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FCC Readies National Broadband Plan for Release

The FCC has spent the past year focused primarily on developing a National Broadband Plan (“Plan”) as required by the American Recovery and Reinvestment Act of 2009 (“Act”). After requesting a one-month extension, the Commission is scheduled to deliver the Plan to Congress by March 17, 2010.

One of the major components of the Plan will be to address an anticipated shortage of spectrum available to meet future demand for wireless broadband services. The Commission has indicated that it is examining various bands to determine whether additional spectrum may be reallocated for wireless broadband use. Unfortunately, it does not appear likely that the FCC will recommend a private broadband allocation for critical infrastructure entities.

The Commission is considering several options to provide additional spectrum to support wireless broadband use, including reallocating spectrum currently licensed to broadcast television stations and reauctioning the 700 MHz D Block.

The D Block was part of the Commission’s 700 MHz auction in early 2008. While the 700 MHz auction was largely considered a success since it raised nearly \$20 billion for the U.S. Treasury, the D Block was not purchased at auction and remains unlicensed. It is widely believed the D Block was not purchased at auction because the D Block licensee would have been required to construct and operate a nationwide, interoperable, broadband public safety network on adjacent public safety broadband spectrum. The D Block garnered only a single bid of \$472 million, well below the \$1.33 billion reserve amount.

In the intervening two years, several interested parties have recommended different licensing schemes for the D Block. At a Congressional hearing in September, House Commerce Committee Chairman Henry Waxman supported the public-private partnership as solution for creating a nationwide, interoperable public safety network. The Public Safety Spectrum Trust (“PSST”), licensee of the 10 MHz of public safety broadband spectrum, sought to have the Commission allocate the 10 MHz of D Block spectrum directly to the public safety community. The National Emergency Number Association (“NENA”) asked the Commission to combine the 10 MHz licensed to PSST for public safety use with the adjacent 10 MHz D Block to create a 20 MHz block for auction to a commercial entity.

The Commission has taken these recommendations into consideration. However, based on recent press reports, it appears the Plan will call for the FCC to reauction the 700 MHz D-Block without the public safety buildout requirement. Because the Plan will only make recommendations and will not be voted on by the Commission, the FCC will have to act later to approve an auction. However, any D Block auction could take place as early as the fourth quarter of 2010 or early 2011. The Plan will likely be unveiled by the Commission at its March 16, 2010 Open Meeting.

The Act also allocated \$7.2 billion to the National Telecommunications and Information Administration (“NTIA”) and the USDA’s Rural Utility Service (“RUS”) to fund broadband deployment. On January 15, 2010, the NTIA and RUS began accepting applications for the final round of broadband grants. The agencies have not announced all of the recipients of funds for the first application round, which closed on August 20, 2009. The agencies recommended that first round applicants seeking broadband funds begin preparing applications for the final round of funding, which are due by March 15, 2010. Agency officials indicate that NTIA and RUS are not considering extending the deadline.

For updates on the Plan and current FCC actions, follow us on Twitter at <http://twitter.com/KHTelecom>.

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