

107TH CONGRESS
2^D SESSION

S. 2454

To eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2002

Mr. ENSIGN (for himself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Auction Reform Act
5 of 2002”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Circumstances in the telecommunications
9 market have changed dramatically since the auc-
10 tioning of spectrum in the 700 megahertz band was

1 originally mandated by Congress in 1997, raising se-
2 rious questions as to whether the original deadlines,
3 or the subsequent revision of the deadlines, are con-
4 sistent with sound telecommunications policy and
5 spectrum management principles.

6 (2) No comprehensive plan yet exists for allo-
7 cating additional spectrum for third-generation wire-
8 less and other advanced communications services.
9 The Federal Communications Commission should
10 have the flexibility to auction frequencies in the 700
11 megahertz band for such purposes.

12 (3) The study being conducted by the National
13 Telecommunications and Information Administration
14 in consultation with the Department of Defense to
15 determine whether the Department of Defense can
16 share or relinquish additional spectrum for third-
17 generation wireless and other advanced communica-
18 tions services will not be completed until after the
19 June 19th auction date for the upper 700 megahertz
20 band, and long after the applications must be filed
21 to participate in the auction, thereby creating fur-
22 ther uncertainty as to whether the frequencies in the
23 700 megahertz band will be put to their highest and
24 best use for the benefit of consumers.

1 (4) The Federal Communications Commission
2 is also in the process of determining how to resolve
3 the interference problems that exist in the 800
4 megahertz band, especially for public safety. One op-
5 tion being considered for the 800 megahertz band
6 would involve the 700 megahertz band. The Com-
7 mission should not hold the 700 megahertz auction
8 before the 800 megahertz interference issues are re-
9 solved or a tenable plan has been conceived.

10 (5) The 700 megahertz band is currently occu-
11 pied by television broadcasters, and will be so until
12 the transfer to digital television is completed. This
13 situation creates a tremendous amount of uncer-
14 tainty concerning when the spectrum will be avail-
15 able and reduces the value placed on the spectrum
16 by potential bidders. The encumbrance of the 700
17 megahertz band reduces both the amount of money
18 that the auction would be likely to produce and the
19 probability that the spectrum would be purchased by
20 the entities that valued the spectrum the most and
21 would put the spectrum to its most productive use.

22 (6) The Commission's rules governing voluntary
23 mechanisms for vacating the 700 megahertz band by
24 broadcast stations—

1 (A) produced no certainty that the band
2 would be available for advanced mobile commu-
3 nications services, public safety operations, or
4 other wireless services any earlier than the ex-
5 isting statutory framework provides; and

6 (B) should advance the transition of digital
7 television and must not result in the unjust en-
8 richment of any incumbent licensee.

9 **SEC. 3. REPEAL OF DEADLINES FOR SPECTRUM AUCTIONS.**

10 (a) COMMUNICATIONS ACT OF 1934.—Section
11 309(j)(14)(C)(ii) of the Communications Act of 1934 (47
12 U.S.C. 309(j)(14)(C)(ii)) is amended by striking the sec-
13 ond sentence.

14 (b) BALANCED BUDGET ACT OF 1997.—Section
15 3007 of the Balanced Budget Act of 1997 (111 Stat. 269)
16 is amended by adding at the end the following new sen-
17 tence: “This section shall not apply to the band of fre-
18 quencies between 698 and 806 megahertz, inclusive.”.

19 (c) CONSOLIDATED APPROPRIATIONS ACT.—Para-
20 graphs (2) and (3) of section 213(a) of H.R. 3425 of the
21 106th Congress, as enacted into law by section 1000(a)(5)
22 of an Act making consolidated appropriations for the fiscal
23 year ending September 30, 2000, and for other purposes
24 (Public Law 106–113; 113 Stat. 1501A–295), are re-
25 pealed.

1 **SEC. 4. TERMINATION OF SCHEDULED AUCTIONS.**

2 (a) **TERMINATION.**—The Federal Communications
3 Commission shall not commence or conduct auctions 31
4 and 44 on June 19, 2002, as specified in the public notices
5 of March 19, 2002, and March 20, 2002 (DA 02–659 and
6 DA 02–563).

7 (b) **REPORT.**—Within one year after the date of en-
8 actment of this Act, the Commission shall submit a report
9 to the Congress—

10 (1) specifying when the Commission intends to
11 reschedule auctions 31 and 44; and

12 (2) describing the progress made by the Com-
13 mission in the digital television transition and in the
14 assignment and allocation of additional spectrum for
15 advanced mobile communications services that war-
16 rants the scheduling of such auctions.

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