



July 14, 2011

Dear House Communications & Technology Subcommittee Members:

WISPA, the Wireless Internet Service Providers Association, representing many small- and medium-sized fixed wireless Internet service providers (WISPs), strongly opposes aspects of the draft “Spectrum Innovation Act of 2011” that would threaten the continued deployment of affordable fixed broadband services to Americans living in rural, unserved and underserved areas of the country. In addition to the significant policy deficiencies, it is far from certain that the legislation would generate the substantial revenues it apparently believes can be generated.

WISPs serve more than two million residences, businesses and first responders throughout the country relying primarily on unlicensed spectrum in various bands. The ability of WISPs to access unlicensed spectrum without competitive bidding eliminates a significant barrier to entry, thereby benefiting consumers who would not otherwise have access to fixed broadband services. As consumers demand more and more bandwidth, and as tens of millions of Americans continue to be without terrestrial broadband, the spectrum capacity and throughput needs of WISPs will continue to grow. For years, WISPA and WISPs have fought for the right to use vacant TV spectrum – TV “white space” – and other spectrum blocks to accommodate the spectrum demands of consumers.

If passed, the draft legislation would eliminate the use of unlicensed spectrum as an essential tool for delivering broadband and drive up costs, without generating the expected auctions revenues. To the extent that spectrum would be available on an unlicensed basis – and that is not a given – Section 104 would require spectrum to be subject to an auction with competing bids from firms desiring the spectrum to be licensed (and thereby exclusive) and those desiring the spectrum to be unlicensed (and thereby non-exclusive). Only if the aggregate amount of bids placed for unlicensed exceed the highest bid for licensed use would the spectrum be deemed “unlicensed.” Under Section 105 of the draft, the FCC would establish and maintain a database to coordinate unlicensed use of the spectrum.

WISPA opposes these provisions for the following reasons:

1. Few unlicensed interests would bid for the unlicensed spectrum because they do not have the financial means to participate in auctions alongside large mobile wireless carriers. Most unlicensed operators will be unable to raise the funding to bid on shared, non-exclusive use (and, in fact, investors would be reluctant to fund purchases of auctioned, non-exclusive spectrum).



2. For those unlicensed interests that can afford to participate in an auction, the unprecedented requirement to pay for non-exclusive spectrum would create a new barrier to entry that would increase consumer costs for broadband and other services.
3. The need to coordinate unlicensed use via a federal database would require each device to include technology to communicate with the database, thereby driving up the cost of consumer devices.
4. By not designating certain spectrum as either licensed or unlicensed, the auction would introduce substantial uncertainty that would increase regulatory ambiguity, decrease investment and lower auction revenues.
5. Given that the majority of spectrum will become licensed, mobile wireless interests will further concentrate spectrum in the hands of the remaining few companies that can afford it, thereby inhibiting or effectively destroying competition in the broadband industry.
6. Licensed spectrum will be devalued if adjacent markets operate on an unlicensed basis with multiple users, making it more difficult for licensees to aggregate a nationwide footprint given the different rules that would apply (the FCC would need two sets of rules before the auction began, one for licensed and another for unlicensed).

Our industry is supportive of spectrum reform and public safety legislation that will create more efficient uses of our Nation's spectrum resources. Many of WISPA's members work hand-in-hand with their local public safety agencies to improve broadband capabilities in their local communities. The availability of unlicensed spectrum will ensure that WISPs can continue to provide this service and support.

On behalf of the thousands of WISPs around the country, the broadband device and vendor community, and the millions of consumers we serve, we urge you to eliminate these provisions from the legislation in favor of laws that preserve specific spectrum for unlicensed use. Please feel free to contact us if you have questions or would like specific suggestions for spectrum reform that will create long-term economic opportunities, create local jobs and generate ongoing revenues for local, State and Federal budgets. Thank you.

Respectively,

Richard D. Harnish

Executive Director

L. Elizabeth Bowles

President