

## What's New in 5G - July 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

#### Spectrum

- The FCC completes its initial review of applications to participate in the next auction of mid-band spectrum for 5G services.
  - On June 9, 2022, the FCC’s Office of Economics and Analytics and Wireless Telecommunications Bureau (“WTB”) released a [Public Notice](#) announcing those applications to participate in the auction of spectrum in the 2496-2690 MHz (“2.5 GHz”) band that, after initial review, are complete and those that are incomplete. The list of applications deemed complete (which includes AT&T, DISH, and T-Mobile) is available [here](#), and the list of applications deemed incomplete (which includes Verizon) is available [here](#).
    - Applicants with complete applications were required to submit an upfront payment by June 23, 2022 in order to participate in the auction.
    - Applicants with incomplete applications were required to first resubmit their applications by June 23, 2022, and then, assuming they have corrected their deficiencies, will be required to submit an upfront payment before they are permitted to bid.

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- Bidding in the auction is scheduled to begin on July 29, 2022.
  - The FAA announces that wireless entities agree to delay 5G deployments in the C-band.
    - On June 17, 2022, the FAA released a [statement](#) explaining that the aviation and wireless industries have agreed to a phased approach that would delay full C-band operations until at least 2023. Under the approach, airlines and operators of aircraft agreed to retrofit radio altimeters that are most susceptible to C-band interference with filters by the end of 2022. In addition, AT&T and Verizon agreed to continue voluntary mitigations at and around certain airports through July 2023, but to relax the mitigations in stages.
  - The FCC seeks comment on two requests for waiver of its rules governing certain devices operating in the 3.5 GHz band.
    - On June 30, 2022, the WTB released a [Public Notice](#) seeking comment on a [request](#) by the NFL to extend through the end of the 2025 Super Bowl its [conditional waiver](#) of the FCC's rule requiring Citizens Broadband Radio Service ("CBRS") communications to be coordinated through a Spectrum Access System ("SAS") so that the NFL can continue to operate its coach-to-coach communications systems in the event of a localized internet outage in NFL stadiums. The NFL contends that an extension of the conditional waiver is needed to address the possibility of multiple, simultaneous Internet failures during or immediately prior to the commencement of a football game and that an extension will allow it to assess whether a tertiary level of ISP redundancy is required to support its coach-to-coach communications system in the long-term. Comments and replies on the Public Notice are due July 11 and July 18, respectively.
    - On July 6, 2022, the WTB released a [Public Notice](#) seeking comment on a [Request for Waiver](#) submitted by the University of Utah to allow it to operate its POWDER platform, which offers a testbed for wireless research, in the 3.5 GHz/CBRS band. Specifically, the University requests a waiver because the equipment it intends to use as a CBRS device will not always comply with the Commission's CBRS device registration and reporting rules since it will not directly connect to or register with an SAS. In the alternative, the University requests that the FCC clarify that the POWDER platform's use of a CBRS Domain Proxy meets the definition of a CBRS device and is eligible to register with an SAS. Comments and reply comments on the Public Notice are due July 18 and July 25, respectively.

## 5G Networks and Infrastructure

- The FCC provides an update on the status of funding for its program to reimburse the costs of removing and replacing communications equipment and services that pose a national security risk.
  - On June 1, 2022, FCC Chairwoman Rosenworcel sent a [letter](#) to the Senate Commerce Committee providing an update on the status of the FCC's program to

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reimburse entities for removing and replacing certain communications equipment and services that pose a national security risk. The letter, which references a [February 4 letter](#) previously notifying Congress that the \$1.9 billion in funding made available for the program will be insufficient, explains that the FCC will not be able to issue funding allocations to applicants or determine true demand until the end of the June 15, 2022, statutory deadline for the FCC to approve or deny applications. The letter adds that, as of the FCC's review to date, the estimate of funding demand has been reduced from \$5.6 billion to \$5.3 billion, and the FCC anticipates it will be reduced even further.

- In addition, on June 15, 2022, FCC Chairwoman Rosenworcel sent a follow-up [letter](#) to Congress with an update on the reimbursement program, reporting that of the 181 applications filed with the FCC, 122 were found to be materially deficient. The letter further explains that the FCC has notified each of these applicants that they will have a 15-day period to amend and cure these defects and that “[t]he Commission will promptly review any amended applications and expects to complete this process by July 15, 2022.”

## In the Courts

- The D.C. Circuit rejects challenges to the FCC's decisions concerning DISH's control of Northstar and SNR in the AWS-3 auction.
  - On June 21, 2022, the U.S. Court of Appeals for the D.C. Circuit [affirmed](#) the FCC's orders that found that DISH continued to exercise control over Northstar Wireless, LLC (“Northstar”) and SNR Wireless LicenseCo, LLC (“SNR”) in the 2014/2015 auction of AWS-3 spectrum and that the FCC provided Northstar and SNR an effective opportunity to modify their agreements to cure any control issues. The Court dismissed Northstar and SNR's claims that, as part of the opportunity to cure, the FCC was obligated to engage in iterative negotiations with Northstar and SNR regarding their renegotiated agreements with DISH. The Court explained that the FCC had, through its several decisions, provided DISH, Northstar, and SNR significant direction about the problematic nature of the agreements and gave ample opportunity to cure the control problem consistent with that direction. The Court also held that the FCC reasonably found that DISH exercises *de facto* control over Northstar and SNR under the FCC's *de facto* control test. Finally, the Court rejected Northstar and SNR's claims that they did not have fair notice of how the FCC would apply the *de facto* control test.

## Legislative Efforts

- The House Subcommittee on Communications and Technology holds a markup session on a two key spectrum bills and advances the bills to the full committee.
  - On June 15, 2022, the House Subcommittee on Communications and Technology of the Energy and Commerce Committee held a [markup session](#) of seven telecommunications bills, including the Spectrum Innovation Act of 2022 and the Extending America's Spectrum Auction Leadership Act of 2022.

- If enacted, the [Spectrum Innovation Act of 2022](#) would require the FCC to auction at least 200 megahertz of spectrum in the 3.1-3.45 GHz band for commercial use, shared federal use, or a combination thereof within seven years of enactment. It would also permit the President to modify or withdraw any assignment to a federal station in the 3.1-3.45 GHz band after November 30, 2024 in order to make the spectrum available for auction, so long as the modification or withdrawal would not comprise the primary mission of a federal entity operating in the band. In addition, as amended during the markup session, the bill would use the 3.1-3.45 GHz auction proceeds to pay for upgrades to next-generation 911 and help fund the Secure and Trusted Communications Networks Reimbursement Program, discussed above. FCC Chairwoman Rosenworcel [applauded](#) the subcommittee's amendments to the bill, explaining that they show that "safety and security of consumers is a top priority."
  - The [Extending America's Spectrum Auction Leadership Act of 2022](#), which was not amended during the markup session, would extend the FCC's general auction authority to March 31, 2024. The FCC's auction authority is set to expire on September 30, 2022.
- The House Energy and Commerce Committee is now considering both bills.

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