

**Remarks of FCC Commissioner Robert M. McDowell
Conference on Spectrum Management
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Spectrum Issues Currently at the Top of the FCC's Agenda

As prepared for delivery

Good morning, Tom. I appreciate your warm introduction. Many thanks to you and Michele for inviting me to speak here today. I'm delighted to be here. I find wireless issues to be among the most exciting elements of the FCC's portfolio. I also want to thank both you and Michele for your respective service as chief of the FCC's Wireless Telecommunications Bureau. Certainly your efforts contributed to the growth and success of the wireless industry and the myriad benefits to America's consumers and our nation's economy. America should be grateful to you.

The folks putting together this conference have asked me to speak with you today about the spectrum issues at the top of the FCC's agenda. Well, there are a lot! So, I thought first I should outline some of the issues that we may be addressing soon. I'll talk a bit about white spaces; reduced orbital spacing (or "tweeners"); Early Termination Fees (ETFs); the XM-Sirius merger; the forthcoming 700 MHz auction; and 800 MHz rebanding. I'll also mention what I would call a "sleeper" issue – wireless backhaul. Then, I want to make sure that we have plenty of time for your questions.

So let's begin: Last year, the Commission said we would take action this fall on permissible uses for the spectrum located in between the TV channels, or "white spaces." So here we are. This coming Saturday is the autumnal equinox. And that must mean it's white

spaces season. I have long advocated vigorous promotion of unlicensed use of the white spaces, provided such use does not cause harmful interference to others. I am hopeful that a flexible, de-regulatory, unlicensed approach will provide opportunities for American entrepreneurs to construct new delivery platforms that will provide an open home for a broad array of consumer equipment.

At the same time, the Commission has a duty to ensure that new consumer equipment designed for use in this spectrum does not cause harmful interference to the current operators in the white spaces. Perhaps we should call this spectrum “gray spaces.” I have enjoyed learning from various parties who are engaged in the healthy technical debate surrounding the best use of this spectrum. And I expect the discussions will become ever more intense as we move forward. But, at the end of the day, we will have a resolution. Inventors will continue to invent, and a workable technical solution will develop. We should let science, and science alone, drive our decisions. If we don’t pollute science with politics, powerful new technologies will emerge, and American consumers will benefit as a result. And, who knows? This may spark a new wave of economic growth that we can’t even imagine right now.

But time is short, so let’s rocket on to reduced orbital spacing. Last summer, the Commission released an NPRM inviting comment on revisions to our licensing procedures for applications in the direct broadcast satellite (DBS) service. I was pleased to support this rulemaking. The Commission has an obligation to explore and attempt to expand opportunities for competitive entry among and within all platforms and to expedite innovative services to consumers.

The Notice seeks comment on how and whether to update technical rules that would facilitate launch of satellites in reduced orbital locations. Sometimes called “tweeners,” these

satellites would operate in the orbital spaces between existing DBS satellites, which are currently spaced nine degrees apart. In other words, if its application were granted, a new satellite entrant would launch and be operational at a position between its neighbors – specifically, at four and one half degrees between each neighbor.

Throughout the course of the rulemaking, I've met with a number of interested parties on this issue. On the one hand, permitting launch of additional satellites would potentially give consumers more video choices, spur innovation, and create downward pressure on pricing. On the other hand, the Commission must proceed mindful of the need to guard against harmful interference. Now, I'm no rocket scientist, but, I've learned that every one degree of separation is equal to roughly 1,000 miles. I've also learned that a satellite is approximately the size of a minivan.

So, while there's never any certainty that allowing reduced orbital spacing would ensure entry of a new nationwide DBS competitor, it is important that the Commission study and determine whether to take action to make DBS spectrum available at additional orbital locations. I am always trying to find new ways to increase opportunities for new competitive entrants to expand video service options for all kinds of consumers, while ensuring that incumbent providers are protected from harmful interference as well. But something tells me that it might be possible to squeeze one more minivan into a 9,000 mile wide parking lot.

Before I terminate this speech, let me talk about Early Termination Fees (ETFs). DBS providers, wireless carriers, traditional phone companies, and cable providers all allegedly assess early termination fees. Earlier this year, the Chairman indicated his intention to tackle this thorny issue, and he appears to be signaling that this may happen sometime soon. I've met with a few parties on both sides of this debate and look forward to delving into it more deeply. While

I appreciate that the efforts to acquire a new customer is costly, at the same time, there are customers that want to or have to cancel their service prior to the expiration of the service contract term. Moreover, so far, the industry has yet to coalesce on a meaningful voluntary solution. I would strongly encourage the stakeholders to continue their efforts to forge consensus in this area before the government tries to “solve” it for you. The government rarely does as good a job as the private sector when it comes to these sorts of things. But if the market can’t fix it, consumers may demand policy-makers to step in.

OK, so let’s get serious about the XM/Sirius merger. I don’t want everyone to get excited ... I’m not going to make any pronouncement today. The fact is that my briefing today would be incomplete if I were to not mention this pending proceeding, and note that the Chairman recently indicated his interest in handling this application by year’s end. Certainly the interest is high, and I’ve met with a number of parties already. I look forward to further discussions with interested stakeholders later this fall. Passions are already high, and they are sure to rise to a fever pitch. There’s more to come on this issue.

In case you haven’t heard, the FCC is having a big after-Christmas sale! A spectrum sale. 2008 will soon be here, and the Commission is on track to meet Congress’ mandate to commence the 700 MHz auction no later than January 28. In fact, the auction is scheduled to start on January 16, 2008. So break open your piggybanks. Although, as I’ve disclosed before, some of our sale items are slightly... encumbered. But please come anyway and heed the slogan of a designer-wear outlet store when they say, “an educated consumer is our best customer.”

At this stage, the Commission’s staff remains busy working through the auction details, including anonymous bidding, combinatorial bidding, reserve prices, and the like. In the meantime, Verizon Wireless has sought appeal at the D.C. Circuit. Also, we’ve had a request to

extend the auction start date by about a week. Also pending is a petition for reconsideration of our April order, which raises interesting questions regarding the engineering decisions that will affect the lower portion of the 700 MHz band. I applaud and appreciate the work of the incredibly hard working Wireless Bureau team. Even at this late date, however, many “ifs” remain. Let’s all stay tuned.

In addition to being the month to deposit the 700 MHz auction proceeds, June 2008 is also the deadline for completing the 800 MHz rebanding process. I am pleased that the Commission has taken a number of actions toward moving all of the stakeholders into high gear so we can work together to get the job done. When I arrived at the Commission, the rebanding process was behind schedule. I understand the reasons for that situation and I have come to recognize that everyone involved bears some responsibility. Not to mention that this is an extremely challenging, multi-faceted process. We have made a final push, and all involved are making progress. At the same time, a great deal of work lies ahead. I stand ready to continue to assist, and look forward to a successful completion of this important task.

Lastly, I want to raise one sleeper issue – perhaps not at the top of the FCC’s agenda, but something to think about nonetheless: I recently read that the cellular backhaul market is expected to reach \$23 billion by 2012. I have been told that about 50 percent of wireless per minute costs is attributable to the cost of backhauling cellular traffic. It appears that, going forward, it will be increasingly more difficult for independent, mid-size and smaller wireless carriers to compete given this upward pricing pressure. Those costs ultimately get passed on to America’s wireless consumers. Having more competition in that space would reverse that trend.

In the meantime, I am pleased that the Commission recently approved the use of two-foot antennas in the 11 GHz Band. Our prompt action will enable the companies seeking relief, as

well as others interested in entering the marketplace, to begin offering microwave backhaul service in that band in areas where two-foot antennas are the most effective means of meeting customer needs. This is especially important as the consumer acceptance of 3G and 4G high-speed data services increases the need for backhaul. I will continue to look for and support additional relief the Commission can provide to entities seeking to enter this business.

With that, I again thank you for having me today. And, I will be happy to take some questions.