

Hostage Standoff

by [Thomas W. Hazlett](#)

MARCH 19, 2001 - What did you think of the broadcast you watched last night on Channel 62? What? You don't get Channel 62, or any of the channels between 60 and 69? You watch cable TV anyway? You and almost everyone else. Since 1952, only a handful of stations operate on these channels, which lie in the 700-megahertz frequency band. There are just 95 licensed broadcasters in this band in the 210 U.S. TV markets. Ninety-five percent of the available channels lie idle.

The stations that do broadcast typically attract tiny audiences with home shopping, infomercials, and syndicated TV reruns. Anyway, about 82% of U.S. households now receive their TV programs by cable or satellite. For most viewers, all forms of over-the-air broadcasting are superfluous.

U.S. wireless entrepreneurs have been lusting for this virtually unused radio spectrum, perfect airwaves over which to launch a range of advanced mobile voice and data networks. Simply by shifting a few Channel 64 stations to Channel 41, Channel 67 stations to Channel 29, and so forth, 60 megahertz of clean coast-to-coast radio spectrum would be available. That is more bandwidth than the cellular telephone industry uses, and it is the gold standard for mobile communications. It could open the floodgates for millions of new wireless devices and mobile web connections, so-called third generation (3G) wireless.

The government could even make a buck. Auctions for 3G licenses in the United Kingdom and Germany brought in over \$80 billion last year.

No Gold Rush

In 1996, the Federal Communications Commission -- not entirely oblivious to the economic realities -- sought to begin moving TV stations out of channels 60-69. The agency's idea was to take bids for new wireless licenses, with winning bidders required to foot the bill to retune television transmitters. Auction prices would reflect moving expenses, stations would receive pain-free relocation, and TV viewers plugged into cable or satellite would never even notice.

Best of all, productive new wireless services would be unleashed.

The transition has gone nowhere, slowly. Auctions have been postponed four times. Rather than thanking the commission for ensuring that they can make a cost-free transition, broadcasters on channels 60-69 have demanded generous slices of the pie. They refuse to budge until satiated, but letting them gorge creates a political mess. Five years into the FCC's planned transition, nothing has happened.

The hold-up emanates from the commission's regulation of spectrum according to "public interest, convenience, or necessity," a catch-all term that means as much as the FCC wants it to mean. Licensees have no formal property rights, and government planners ostensibly determine what spectrum is used for. Yet, once granted a license, users often gain the political clout to veto any change that displeases them.

At the same time, a license to operate a nearly worthless UHF TV station doesn't give the licensee the right to use its assigned airwaves for something valuable, like 3G wireless. That would actually help consumers. Instead, vested interests cash in only if they block progress, emerging with a ransom for having held themselves hostage.

It's an old, tired rerun. Requests to use idle TV channels have been heard since the late 1940s. Broadcasters

blocked those calls by mobile phone pioneers until the early 1980s. Finally, UHF TV channels 70-83 were converted to mobile phone bands. TV stations shifted to lower channel assignments; consumers merely clicked new numbers. Cellular phones, meanwhile, turned out to be so popular that even the paranoid are glued to them, willing to brave auto accident and rumored risks of brain cancer.

The wild embrace of mobile phones moved companies such as Motorola back to the FCC to pitch for the release of another patch of unused UHF TV spectrum. By 1986, the Commission was set to do just that, until broadcasters put up a straw man: high definition television. The FCC froze the UHF spectrum reallocation so prettier TV pictures could be delivered in a distant future. Too bad a market for HDTV has never emerged, and wireless operators still champ at the bit to gain access to 700 MHz.

Real Value

By 1990, the situation had become officially ridiculous. The licenses held by U.S. cellular companies were then worth \$100 billion, an asset value that indicated consumers were getting hosed by the two operators the FCC had licensed in each market. Competition was the obvious cure.

In November 1992, the FCC released a study noting that UHF TV licenses in Los Angeles were selling as cheaply as \$6 million-\$1 million per allotted megahertz. Cellular licenses were going for over \$180 million per megahertz. An astounding \$1 billion in social benefits were available from permitting just one UHF station in L.A. to go dark and switch its airspace over to cell-phone service. Sum that up over 210 media markets, and you're talking real money.

After nine years of rumination, the FCC has a plan to move TV stations out of channels 60-69 and to partition the spectrum between 24 megahertz of "public safety" users and 36 megahertz of new mobile licenses. But for a long time the TV station owners have simply refused to move, like the mule that blocked Gen. Patton's convoy in World War II.

As Bud Paxson, CEO of Paxson Communications, the largest owner of stations in the 60-69 band, puts it: "I kept telling everybody the name of the game is spectrum, spectrum, spectrum. I labored in a desert and built a network; now people are finding an oasis with oil under my sand... I was a farmer and I got lucky. Now people want to build a mall on my farm."

So he wants us to pay him. In fact, the farm doesn't belong to Paxson Communications (or General Electric, a 32% shareholder), and the network Paxson built did not create the value he now seeks to extract. Paxson could offer its UHF-TV programs equally well on a channel between 14 and 59.

Distasteful though it is, the efficient solution is not to shoot the mule but to bribe it to saunter along. It's high time that we auction new licenses allowing winners to occupy unused UHF channels immediately, with the right to claim the airspace TV incumbents release when paid off to take lower channel assignments. Auction bids for each channel would be lowered by the expected amount of the bribes, but this achieves the paramount goal-unlocking spectrum.

We Want It Now

The American economy is starving for wireless bandwidth. Rudy L. Baca, an ex-FCC official now with the Precursor Group, wrote late last year:

"The reality of spectrum management in the U.S. for the foreseeable future is chronic spectrum shortages. 1/8 Compared to Europe 3/8 U.S. companies are relatively disadvantaged in "New Economy" growth in wireless Internet and E-commerce."

There's a sobering thought: The U.S. appears over-regulated compared to the European Community. U.S. spectrum allocation is more restrictive than in those gray-walled mercantile economies.

Adding to FCC inertia is fiscal gimmickry at the White House. The new Bush Administration budget, forecasting that auction receipts will climb over time, claims that imposing a fifth 700 MHz auction delay -- to September 2004 -- will be "a 'win-win' for all parties involved...and it's good telecom policy."

Flat wrong on every count: Consumers lose better service, entrepreneurs lose profits, wireless technology loses markets and the government loses both the time value of money and the tax receipts on all the productive activity eliminated by regulatory sloth.

Perhaps the FCC's new chairman, Michael Powell, can inspire the Administration to think more carefully before refusing to act. He has said, "The public interest works with letting the market work its magic." Here's an opportunity to put the pedal to the metal.

Powell's success could lead him to enlist Congress and the Commission to reform the entire spectrum allocation system, allowing operators to respond to marketplace demands. When competitors are free to offer any non-interfering service -- TV, mobile phone, satellite, or wireless web -- stubborn mules will no longer block our information superhighways.

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