectrum and draw bids of \$60B or more.

The auction will be a two-sided auction. First, television broadcasters will bid in a reverse auction to return their television broadcast spectrum to the FCC. Prices on the broadcaster side will decline during the auction until enough broadcasters drop out of the auction and the only broadcasters remaining are the broadcasters needed for the FCC to reclaim the amount of spectrum it plans to re-auction on the wireless side. After the broadcaster side of the auction is complete and the FCC repacks the television band to create contiguous blocks of spectrum, wireless carriers and other parties will bid on the reclaimed spectrum in a forward auction. If the amount received from the forward auction round is insufficient to cover broadcaster bids and the FCC's expenses, the amount of spectrum to be reclaimed will be reduced and subsequent rounds will take place. The auction will end when the wireless forward auction meets certain revenue and pricing goals, which includes covering the costs of the broadcaster bids.

The announced schedule is as follows:

December 18, 2015: deadline for broadcasters to file applications to participate in the reverse auction.

January 28, 2016: deadline for wireless carriers and other interested parties to file applications to participate in the forward auction

March 29, 2016: deadline for broadcasters to commit to an initial bid relinquishment option
After March 29 the FCC will determine, based on broadcaster interest, the amount of spectrum that will be reclaimed from broadcasters and auctioned for wireless services. Broadcaster bidding will start shortly thereafter and is expected to take several weeks. Wireless bidding will start after the broadcast side is complete and after a brief pause to allow wireless applicants to study the broadcaster results. Bidding on the wireless side should start in May or June of 2016.

The forward auction will be complex, as wireless bidders will not be bidding on discrete spectrum blocks but rather will be bidding on generic spectrum blocks that will be assigned in a separate phase of the auction after wireless bidding clears the auction closing requirements. Bidding opportunities also will be segregated, with some spectrum held in reserve for bidders without significant low-band spectrum holdings (*i.e.* bidders other than AT&T and Verizon). With Sprint having formally announced that it will not participate in the auction, there could be opportunities for new industry players to purchase spectrum at attractive prices.

Reverse auction opening prices for each full-power and Class A television broadcast station in the country were released by the FCC on October 16. The highest opening price is for WCBS-TV in New York, NY at \$900M to move off-air. Stations bidding in the auction have the option to move off-air and turn in their spectrum or to move to either a high or a low VHF channel.

Parties interested in participating in the auction on either the broadcast or wireless side should begin their planning now. If you would like more information about opportunities in the spectrum auction, please contact one of the attorneys listed here or your Cooley relationship partner.

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