

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Auction of Licenses in the 698-746 MHz Band) DA 02-200
Scheduled for June 19, 2002)
)
Comment Sought on Reserve Prices or)
Minimum Opening Bids and Other Auction)
Procedural Issues)
)

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS OF SPECTRUM EXCHANGE GROUP, LLC
AND ALLEN & COMPANY INCORPORATED**

Spectrum Exchange Group, LLC and Allen & Company Incorporated (“Spectrum Exchange/Allen”) hereby submit these reply comments in response to the Wireless Telecommunications Bureau’s (“Bureau’s”) January 24, 2002 Public Notice (“Public Notice”) scheduling an auction of licenses in the 698-746 MHz band (“Lower 700 MHz Band”) to commence on June 19, 2002 (“Auction No. 44”) and proposing procedures to be used in that auction.¹

Spectrum Exchange/Allen fully supports the comments of Paxson Communications Corporation (“Paxson”) filed in response to the Public Notice. We agree that there must be no further delay in the start of the auction for licenses in the 747-762 and 777-792 MHz bands (“Upper 700 MHz Band”), which is scheduled to begin on June 19, 2002 (“Auction No. 31”), for

the same reasons as cited by Paxson. We also agree with Paxson that there should be no regrouping of Lower 700 MHz Band licenses into Auction No. 31.

One point that deserves elaboration is that the grouping together of licenses within an auction should be driven primarily by the extent to which the licenses are related to one another as complements or substitutes. There is currently very little connection between the Upper and Lower 700 MHz Band licenses and, hence, very little reason to group them into the same auction. The Upper Band licenses appear eminently clearable; the Lower Band licenses appear much more difficult to clear. This is primarily due to two factors: (1) the Commission has established an extremely helpful clearing regime for the Upper Band but has declined to extend it to the Lower Band; and (2) the Upper Band begins with significantly fewer encumbrances than the Lower Band.

As we noted in our comments filed last week, the FCC apparently recognizes (in its choice of minimum opening bids) that the Upper and Lower Band licenses currently have disparate values. Specifically, there is a 4:1 ratio between the minimum opening bid of \$24 million per MHz (entire U.S.) for the Upper Band and \$6 million per MHz for the Lower Band. We further take note of the Bureau's most recent public notice relating to the 700 MHz Bands.² The Bureau has floated a trial balloon, which we strongly oppose for multiple reasons, of setting an aggregate reserve price of \$2.6 billion for the Upper Band licenses. This would establish a reserve price of \$87 million per MHz for the Upper Band, widening this ratio to 14:1. Furthermore, comments filed last week by the Rural 700 MHz Group and Telecom Consulting

¹ *Auction of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues*, Public Notice, DA 02-200 (WTB, rel. Jan. 24, 2002).

² *Auction of Licenses in the 747-762 and 777-792 MHz Bands Scheduled for June 19, 2002; Comment Sought on Adding to Auction Inventory and Further Modifying Package Bidding Procedures*, Public Notice, DA 02-260 (WTB, rel. Feb. 4, 2002).

Associates advocate halving the minimum opening bid on the Lower Band licenses, thereby bringing this ratio to 28:1. Because the Upper and Lower 700 MHz Band licenses bear little relation to one another in terms of clearing regime or value, including Lower 700 MHz Band licenses in the Upper 700 MHz Band auction will simply get in the way of an effective clearing and allocation of the Upper 700 MHz Band licenses.

The fact that some of the Lower 700 MHz Band may be licensed according to EAG boundaries while some may be licensed according to MSA/RSA boundaries does not in any way suggest that they belong in different auctions. There is no escaping the fact that the Lower 700 MHz Band A Block, B Block and C Block licenses are substitutes for one another that belong in the same auction. They each comprise 12 MHz of paired spectrum, they each are heavily encumbered, and under the current clearing rules they each are difficult to clear. Some blocks just happen to be divided more finely than others.

Furthermore, even if the Lower 700 MHz Band is to be licensed according to EAG or MSA/RSA boundaries, that does not mean that the ultimate ownership will be according to EAG or MSA/RSA boundaries. The same bidders will undoubtedly purchase multiple MSA/RSA licenses; and purchasers of EAG licenses are permitted to partition geographic areas and disaggregate the spectrum. Fundamentally, all of the Lower 700 MHz Band licenses should be grouped together. Grouping all 758 Lower 700 MHz Band licenses together in one auction should not be particularly daunting to prospective bidders, since the Commission has in the past auctioned greater numbers of licenses together in the same simultaneous multiple-round auction. However, if the FCC believes that the large number will daunt bidders, then it would be advised to repackage the spectrum into licenses of larger geographic scope.

For the reasons set forth last week and above, Spectrum Exchange Group, LLC and Allen & Company Incorporated respectfully urge the following: (1) Auction No. 31 should retain its current inventory of spectrum and should go forward on June 19, 2002; and (2) Auction No. 44 should retain its current inventory of spectrum but should be delayed sufficiently that lessons can be drawn from Auction No. 31. The Commission may learn that the clearing regime for the Upper 700 MHz Band should be extended to the Lower 700 MHz Band and that the package bidding design for the Upper 700 MHz Band should be extended to the Lower 700 MHz Band. Unless the auction schedule is changed to allow these two auctions to be conducted in sequence, it will be impossible for the Commission to use the knowledge gained in the Upper 700 MHz Band auction for the benefit of the Lower 700 MHz Band auction.

Respectfully submitted,

**SPECTRUM EXCHANGE GROUP, LLC
AND ALLEN & COMPANY INCORPORATED**

By: Laurence Ausubel
Lawrence Ausubel, Co-President, Spectrum Exchange
Peter Cramton, Chairman, Spectrum Exchange
Richard Fields, Managing Director, Allen & Company
Paul Milgrom, Co-President, Spectrum Exchange

2920 Garfield Terrace, NW
Washington, DC 20008
(tel) 301.405.3495
(fax) 202.318.0863

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