

# CDT Comments to FCC in the Matter of Service Rules for the 698-746, 747-762, and 777-792 MHz Bands

May 23, 2007  
Filed under

## Supporting Documents

The Center for Democracy & Technology (CDT) respectfully submits these comments to the Federal Communications Commission (FCC) in response to the FCC's Report and Order and Further Notice of Proposed Rulemaking in the above referenced proceedings. CDT believes that the upcoming 700 MHz spectrum auction presents the FCC with a critical opportunity to spur broadband competition and promote the proliferation of innovative services and applications on the broadband platform.

CDT is a non-profit, public interest organization dedicated to developing and implementing public policies that preserve civil liberties and democratic values on the Internet. The organization was founded in the belief that the Internet's uniquely empowering nature stems from its versatility, lack of gatekeepers, and decentralized structure. CDT has consistently supported practical policies that preserve these qualities by promoting the Internet's end-to-end architecture and user control. CDT believes that such policies advance the goals of increased innovation, competition, and investment in cutting-edge communications networks. The upcoming spectrum auction offers the FCC a unique opportunity to take action that will further all of these objectives.

CDT believes the FCC's primary goal for the auction should be to foster additional competitive choices in the broadband Internet market. Convergence is finally occurring, in large part because services of all kinds - voice, video, data - can be delivered over the Internet. Devoting spectrum to broadband therefore has the potential to increase competition across a full range of services. In contrast, devoting spectrum to more specialized services may increase competition only in that more limited area.

Getting the full competitive benefits from new broadband offerings, however, requires that such offerings be open to all kinds of traffic. If certain applications are blocked or disfavored by the network operator, it undermines the versatility that is the reason for focusing on broadband in the first place. Moreover, because there simply is not enough spectrum to increase radically the number of broadband providers, maximizing the pro-competitive benefit of the auction also requires that at least some of the spectrum be auctioned with the understanding that the winning bidder(s) will provide access on a wholesale basis to multiple retail broadband providers.

In short, whatever one may think about concepts like "Internet neutrality" or "open access" in the wireline context, the limited and high-value spectrum at issue in this auction presents a different case. The spectrum is a scarce and extraordinarily valuable public resource. Given its limited nature, certain kinds of openness requirements are essential to achieving the maximum benefit to the competitive landscape. Objections to neutrality or open access rules that may arise in the context of privately constructed last mile networks simply do not apply to the use of public spectrum.

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