

**STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE**

Re: *Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 66, AU Docket No. 06-30, FCC 06-47*

Generally, when the marketplace is functioning properly, my basic philosophy is to work toward industry consensus and to discourage regulatory intervention where it is not needed. Of course, that philosophy requires a marketplace that is functioning properly, a market in which no seller or bidder has the opportunity to control or manipulate prices. The question presented today, with respect to the auction information released to bidders under our rules, is whether our current rules are adequate to ensure that bidders do not have the opportunity to control or manipulate prices. I am aware that there is industry consensus on this issue, but that consensus is of limited import when the question itself is whether the marketplace is functioning properly.

There has been much debate about whether, and to what extent, tacit collusion, or the opportunity for collusion and other anti-competitive behavior, exists in our current AWS auction rules. Some of the finest scholars have cautioned us that our rules allow—may even invite—such anti-competitive behavior. Economic experts and authors have written articles that support such conclusion and describe how easily bidders can “game” auctions under our current rules. So, even though my philosophy is to use a light regulatory touch, in this case, an auction of this size, we should do all we can to prevent even the possibility of cheating and establish clear, fair, and equitable rules for all.

On the other hand, many commenters have cautioned us that we should not act on suspicion alone, and that withholding the identity of bidders in each round could impact their ability to acquire funding due to difficulty in determining market value based on the interest of particular bidders in certain spectrum. Some commenters also claim that the uncertainty of opening up a new spectrum band for future, unknown services and technologies makes it even more important for bidders to have as much information as possible.

I have to admit that I am always concerned about investment in this market, and the ability of companies, such as new entrants, small business, and rural carriers, to obtain the capital needed to obtain spectrum. And I am keenly aware of the magnitude of the upcoming auction. So I considered these arguments carefully, keeping in mind the need to prevent a problem that is, by its very nature, difficult to prove. I recognize the need to balance the likely disadvantages of making extensive information available to bidders with the potential advantages to bidders from being able to formulate more accurate assessments of license values in order to obtain funding,¹ and the potential for even more problems with an auction of this size.

For a number of reasons, I find that the action we take today strikes the right balancing of interests. First, if we find that an auction is likely to be highly competitive based on the number of bidders and upfront payments, and, therefore, that the harms associated with anti-competitive behavior are reduced, we will proceed with a “transparent” auction. If, on the other hand, the auction is less competitive, and the risk of harmful anti-competitive behavior is high, we will provide less information, yet information that is still more than sufficient to allow effective

¹ This item also includes measures to reduce the burden on firms to obtain funding, such as reducing the upfront payments and minimum opening bids for rural areas.

participation in the auction. For example, even where we find the auction is less competitive, prior to the auction, we will make available the total eligibility level for the auction as well as bidder-specific eligibility. Each bidder will be notified about which other applicants have selected licenses with any geographic overlap with the bidder's selections.

During the auction, after each round, the Commission will also make available to the public the number and amounts of all bids on each license; the number and amount of bids on each license; information regarding whether the aggregate total of the net winning bids has met the reserve price; and the minimum acceptable bid for each license in the next round. In addition, bidders will have secure web access to information regarding whether they hold the provisionally winning bid for any licenses they have bid on (otherwise bidders might not know that someone else bidding the same amount now holds the winning bid).

Finally, after the auction, all information regarding bidding will be disclosed, as is our usual practice. So all of the information needed for legitimate bidding, and for valuation purposes, is provided to every bidder as it is needed. This strikes a fair balance – in a situation where the risk of anti-competitive bidding is high. I cannot imagine that providing information regarding the identity of each bidder in each round can make that much difference, unless someone is planning to act dishonorably.

I support adoption of these rules, and am pleased that we have reached a balance that provides for fair, orderly administration of AWS auctions without having unduly burdensome or dampening effects on bidders or investors. The upcoming June auction is one of the largest auctions we have conducted in years, and I thank the Federal Trade Commission and Department of Justice for their support, and the Chairman for his leadership, as we move to sharpen the integrity of the process of auctioning these rich and finite national resources.