

What's New in 5G - February 2022

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The next-generation of wireless technologies – known as 5G – is expected to revolutionize business and consumer connectivity, offering network speeds that are up to 100 times faster than 4G LTE, reducing latency to nearly zero, and allowing networks to handle 100 times the number of connected devices, enabling the “Internet of Things.” Leading policymakers – federal regulators and legislators – are making it a top priority to ensure that the wireless industry has the tools it needs to maintain U.S. leadership in commercial 5G deployments. This blog provides monthly updates on FCC actions and Congressional efforts to win the race to 5G.

Regulatory Actions and Initiatives

Mid-Band Spectrum

- The FCC resolves an investigation into whether certain bidders in the 3.5 GHz band auction engaged in prohibited communications.
 - On January 27, 2022, the FCC's Enforcement Bureau released an [Order](#) adopting a Consent Decree entered into by the Commission to resolve its investigation into whether Lumen Technologies, Inc. (“Lumen”) violated the prohibited communications rule in the 3.5 GHz band auction (Auction 105). While the FCC has stated that business discussions and negotiations that are unrelated to bids and bidding strategies and that do not convey information about bids and bidding strategies are not prohibited in an auction, the Consent Decree suggests that a violation occurred because after applying to participate in Auction 105, Lumen filed a Colocation Application for the potential placement of its facilities operating in the 3.5 GHz band at a tower site in Cambridge, MN owned by Midcontinent Communications (“Midco”), which was also an applicant for Auction 105. And the filing of the application, among other things, signaled information about Lumen's bidding strategy. To settle this matter, Lumen will implement a compliance plan and pay a \$75,000 settlement amount.
- Wireless entities reach an agreement with the aviation industry to allow 5G deployments in the C-band while ensuring aviation safety.

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- On January 7, 2022, the Federal Aviation Administration (“FAA”) released a [list](#) of 50 airports with temporary C-band 5G exclusion zones, which means that C-band 5G service will not be fully deployed above and around those airports. Verizon and AT&T agreed to switch off transmitters and make other adjustments near these airports for six months in order to minimize any potential interference to radio altimeters.
 - On January 10, 2022, Airlines for America (“A4A”) [withdrew](#) its [emergency petition](#) to stay initiation of 5G service in certain designated airport locations. A4A’s emergency petition was filed in late December 2021 in anticipation of AT&T and Verizon’s initial C-band 5G deployments. Days after the petition was filed, AT&T and Verizon agreed to pause their deployments to allow the FAA and the Department of Transportation (“DoT”) to conduct additional analyses on 5G deployments’ coexistence with radio altimeters. Verizon and AT&T also agreed to adopt operational conditions to resolve any uncertainties. A4A stated that the “withdrawal is without prejudice to any further action A4A may take in light of changed circumstances.” CTIA, AT&T, and Verizon also [withdrew](#) their opposition to the emergency petition.
 - The FAA issued over 1,500 Notices to Air Missions (“NOTAMs”) on January 13, 2022, regarding the alleged impact on flight operations from Verizon’s and AT&T’s C-band 5G deployments. The NOTAMs prevent some aircraft from performing low-visibility landings where 5G is deployed. Three days later, on January 16, the FAA cleared roughly 45 percent of U.S. commercial fleet to perform low-visibility landings at several airports where C-band 5G will be deployed. On January 20, the FAA announced that it cleared 78 percent of U.S. commercial fleet. And on January 27, the FAA announced that it cleared an estimated 90 percent of U.S. commercial fleet.
 - On January 17, 2022, A4A submitted a [letter](#) to the White House, the FAA, the DoT, and the FCC asking for further restrictions on C-band 5G use – specifically, a two-mile buffer zone around the 50 airports identified by the FAA.
 - The aviation industry and Verizon and AT&T subsequently reached an agreement on January 18 to delay C-band 5G deployments near those airports. FCC Chairwoman Rosenworcel’s [stated](#) that the agreement “is welcome news because we know that deployment can safely co-exist with aviation technologies in the United States, just as it does in other countries around the world.”
 - In addition to the January 18 agreement, on January 28, 2022, the FAA [announced](#) that it reached an agreement with Verizon and AT&T to narrow the exclusion zones around the 50 airports identified earlier in the month, which will allow wireless carriers to turn on more 5G towers.
- The FCC’s latest auction of mid-band spectrum to support wireless 5G services closes.
 - On January 4, 2022, the FCC’s auction of spectrum in the 3.45-3.55 GHz band closed. In its [Public Notice](#) announcing the results, the FCC stated that the auction raised more than \$22.5 billion in gross bids, with 23 bidders winning a total of 4,041 licenses. A list of the winning bidders is available [here](#), and a list of their remaining payment amounts is available [here](#). The biggest winners in terms of total gross winning bids were AT&T, DISH (Weminuche LLC), and T-Mobile. Verizon did not appear to bid.

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- According to a [News Release](#) issued by the FCC, “compared to the prior 5G auction, this auction saw a substantial increase in the number of winning bidders per market,” and “[t]his broader range and distribution of winning bidders will increase competition by providing a diversity of wireless carriers with the mid-band spectrum resources needed to maintain American leadership in 5G.”
 - FCC Chairwoman Rosenworcel [commented](#): “Today’s 3.45 GHz auction results demonstrate that the Commission’s pivot to mid-band spectrum for 5G was the right move.” She added that she “look[s] forward to the continued collaboration between the FCC, NTIA, and other federal agencies to find innovative ways to make spectrum available for next generation commercial and government services.”

Other Spectrum and Regulatory Actions

- New head of the National Telecommunications and Information Administration is confirmed.
 - On January 11, 2022, the Senate confirmed Alan Davidson as Assistant Secretary of Commerce for Communications and Information and Administrator of the National Telecommunications and Information Administration (“NTIA”).
 - That same day, FCC Chairwoman Rosenworcel issued a [News Release](#) congratulating Mr. Davidson and commented that “[t]he FCC and NTIA have worked together as partners in the past, and I look forward to building on that history with close cooperation in the future. Among other things, I look forward to working together on spectrum policy that reflects our national priorities and offering support as NTIA prepares to distribute the largest broadband infrastructure investment in our nation’s history.”
- The FCC responds to a report on ways to improve federal agency collaboration and processes in managing the use of spectrum.
 - On January 12, 2022, the FCC released a series of [letters](#) that were sent to members of Congress in response to a [report](#) that the Government Accountability Office (“GAO”) released in July 2021 entitled “Spectrum Management, Agencies Should Strengthen Collaborative Mechanisms and Processes to Address Potential Interference.” The report analyzed how various federal agency mechanisms and processes were implemented during recent domestic and international spectrum-management activities.
 - The letters state that the FCC is “working to close gaps in [its] processes and [is] considering responsive changes in [its] procedures to improve coordination and cooperation in addressing non-federal and federal users’ spectrum sharing and to answer difficult questions involving the potential for harmful interference between federal and non-federal spectrum users.” They also state that “[a]ctions are also underway to finalize [the FCC’s] review and update of the General Guidance Document. The FCC has provided input to [the Department of State (“State”)] on ways to update and improve the document. [The FCC] look[s] forward to continuing to work with State and NTIA on improving the consensus building processes to present unified U.S. positions in international forums, particularly as the U.S. government

continues its preparations for the ITU's World Radiocommunication Conference to be held in 2023. [The FCC] also continue[s] to offer our expertise and experience in guiding the design of studies intended as U.S. contributions to international technical meetings."

- Relatedly, the GAO issued a [report](#) on January 27, 2022, regarding NTIA spectrum management. The report was prepared in response to 2020 [letter](#) and a related 2021 [letter](#) referencing the 2020 letter. Among other things, the GAO concludes that NTIA lacks a formalized process for spectrum reallocations, highlighting several instances in which agencies thought they needed to communicate directly with the FCC on federal spectrum matters. The report also includes recommendations that NTIA can undertake to improve the processes.

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