How to Sell the Airwaves?

FCC Must Choose Between Competing Network Visions

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The airwaves that carry billions of calls, text messages and e-mails have become one of the hottest corporate properties. Not only are they in demand by a nation of 240 million mobile-phone users, they are also in short supply.

Soon, one of the last available sections of airwaves -- and one of the most attractive -- will be sold, and the issue of how to manage that sale has become the focus of debate. The Federal Communications Commission is overseeing the auction of a portion of the radio frequency spectrum once used by television broadcasters, and this week drafted rules for the sale. The auction, scheduled for January, is expected to raise at least $15 billion, with bidders ranging from start-ups to established phone companies.

Companies and policymakers have different ideas on how to allocate the airwaves. The battle pits software firms against traditional telecom carriers, Republican commissioners against Democratic, and phone companies against cable companies. To complicate matters, police and other public safety organizations also have a stake in the auction as they push for a national network that would allow all first responders to communicate with each other.

FCC Chairman Kevin J. Martin
has proposed using one-third of the available spectrum to build an "open network" that would allow the use of any mobile device or service without the restrictions that current providers place on their networks. The idea is welcomed by technology companies such as Google, but poses a serious threat to such carriers as Verizon Wireless and AT&T.

To stay on track for a timely auction, commissioners must settle on rules by the end of this month.

"Fundamentally, the FCC will have to decide how it can drive wireless innovation and economic growth and if it's important to achieve a national public safety network," said Blair Levin, an analyst with Stifel Nicolaus. "One has enormous economic implications for investors, and the other is important for policy."

Martin's open-access proposal has prompted criticism from all sides. Google and its consumer-advocate allies said the plan doesn't go far enough to loosen the grip that telecom carriers have on the wireless market. They also want the auction winner to resell spectrum to companies that impose no rules on what type of services and equipment consumers can use. AT&T and Verizon say the plan is engineered to benefit technology companies and would place burdensome conditions on the auction.

In an interview yesterday, Martin said his plan purposely "doesn't give any one company or party exactly what they wanted" and that he tried to ensure that "there will always be at least one piece of spectrum that [companies] can use to get new applications . . . to consumers."

Martin's plan also would set aside another portion of the spectrum for an emergency network. One of the most vocal advocates of such a network has been Frontline Wireless, a company formed by Silicon Valley investors and former FCC chairman Reed E. Hundt. Yesterday, Frontline hired former FBI director Louis J. Freeh to promote its public safety agenda.

Frontline proposes a public-private partnership that would build a national public safety network, portions of which could be leased to commercial companies. While Martin supports that notion, his proposed rules would not accommodate Frontline's idea of outsourcing the building of that network to a third party. Nextel founder Morgan E. O'Brien, who formed a company called Cyren Call, proposed a similar public-private partnership. That plan was initially rejected by the FCC because it would have required legislative changes, but O'Brien is still lobbying to give more priority to public safety.

At a congressional hearing Wednesday, telecom carriers, technology entrepreneurs, academics and consumer advocates tried to influence lawmakers. While key members of Congress expressed support for allowing any device to connect to the network, others said they were concerned that the idea could dissuade some companies from participating in the auction, which could reduce the revenue from the sale.

Rep. Charles W. "Chip" Pickering Jr. (R-Miss.) has repeatedly expressed support for the open network policy.
"If there are people that want to invest in the spectrum for a new business model, what's wrong with that?" he asked Verizon Wireless's general counsel at the hearing.

"We agree," Steven E. Zipperstein said. "But that business model shouldn't be hard-wired into the auction beforehand."

Analysts say the open network question has revived the debate over network neutrality on the wireless front. Net neutrality, a hot issue on Capitol Hill a year ago, concerns the ability of Internet service providers to give preferential treatment to certain content providers.

However, applying net neutrality to the wireless industry raises new questions, and opinions differ on the meaning of an "open" network.

"Definitions are blurry at best, even in the broadband world," said Jon M. Peha, associate director of the Center for Wireless and Broadband Networking at Carnegie Mellon University. Strict requirements around an ambiguous concept might "make a number of carriers much less likely to bid," he said.

Ensuring that the deep-pocketed carriers pay top dollar for the spectrum is a high priority for FCC commissioners because the auction proceeds have already been allocated by Congress, according to two commission staff members who spoke on the condition on anonymity because they are not authorized to speak publicly on the matter.

That could reduce support for Martin's proposal for an open network, which appeals to the two Democratic commissioners, the staff members said.

But the open access conditions could strengthen Martin's chances of gaining majority support for his preference for large geographic licenses -- an idea he's had a hard time selling to the Democratic commissioners. Commissioners Michael J. Copps and Jonathan S. Adelstein, along with Commissioner Robert M. McDowell, a Republican, favor breaking the spectrum into smaller blocks that might be purchased by smaller carriers or rural providers.

The size of spectrum licenses has also pitted phone companies against cable competitors. Phone companies favor large sections of airwaves to make it easier to expand their networks. Cable companies argue that such large blocks could allow phone companies to stockpile the airwaves, preventing smaller companies from entering the market.

The FCC's biggest challenge will be reaching a consensus on the rules.

"There's got to be a whole package that makes sense," Levin said. "At the end of the day, Martin needs three votes -- not on each issue, but on a package."