

In the Senate of the United States,

June 18, 2002.

Resolved, That the bill from the House of Representatives (H.R. 4560) entitled “An Act to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Auction Reform Act of*
3 *2002”.*

1 **SEC. 2. FINDINGS.**

2 *Congress finds the following:*

3 *(1) Circumstances in the telecommunications*
4 *market have changed dramatically since the auc-*
5 *tioning of spectrum in the 700 megahertz band was*
6 *originally mandated by Congress in 1997, raising se-*
7 *rious questions as to whether the original deadlines,*
8 *or the subsequent revision of the deadlines, are con-*
9 *sistent with sound telecommunications policy and*
10 *spectrum management principles.*

11 *(2) No comprehensive plan yet exists for allo-*
12 *cating additional spectrum for third-generation wire-*
13 *less and other advanced communications services. The*
14 *Federal Communications Commission should have the*
15 *flexibility to auction frequencies in the 700 megahertz*
16 *band for such purposes.*

17 *(3) The study being conducted by the National*
18 *Telecommunications and Information Administration*
19 *in consultation with the Department of Defense to de-*
20 *termine whether the Department of Defense can share*
21 *or relinquish additional spectrum for third generation*
22 *wireless and other advanced communications services*
23 *will not be completed until after the June 19th auc-*
24 *tion date for the upper 700 megahertz band, and long*
25 *after the applications must be filed to participate in*
26 *the auction, thereby creating further uncertainty as to*

1 *whether the frequencies in the 700 megahertz band*
2 *will be put to their highest and best use for the benefit*
3 *of consumers.*

4 *(4) The Federal Communications Commission is*
5 *also in the process of determining how to resolve the*
6 *interference problems that exist in the 800 megahertz*
7 *band, especially for public safety. One option being*
8 *considered for the 800 megahertz band would involve*
9 *the 700 megahertz band. The Commission should not*
10 *hold the 700 megahertz auction before the 800 mega-*
11 *hertz interference issues are resolved or a tenable plan*
12 *has been conceived.*

13 *(5) The 700 megahertz band is currently occu-*
14 *pled by television broadcasters, and will be so until*
15 *the transfer to digital television is completed. This sit-*
16 *uation creates a tremendous amount of uncertainty*
17 *concerning when the spectrum will be available and*
18 *reduces the value placed on the spectrum by potential*
19 *bidders. The encumbrance of the 700 megahertz band*
20 *reduces both the amount of money that the auction*
21 *would be likely to produce and the probability that*
22 *the spectrum would be purchased by the entities that*
23 *valued the spectrum the most and would put the spec-*
24 *trum to its most productive use.*

1 (6) *The Commission’s rules governing voluntary*
2 *mechanisms for vacating the 700 megahertz band by*
3 *broadcast stations—*

4 (A) *produced no certainty that the band*
5 *would be available for advanced mobile commu-*
6 *nications services, public safety operations, or*
7 *other wireless services any earlier than the exist-*
8 *ing statutory framework provides; and*

9 (B) *should advance the transition of digital*
10 *television and must not result in the unjust en-*
11 *richment of any incumbent licensee.*

12 **SEC. 3. ELIMINATION OF STATUTORY DEADLINES FOR**
13 **SPECTRUM AUCTIONS.**

14 (a) *FCC TO DETERMINE TIMING OF AUCTIONS.—Sec-*
15 *tion 309(j) of the Communications Act of 1934 (47 U.S.C.*
16 *309(j)) is amended by adding at the end the following new*
17 *paragraph:*

18 “(15) *COMMISSION TO DETERMINE TIMING OF*
19 *AUCTIONS.—*

20 “(A) *COMMISSION AUTHORITY.—Subject to*
21 *the provisions of this subsection (including para-*
22 *graph (11)), but notwithstanding any other pro-*
23 *vision of law, the Commission shall determine*
24 *the timing of and deadlines for the conduct of*
25 *competitive bidding under this subsection, in-*

1 cluding the timing of and deadlines for quali-
2 fying for bidding; conducting auctions; col-
3 lecting, depositing, and reporting revenues; and
4 completing licensing processes and assigning li-
5 censes.

6 “(B) *TERMINATION OF PORTIONS OF AUC-*
7 *TIONS 31 AND 44.*—Except as provided in sub-
8 paragraph (C), the Commission shall not com-
9 mence or conduct auctions 31 and 44 on June
10 19, 2002, as specified in the public notices of
11 March 19, 2002, and March 20, 2002 (DA 02–
12 659 and DA 02–563).

13 “(C) *EXCEPTION.*—

14 “(i) *BLOCKS EXCEPTED.*—Subpara-
15 graph (B) shall not apply to the auction
16 of—

17 “(I) *the C-block of licenses on the*
18 *bands of frequencies located at 710–716*
19 *megahertz, and 740–746 megahertz; or*

20 “(II) *the D-block of licenses on the*
21 *bands of frequencies located at 716–722*
22 *megahertz.*

23 “(ii) *ELIGIBLE BIDDERS.*—The entities
24 that shall be eligible to bid in the auction
25 of the C-block and D-block licenses described

1 *in clause (i) shall be those entities that were*
2 *qualified entities, and that submitted appli-*
3 *cations to participate in auction 44, by*
4 *May 8, 2002, as part of the original auction*
5 *44 short form filing deadline.*

6 *“(iii) AUCTION DEADLINES FOR EX-*
7 *CEPTED BLOCKS.—Notwithstanding sub-*
8 *paragraph (B), the auction of the C-block*
9 *and D-block licenses described in clause (i)*
10 *shall be commenced no earlier than August*
11 *19, 2002, and no later than September 19,*
12 *2002, and the proceeds of such auction shall*
13 *be deposited in accordance with paragraph*
14 *(8) not later than December 31, 2002.*

15 *“(iv) REPORT.—Within one year after*
16 *the date of enactment of this paragraph, the*
17 *Commission shall submit a report to*
18 *Congress—*

19 *“(I) specifying when the Commis-*
20 *sion intends to reschedule auctions 31*
21 *and 44 (other than the blocks excepted*
22 *by clause (i)); and*

23 *“(II) describing the progress made*
24 *by the Commission in the digital tele-*
25 *vision transition and in the assign-*

1 *ment and allocation of additional spec-*
2 *trum for advanced mobile communica-*
3 *tions services that warrants the sched-*
4 *uling of such auctions.*

5 “(D) *RETURN OF PAYMENTS.*—*Within one*
6 *month after the date of enactment of this para-*
7 *graph, the Commission shall return to the bid-*
8 *ders for licenses in the A-block, B-block, and E-*
9 *block of auction 44 the full amount of all upfront*
10 *payments made by such bidders for such li-*
11 *censes.”.*

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) *COMMUNICATIONS ACT OF 1934.*—*Section*
14 *309(j)(14)(C)(ii) of the Communications Act of 1934*
15 *(47 U.S.C. 309(j)(14)(C)(ii)) is amended by striking*
16 *the second sentence.*

17 (2) *BALANCED BUDGET ACT OF 1997.*—*Section*
18 *3007 of the Balanced Budget Act of 1997 (111 Stat.*
19 *269) is repealed.*

20 (3) *CONSOLIDATED APPROPRIATIONS ACT.*—
21 *Paragraphs (2) and (3) of section 213(a) of H.R.*
22 *3425 of the 106th Congress, as enacted into law by*
23 *section 1000(a)(5) of an Act making consolidated ap-*
24 *propriations for the fiscal year ending September 30,*

1 2000, and for other purposes (Public Law 106–113;
2 113 Stat. 1501A–295), are repealed.

3 **SEC. 4. COMPLIANCE WITH AUCTION AUTHORITY.**

4 *The Federal Communications Commission shall con-*
5 *duct rescheduled auctions 31 and 44 prior to the expiration*
6 *of the auction authority under section 309(j)(11) of the*
7 *Communications Act of 1934 (47 U.S.C. 309(j)(11)).*

8 **SEC. 5. PRESERVATION OF BROADCASTER OBLIGATIONS.**

9 *Nothing in this Act shall be construed to relieve tele-*
10 *vision broadcast station licensees of the obligation to com-*
11 *plete the digital television service conversion as required by*
12 *section 309(j)(14) of the Communications Act of 1934 (47*
13 *U.S.C. 309(j)(14)).*

14 **SEC. 6. INTERFERENCE PROTECTION.**

15 (a) *INTERFERENCE WAIVERS.*—*In granting a request*
16 *by a television broadcast station licensee assigned to any*
17 *of channels 52–69 to utilize any channel of channels 2–51*
18 *that is assigned for digital broadcasting in order to con-*
19 *tinue analog broadcasting during the transition to digital*
20 *broadcasting, the Federal Communications Commission*
21 *may not, either at the time of the grant or thereafter, waive*
22 *or otherwise reduce—*

23 (1) *the spacing requirements provided for analog*
24 *broadcasting licensees within channels 2–51 as re-*

1 *quired by section 73.610 of the Commission's rules*
2 *(and the table contained therein) (47 CFR 73.610), or*
3 *(2) the interference standards provided for dig-*
4 *ital broadcasting licensees within channels 2–51 as*
5 *required by sections 73.622 and 73.623 of such rules*
6 *(47 CFR 73.622, 73.623),*
7 *if such waiver or reduction will result in any degradation*
8 *in or loss of service, or an increased level of interference,*
9 *to any television household except as the Commission's rules*
10 *would otherwise expressly permit, exclusive of any waivers*
11 *previously granted.*

12 *(b) EXCEPTION FOR PUBLIC SAFETY CHANNEL CLEAR-*
13 *ING.—The restrictions in subsection (a) shall not apply to*
14 *a station licensee that is seeking authority (either by waiver*
15 *or otherwise) to vacate the frequencies that constitute tele-*
16 *vision channel 63, 64, 68, or 69 in order to make such fre-*
17 *quencies available for public safety purposes pursuant to*
18 *the provisions of section 337 of the Communications Act*
19 *of 1934 (47 U.S.C. 337).*

Attest:

Secretary.

107TH CONGRESS
2D SESSION

H. R. 4560

AMENDMENT