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July 23, 2018

The Federal Communications Commission ("FCC") is **working** to ensure the United States will lead the way in the next generation of wireless connectivity, commonly known as "5G". To meet that goal, wireless providers will need access to more spectrum, or "airwaves", especially in the lower- and mid-range frequencies from 600 MHz to 5 GHz. The U.S. cannot lead the world in 5G without timely access to additional spectrum in these frequency ranges.

The impending 5G spectrum crunch offers a powerful motivation for the FCC's decision to **investigate** DISH Network L.L.C.'s deployment plans for a substantial amount of 5G spectrum in low- and mid-frequency ranges the company controls but hasn't used. DISH's failure to use its spectrum in a timely manner could result in an FCC enforcement action in the near term and, in the long term, could result in the loss of some of DISH's spectrum licenses altogether.

The FCC investigation is focused on three blocks of spectrum licenses:
– The 6 MHz "E Block" licenses in the 700 MHz band that DISH **acquired** for nearly $712 million in a 2008 auction;
– The 40 MHz of spectrum in the AWS-4 band that the FCC **gave** DISH rights to use for mobile broadband in **2013**; and
– The 10 MHz of nationwide spectrum in the H Block that DISH **acquired** for $1.546 billion in a 2014 **auction**.

When the FCC licenses spectrum for mobile use, it typically imposes interim and final network performance (i.e., "buildout") requirements to prevent speculators from "warehousing" spectrum licenses (i.e., letting spectrum lie fallow while the licensee seeks to sell it for a profit). DISH **missed** its interim buildout deadlines for its licenses in each of these three bands. As a result, DISH must now offer service in the 700 MHz and AWS-4 bands to 70 percent of the population (or geography in 700 MHz) for each license area by March 7, 2020, and to 75% of the population for each H Block license area by April 29, 2022.

DISH **told** the FCC it plans to build a "narrowband Internet of Things (IoT) network" in these three spectrum bands for now and start upgrading it to a 5G broadband network in July 2020—*after* its licenses in the 700 MHz band are slated to expire. The FCC has ample reason to investigate DISH's latest network plans. DISH's decision to launch a narrowband network in more than 50 MHz of prime spectrum suitable for 5G is inconsistent with company's previous representations to the FCC and the agency's goals.

In 2012, DISH **said** it would "drive competition in the mobile *broadband* market" (emphasis added) if the FCC would give DISH the right to use 40 MHz of valuable spectrum in the AWS-4 band for mobile broadband services. According to DISH (six years ago), its "planned entry into the wireless market could not come at a better time for American consumers." Now DISH is telling the FCC that American consumers will need to wait at least two more years for its "planned" wireless broadband service. (DISH apparently decided it would be a better time for consumers to wait another eight years.)

DISH also negotiated a **price** for its H Block spectrum with the FCC in 2012, in a **deal** that included an extension of the buildout deadline for DISH's 700 MHz spectrum and the right to deploy mobile broadband in the AWS-4 spectrum without competing for that right in an auction. DISH **told** the FCC these concessions were "critical to DISH's successful deployment of a terrestrial broadband network" like the broadband networks other operators had already deployed in the 700 MHz band—the type of broadband network DISH now says won't happen until at least 2020 (if it happens at all).

DISH got what it wanted from the deal. The FCC **extended** DISH's buildout deadlines for its 700 MHz spectrum, **agreed** to adopt DISH's **price** for the H block spectrum, and **gave** DISH valuable mobile broadband rights in the AWS-4 band for free. In return, DISH has given the FCC another empty promise—that DISH might build a mobile broadband network sometime after July 2020, more than 11 years after DISH acquired its first set of mobile licenses in the 700 MHz band.

Though DISH still has time to meet its final buildout obligations, its failure to meet the interim buildout deadlines in the 700 MHz band subjects it to **enforcement action** by the FCC, which includes the potential for a hefty fine or even the revocation of DISH's 700 MHz licenses. In its **order** providing for such enforcement action, the FCC noted that it could "impose a proportional reduction in the size of the licensed area." To the extent DISH failed to build anything at all, that would amount to revocation of the licenses themselves.

DISH has another problem with its **700 MHz** licenses—its final buildout deadline coincides with the expiration of the licenses' terms. Even if its narrowband network would be considered sufficient to satisfy the final buildout obligations, it still might not be enough to meet the FCC standard for renewal of DISH's 700 MHz licenses. The FCC has been **clear** that its requirements for renewal of a license are distinct from its buildout requirements.
The renewal standard requires a licensee to demonstrate that it has provided adequate levels of service over the course of its license terms. Because DISH failed to meet its interim benchmark, it must make a detailed "renewal showing" that, among other things, involves the date service was commenced and the level and quality of service it actually provides. Given the disparity between the timing and quality of service DISH said it would provide (competitive mobile broadband service) and what it is now saying it will provide (a narrowband service at the end of its license term), it could be difficult for DISH to meet the FCC's renewal standard.

In short, the FCC's investigation of DISH's buildout plans could be far more serious than it initially **appeared**. – ***Forbes***

The Mouse House is getting close to catching the Fox.

Comcast's decision Thursday to drop its bid for the bulk of Twenty-First Century Fox means Disney's $71.3 billion offer for Fox is likely to prevail. Fox shareholders vote on the offer on July 27. Meanwhile, Comcast is pursuing Sky, a European pay-TV operator that Fox partially owns. The moves come as the media landscape is shifting dramatically. Cable and telecom companies are acquiring content makers to better compete with the likes of popular streaming services

like Netflix and Amazon. Last month, AT&T bought Time Warner, getting the Warner Bros. studio and such channels as TBS and HBO.

So what would a combination of Disney and Fox look like, as well as a combination of Comcast and Sky? Here's a look at what each company would be taking away if the deals go through.

MOVIES X-Men and other movies from Fox's studios could be added to Disney's upcoming streaming service. Fox's film studios, with "Avatar," X-Men, the Fantastic Four and Deadpool, would pair well with Disney's studios. This includes reuniting the Marvel franchises X-Men and the Avengers, as some of those characters were already in Fox's hands when Disney bought Marvel in 2009. Disney also has the Muppets, Pixar and "Star Wars." BTIG analyst Richard Greenfield estimates the combined studios make up 45 percent of worldwide box office revenue. A larger studio could use its power to keep its movies in more theaters longer and squeeze out rival movies.

TELEVISION Fox's TV productions include "The Americans," "This Is Us," "Modern Family," and "The Simpsons." Its networks include FX Networks and National Geographic. The Fox businesses would add to Disney's roster of channels like ABC, the Disney Channel and Freeform. "Modern Family" already airs on ABC.

SPORTS Disney would have to sell Fox's 22 regional sports networks to satisfy the government's antitrust concerns, as Disney already owns a national sports network, ESPN. Buyers haven't been announced yet. The regional networks hold TV rights to professional hockey, basketball and baseball games and show hometown sports in several cities including New York, Los Angeles, Dallas, Cleveland, Detroit and Kansas City.

STREAMING Disney would get controlling stake in streaming service Hulu. Comcast, Disney and Fox now own 30 percent apiece, with AT&T owning the other 10 percent through Time Warner. With Fox's share, Disney would have a controlling 60 percent stake. Disney already plans an entertainment-focused streaming service in 2019, so it could combine that with Hulu or keep them as separate services.

INTERNATIONAL If Comcast's Sky bid prevails, Comcast would own the European pay-TV operator. Sky operates in Austria, Germany, Ireland, Italy and the U.K. It has 22.5 million customers, attracted by offerings such as English Premier League soccer and "Game of Thrones." Disney would get other international properties from Fox, including Star India, a major Mumbai-based media company with dozens of sports and entertainment channels; Tata Sky, an Indian satellite TV provider; and Endemol Shine Group, a Dutch-based media company.

THEME PARKS Disney has made extensive use of its portfolio at its theme parks in California, Florida and overseas. Disney, for instance, is expanding its attractions related to "Star Wars." On the flip side, Disney turned its Pirates of the Caribbean ride into a major movie franchise. Disney would be able to expand its opportunities with Fox, though theme parks have historically been able to reach licensing deals with rival studios. Comcast's Universal, for instance, has rides based on Fox's "The Simpsons" and Warner Bros.' "Harry Potter."

Disney has licensed Fox's "Avatar" for its "Pandora" park within Walt Disney World. – ***Associated Press***

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