FCC Asked to Probe Auction
Failure of Public Safety Band to Draw Bids Raises Suspicion

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The failure of a Federal Communications Commission auction to draw sufficient bids to build a wireless network for emergency responders provoked sharp criticism by members of Congress, consumer groups and leaders of the 9/11 Commission yesterday. It also prompted a call to investigate whether auction rules were broken.

Nine organizations, including the Consumer Federation of America and Consumers Union, wrote to FCC Chairman Kevin J. Martin, saying the FCC should "investigate carefully the allegations" that representatives of the nation's police, fire and emergency officials undermined the auction. They cited reports that public-safety representatives demanded that any winner of the auction make additional payments to them.

Regulators prepared to try again to meet a core recommendation of the 9/11 Commission: providing the nation's 55,000 public-safety agencies a dedicated portion of radio spectrum. The lack of interoperable communications networks for police and firefighters has been cited repeatedly as a deadly shortcoming hindering the response to the World Trade Center attack, Hurricane Katrina, the 1995 Oklahoma City federal building bombing and the Air Florida crash in 1981.

"This is a key recommendation, and the fact that it has become so difficult to achieve is a source of deep, deep disappointment to us," said former representative Lee H. Hamilton, co-chairman of the 9/11 panel, which issued its findings in 2004. "I've lost patience. . . . The slowness of this just indicates a lack of urgency and a lack of concern about human survival and human life if a disaster strikes."

The 700-megahertz spectrum is considered prime real estate by the telecommunications industry because of the power of signals of that frequency to penetrate walls and buildings.

The FCC said Tuesday that it ended a record-smashing $19.6 billion auction of airwaves that will be vacated next February by television broadcasters as they switch to all-digital transmission. That sale raised money for the U.S. Treasury, and the spectrum will be turned over to the as-yet-unannounced winners to build, among other things, a high-capacity network open for use by all wireless devices and software. But a segment of the airwaves -- known as the D-block -- that was set aside for public safety use drew only one...
$472 million offer, below the FCC's $1.3 billion reserve price.

Public-safety agencies expected that their wireless network, which according to some estimates would have cost $5 billion to $7 billion, would create next-generation capabilities for sharing maps, video and other information over rugged networks able to withstand natural or man-made disasters anywhere in the country.

Martin yesterday said that the FCC could vote within days to re-bid the public safety airwaves. Martin also said he asked the FCC inspector general to investigate complaints.

"My commitment to making sure we find a way to solve the interoperability problems of public safety has not changed," Martin said. "I want to be cautious. There are some allegations of impropriety of public safety groups that hired certain contractors."

House Energy and Commerce Committee Chairman John D. Dingell (D-Mich.) and telecommunications subcommittee chairman Edward J. Markey (D-Mass.) prepared to hold hearings early next month and will consider whether the public-private partnership model for building the wireless network for emergency responders should be changed.

Markey said the FCC reserve price for the D-block airwaves could drop because the overall auction was such a financial success. With the winners of the commercial spectrum expected to be the large wireless carriers AT&T and Verizon Wireless, Markey also said a priority is to open access to new competitors.

FCC anti-collusion rules prohibit participants from discussing the auction until 10 days after its close. But the consumer groups and several sources close to the prospective bidders said their concerns center on the role played by the Public Safety Spectrum Trust, the nonprofit group representing public-safety organizations and its advisory firm, Cyren Call.

Specifically, the groups questioned a meeting between Cyren Call and Frontline Wireless, the leading prospective bidder to be the trust's partner in developing a public safety network.

Sources familiar with discussions said Cyren Call founder and former Nextel chairman Morgan O'Brien demanded a lease payment for using the spectrum of up to $500 million over 10 years from a winning bidder -- adding to Frontline's cost of building the public safety network. In a Nov. 30 filing to the FCC, the trust said such payments would go to operating expenses and were a normal practice for a wireless carrier.

Public-safety officials said O'Brien's firm was a natural partner because of his involvement in Nextel and that company's history of providing communications for dispatch systems. But critics suggested that Cyren Call was hoping to tap a lucrative market by selling devices and software applications to public safety agencies.

Frontline, whose executives included former FCC chairman Reed E. Hundt and Janice I. Obuchowski, former head of the National Telecommunications and Information Administration, shut down a week before the FCC auction opened Jan. 24, after investors backed out.

"Obviously people didn't show up and bid for a reason," a congressional aide tracking the process said on condition of anonymity because of the sensitivity of the allegations. "I think what we will find out is . . . they thought they would have to engage in never-ending negotiations and requests for cash."
Harlin R. McEwen, chairman of the Public Safety Spectrum Trust, said he could not discuss the allegations because of FCC rules. He issued a statement rejecting calls to redirect public safety spectrum for other uses, or to limit the network for regional use.

"If changes are necessary, the FCC must make certain that the interests of public safety remain at the top of the list," the statement said. "Only a public-private partnership will provide an innovative solution that will permanently solve our country's continuing public safety communications crisis, and first responders have a vital role to play in any network designed for their benefit."

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