

110TH CONGRESS
2D SESSION

H. R. 5846

To require the Federal Communications Commission to auction spectrum
for a free and open access broadband service.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2008

Ms. ESHOO (for herself, Mr. CANNON, and Mr. MARKEY) introduced the
following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the Federal Communications Commission to auc-
tion spectrum for a free and open access broadband
service.

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 “Wireless Internet Na-
5 tionwide for Families Act of 2008”.

6 **SEC. 2. OPEN ACCESS BROADBAND SPECTRUM AUCTION.**

7 Section 309(j) of the Communications Act of 1934
8 (47 U.S.C. 309(j)) is amended by adding at the end the
9 following new paragraph:

1 “(17) OPEN ACCESS BROADBAND SPECTRUM
2 AUCTION.—

3 “(A) AUCTIONS REQUIRED.—The Commis-
4 sion shall promote nationwide broadband com-
5 petition through the use of wireless services by
6 issuing nationwide licenses, for a term of not
7 less than 15 years, for two bands of frequencies
8 that consist of an initial band and a second
9 band of frequencies—

10 “(i) each of which shall be composed
11 of 20 megahertz of unpaired contiguous
12 spectrum;

13 “(ii) the initial band of which shall be
14 spectrum located between 2155 and 2180
15 megahertz, inclusive; and

16 “(iii) the second band of which shall
17 be spectrum that—

18 “(I) is located under 3 gigahertz;

19 and

20 “(II) is not part of the recovered
21 analog spectrum, as such term is de-
22 fined in paragraph (15)(C)(vi).

23 “(B) DEADLINES FOR INITIAL AUCTION.—

24 The Commission shall carry out the initial auc-
25 tions required by this paragraph by—

1 “(i) commencing an auction of a sin-
2 gle nationwide license for the initial band
3 described in subparagraph (A)(ii) not later
4 than 180 days after the date of enactment
5 of the Wireless Internet Nationwide for
6 Families Act of 2008; and

7 “(ii) depositing the proceeds of such
8 auction in accordance with paragraph
9 (8)(A) not later than 210 days after such
10 date of enactment.

11 “(C) SECOND AUCTION.—The Commission
12 shall commence and complete a separate rule-
13 making or other procedures for licensing
14 through auction additional unpaired contiguous
15 spectrum of 20 megahertz below 3 gigahertz
16 within 1 year of such date of enactment. Such
17 auction shall be conducted without the condi-
18 tions specified in subparagraph (F) unless the
19 Commission finds it is in the public interest to
20 do so pursuant to a rulemaking.

21 “(D) INTERFERENCE PROTECTION.—The
22 Commission shall ensure that licensees of spec-
23 trum obtained pursuant to an auction under
24 this paragraph and licensees of adjacent spec-

1 trum are mutually and adequately protected
2 from harmful interference.

3 “(E) SERVICE AND AUCTION RULES.—At
4 least 30 days prior to the deadlines established
5 in subparagraphs (B)(i) and (C), the Commis-
6 sion shall promulgate service and auction rules
7 for the licenses issued under subparagraphs (B)
8 and (C) that—

9 “(i) make available spectrally efficient
10 nationwide broadband services; and

11 “(ii) promote the goals listed in sub-
12 paragraphs (B), (D) and (F) of paragraph
13 (4).

14 “(F) CONTENT OF SERVICE REQUIRE-
15 MENTS RULES FOR AUCTIONED SPECTRUM.—
16 The Commission shall promulgate such rules
17 and regulations as are necessary to require, as
18 conditions of the licenses for the use of the fre-
19 quencies auctioned under this paragraph, that
20 the licensees shall—

21 “(i) offer, at a minimum, always-on
22 wireless broadband services within 2 years
23 from the date of receipt of the license, and
24 complete the construction of such wireless
25 network with a signal covering at least 95

1 percent of the population of the United
2 States and its territories within 10 years
3 from the initial operation of the network;

4 “(ii) offer a data service that is faster
5 than 200 kilobits per second one way (sub-
6 ject to subparagraph (G)) for free to con-
7 sumers and authorized public safety users
8 without subscription, airtime, usage, or
9 other charges;

10 “(iii) consistent with section 230 of
11 this Act, offer such free data service with
12 a technology protection measure or meas-
13 ures that protect underage users from ac-
14 cessing obscene or indecent material
15 through such service;

16 “(iv) provide such free data services
17 on a wireless network that permits open
18 access to affiliated and unaffiliated con-
19 sumer devices by providing, publicly and
20 royalty-free, published technical standards
21 for developing and deploying subscriber
22 equipment that can operate on the network
23 subject to this paragraph; and

24 “(v) provide such free data services
25 using advanced and spectrally efficient

1 wireless technologies that provide services
2 to the largest feasible number of users and
3 encourages broadband competition making
4 broadband services more available and af-
5 fordable.

6 “(G) REVIEW OF FREE DATA SERVICE RE-
7 QUIREMENT.—The Commission shall evaluate
8 whether the speed of free services under sub-
9 paragraph (F) should be increased in light of
10 consumer demand, developments in wireless
11 broadband technologies, and the public interest
12 and shall conduct the first such evaluation 5
13 years after the licensee commences operations,
14 and shall conduct subsequent evaluations at the
15 time of license renewal thereafter.

16 “(H) BIENNIAL BROADBAND SPECTRUM
17 UTILIZATION REPORT.—

18 “(i) Beginning in March of 2009, the
19 Commission and the National Tele-
20 communications and Information Adminis-
21 tration shall jointly review competitive
22 market conditions with respect to avail-
23 ability and affordability of broadband as
24 well as the state of utilization of spectrum
25 under the Commission’s and the Adminis-

1 tration’s respective jurisdictions. There-
2 after, the Commission and the Administra-
3 tion shall provide Congress a joint bian-
4 nual report of their findings.

5 “(ii) Such reports shall consider the
6 state-of-the-art efficient use of all spec-
7 trum bands and shall include the basis on
8 which such utilization and efficiency are
9 determined.

10 “(iii) In making their recommenda-
11 tions, the Commission and the Administra-
12 tion shall expressly consider the techno-
13 logical advances in commercial use of the
14 spectrum as well as other relevant uses in-
15 cluding public safety, national defense and
16 other uses as determined by the public in-
17 terest.

18 “(iv) The joint report shall also pro-
19 vide specific recommendations for the re-
20 allocation or reassignment of spectrum
21 found to be underutilized in light of the
22 public interest, necessity and convenience
23 found in promoting broadband availability
24 and affordability. In the joint report, the
25 Commission and the Administration shall

1 also recommend to Congress any statutory
2 changes that would be required to imple-
3 ment any such reassignment or realloca-
4 tion within 24 months of the report.”.

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