Chronological: Improving the Management of Government and Commercial Spectrum

Senator Daniel K. Inouye Papers
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Hearing on Spectrum Management: Improving the Management of Government and Commercial Spectrum Domestically and Internationally
June 11, 2002

This hearing will continue to explore the complex issues concerning spectrum management in an effort to help us move forward and develop a national spectrum management policy.

Piecemeal proposals to allocate and reallocate spectrum are not in our nation's best interest. In addition, the ongoing war against terrorism has shed new light on government spectrum needs.

The testimony before the Committee today should provide useful information as we work to develop a legislative framework for managing spectrum.

The particular issues before us today include: (1) improving the process for assigning and allocating spectrum; (2) reimbursing government users for their relocation costs if they are required to relinquish their spectrum for commercial uses; (3) increasing U.S. participation in the World Radio Conference process; and (4) the status of third generation wireless service.

Since 1993, government users have been required to turn over portions of their spectrum for use by commercial users. In order to facilitate this process, many have suggested that government users should be reimbursed through auction proceeds for relocation costs they incur in order to move to new spectrum blocks or to consolidate their existing operations.

As we will hear today, there are also proposals to use auction proceeds for other beneficial purposes.

In July of last year, the Communications Subcommittee studied the need to make available spectrum for third generation wireless service. However, it seems that almost a year later we are not much closer to a resolution of this matter.

Recent postponement of spectrum auctions reinforce the need to develop a national spectrum policy; one that supports the development of emerging technologies, while meeting the needs of government users.

Spectrum allocation is not only a domestic issue. It has become an important international issue. The U.S. must work to improve its participation in the World Radio Conference to successfully negotiate spectrum use internationally.

As we consider these issues and work to improve the nation's management of spectrum, regulators must recognize the need to exercise leadership on, and more effectively address, these increasingly complex spectrum use and management issues. Spectrum management is important to both government and commercial users.

Incumbents and new entrants continue to seek additional spectrum to upgrade existing wireless technologies as well as introduce new ones. Given the growing importance of wireless technologies to consumers and government users, we must rise to the challenge and resolve these issues to best serve our nation's interests. We must face these challenges head on.

In developing a new spectrum management approach, it is my hope that regulators will strive to stand in each others' shoes; by viewing the issues not only from the perspective of their constituencies, but also from the perspective of those with competing interests.

We must all approach this issue creatively and bring forward new ideas to comprehensively address our nation's spectrum allocation.

With that said, I welcome the witnesses and look forward to their testimony.

DoD requested that you ask the following questions:

<u>Questions for Mr. Price (DoD) on Spectrum:</u>

Why is spectrum so important to your war fighting effort?

What frequency bands are most heavily utilized and for what requirements? Do you currently have limited access to the spectrum required to carry out training exercises and system testing and if so, how do you derive enough spectrum to carry out exercises?

How do the spectrum requirements of your service's training and test facilities compare with the requirements of regular operating units?

Why is the 1710-1850 MHZ bandwidth of critical importance to your military communications, intelligence and platforms?

What spectrum have you lost over the last few years? What effect has this had on your operations? What impact has prior spectrum sales had on your ability to carry out your war fighting effort? What impact would currently known, planned or proposed future spectrum sales have on your operations?

DoD requested that you ask the following questions:

Could you please describe in general terms how spectrum operations within the US have changed since September 11? Also, has the increased emphasis on homeland security missions resulted in more extensive use of spectrum by the Department of Defense?

Do you believe that your services concerns will be adequately addressed at the next World Radiocommunication Conference? What is the process for getting a coordinated US position? What are your top concerns? What can the Department of State do to insure your representation?

How well do you think the current processes for allocating spectrum use work to balance national security and commercial interests? What can and should be done to improve the current process?

How will you work with the other services to make sure that in the combined combat environment we face today that joint standards of interoperability will be achieved in the acquisition process?

In conducting combat air patrol missions over US cities as part of Operation Noble Eagle, has DOD experienced any difficulties in coordinating spectrum operations with civil authorities, particularly the FAA? Is so, how did you resolve these challenges?

Questions by Senator Inouye

General Questions

1. What can be done to improve the current coordination process between the FCC and NTIA and more effectively allocate spectrum and better balance the needs of commercial and government users?

2. In order to facilitate more efficient use and distribution of spectrum, in November 1999, the FCC issued guiding principles on spectrum management involving "flexible use" of spectrum and developing secondary markets for spectrum use. Under a flexible use policy, if a licensee discovered a better use of the spectrum than the one he or she has planned, the licensee is permitted to engage in that improved use without returning to the FCC for additional authority as long as the new use would not cause interference into other users. In the future, the FCC also plans to encourage the development of secondary markets for spectrum use. This would allow for the arrangements involving leasing, franchising, and joint operating agreements, and improving conditions for transferability of spectrum usage rights to others by for example, subdividing spectrum.

<u>Ques</u>. More market-based approaches such as a "flexible use" and promoting secondary markets may leave the FCC without clear control with respect to its allocation and assignment authority, and unable to protect the public interest, or respond to market failures, interference, or disputes among licensees. What is the FCC doing to ensure that it maintains authority and control over licenses as it pursues market-based approaches to spectrum management?

Third Generation Wireless Service

1. The FCC is examining whether the 2110-2170 MHz band can be used for third generation wireless service. Can you Mr. Sugrue share with us any difficulties that may exist in allowing 3G providers to use in this band?

For Mr. Price, Mr. Sugrue, and Ms. Victory

2. If DoD is required to share or vacate some portion of the 1710-1770 MHz band so that it can be used for third generation wireless service, to what spectrum would DoD be able to relocate?

Spectrum Relocation Fund Concept

Questions for All Witnesses.

1. The President's FY 2003 Budget calls for a new process, a "Spectrum Relocation Fund," for reimbursing government users for costs incurred when they are required to relocate to different spectrum blocks.

> "The Administration will propose legislation to streamline the current process for reimbursing Federal agencies that must relocate from Federal spectrum which has been reallocated for auction to commercial users. Under current law, winning bidders must negotiate with Federal entities upon the close of an auction and reimburse the agencies directly for their relocation costs. The Administration proposes to streamline this process by creating a central spectrum relocation fund. Auction receipts sufficient to cover agencies' relocation costs would be paid into the fund, and Federal agencies would be reimbursed for their relocation costs out of the fund." **Budget of the U.S. Government, Fiscal Year 2003, Appendix, Page 241.**

The Administration has not yet submitted language to Congress.

<u>Ques.</u> Do any of you have any specific concerns about how such a Fund to reimburse government users for relocation costs might work?

<u>Ques</u>. Do you believe that the proposal to use auction proceeds to reimburse government users as outlined in President Bush's budget would make the spectrum management process more effective and more efficient?

<u>Ques</u>. There is some discussion that the Relocation Fund could be established as a trust fund. However, monies in Trust Funds are sometimes used for other budgetary purposes. How can legislators ensure that monies will be available for government users to address their relocation costs since in some instances it could take years for government a user to complete its relocation?

The World Radio Conference (WRC) Process

Questions For Entire Panel

1. The United States seems to be at a disadvantage in the World Radio Conference (WRC) process with respect to other countries such as those in Europe. How can we ensure that the U.S. develops a U.S. position as well as names its delegation prior to a WRC, thereby allowing for sufficient time to lobby other parts of the world?

2. Should the ambassador to a WRC be appointed at least a year instead of 6 months prior to the conference? Should there be a State Department employee that drives consensus with respect to the U.S. position prior to and until the ambassador is appointed?

3. Should the State Department be required to establish a timetable for resolving issues, establishing consensus and lobbying other countries prior to WRC? If a timetable is established, what incentives can be used to ensure that NTIA, the FCC, and industry work to meet the timetables?

4. Do you have any other concerns about coordinating a U.S. position for the World Radio Conference? What can be done to address these concerns?

Spectrum Efficiency

For Mr. Sugrue and Ms. Victory

5. Most government and commercial users estimate that they will need more spectrum over the coming years as they introduce advanced mobile services such as consumer broadband and richer information for emergency responders. Given that the amount of spectrum for such uses is finite, will it be possible to accommodate these demands if spectrum efficient technologies are implemented?

For Mr. Sugrue and Ms. Victory

6. It is possible that we are not using spectrum – a valuable public resource - as well as we might. For instance, in some cases, we are using technologies that are more than 50 years old and were not designed to make efficient use of spectrum. In other cases, spectrum has been allocated to services that are not making extensive use of it. And, in still other cases, the spectrum has been allocated to services that could instead operate in other, less crowded frequency bands.

Ques. Should we consider a regulatory or legislative approach that reviews spectrum allocations say every 25 years, reallocating spectrum that has not been efficiently used?

Ques. If so, is 25 years an appropriate timeframe to determine whether to reallocate spectrum or is the element of risk that this introduces too great for the spectrum users, whether in the government or private industry, to bear.

Ques. Would such a requirement stifle innovation and the deployment of services, etc.? If not, what mechanisms would you suggest we employ to update spectrum allocations over time? Would we need to employ a different approach to promote spectrum efficient use among government users?

For Mr. Sugrue and Ms. Victory

7. Is there a quantitative mechanism to measure the efficiency with which spectrum is used such as the number of subscribers serve per MHz of spectrum used? Should there be a different definition of efficiency for each general type of service, for example paging versus PCS voice services?

For Mr. Sugrue and Ms. Victory

8. What incentives or disincentives should be put in place to encourage the efficient use of spectrum? Should there be spectrum efficiency measurements and standards that progressively increase over time?

For Ms. Victory and Mr. Guerrero

9. GAO has indicated that while NTIA has attempted to promote spectrum efficiency that there is no accountability to ensure government users are using spectrum efficiently. Also GAO found that many federal agencies are understaffed with respect to employees who could assist agencies to manage spectrum. The FCC has recently indicated its need to increase its number of engineers.

Ques. Does NTIA believe that increasing engineers in federal agencies could assist agencies in better managing spectrum as well as improving spectrum efficiency?

Ques. Is there anything else that can be done to increase the level of accountability with respect to government users and spectrum efficiency?