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FCC Spectrum Auction Authority: Background and Proposals for Extension

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SUMMARY

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FCC Spectrum Auction Authority: Background and Proposals for Extension

Radio spectrum ("spectrum") is the continuum of frequencies allocated for radio transmissions and is a finite and valuable resource. It is necessary for companies seeking to provide wireless services, such as radio broadcasting, mobile communications, and satellite services. In 1934, Congress created the Federal Communications Commission (FCC), an independent agency, to manage nonfederal use of spectrum. The FCC allocates segments of spectrum for various uses, such as radio broadcasting, mobile communications, satellite services, and land mobile radio communications. It grants licenses to nonfederal entities to use specific frequencies within those bands and sets terms and conditions on use to serve the public interest, avoid interference between users, and promote the most efficient use of spectrum.

In 1993, Congress authorized the FCC to use competitive bidding (i.e., auctions) to grant licenses for rights to use specific frequencies for commercial wireless communications. That authority was originally due to expire on September 30, 1998, but Congress has extended it several times. The most recent long-term extension, granted as part of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96), was set to expire on September 30, 2022. Four additional extensions were made during the 117th Congress:

- On September 30, 2022, President Biden signed the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023 (P.L. 117-180, H.R. 6833).
  Division C, Section 101 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority through December 16, 2022.
- On December 16, 2022, President Biden signed the Further Continuing Appropriations and Extensions Act, 2023 (H.R. 1437, P.L. 117-229).
  Division B, Title I, Section 101 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 16, 2022, to December 23, 2022.
- On December 23, 2022, President Biden signed the Further Additional Continuing Appropriations and Extensions Act, 2023 (H.R. 4373, P.L. 117-264).
  Division B, Title I, Section 101 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 23, 2022, to December 30, 2022.
- On December 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023 (H.R. 2617).
  Division O, Title IX, Section 901 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 30, 2022, to March 9, 2023.

Supporters of an extension of the FCC's auction authority see auctions as an effective means to manage spectrum access and use. During the 117th Congress, Members introduced several pieces of legislation to extend the FCC's spectrum auction authority, either as stand-alone legislation (H.R. 7783) or as part of comprehensive spectrum legislation (H.R. 7624 and S. 4117). On July 27, 2022, the House passed the Spectrum Innovation Act of 2022 (H.R. 7624), to extend the spectrum auction authority until March 31, 2024; require the auction of the 3.1-3.45 GHz band; and allocate auction revenues to fund 911 improvements and the Secure and Trusted Communications Network Reimbursement Program. The Secure and Trusted Communications Network Reimbursement Program pays to "rip and replace" untrusted equipment from U.S. telecommunication networks.

With the FCC spectrum auction authority now extended through March 9, 2023, Members are reportedly debating the duration of a future extension and the best legislative vehicle for the extension, whether in a stand-alone bill, annual appropriation bill, or some other vehicle. Members are also continuing to discuss the development of a comprehensive spectrum package that would include a further extension among other provisions.

Representative Mike Doyle, Chairman of the Committee on Energy and Commerce's Subcommittee on Communications and Technology, urged Senate concurrence on H.R. 7624; however, some Senators do not agree with certain elements of the bill. Some Senators support an approach similar to that used in P.L. 112-96, which provided a long-term extension of the FCC's spectrum auction authority (e.g., 10-year), named several frequency bands for auction, and specified uses for spectrum

auction revenue. Given recent spectrum disputes, some Senators would also like to include provisions to improve interagency coordination on spectrum decisions in a comprehensive spectrum bill.

If Congress does not reach agreement to extend the FCC's spectrum auction authority by March 9, 2023, the FCC will no longer be able to auction spectrum licenses for particular bands, potentially creating uncertainty for agencies and industry. Congress could extend the FCC's auction authority through stand-alone legislation, such as H.R. 7783; comprehensive legislation, such as H.R. 7624; annual appropriation bills; or some other legislative vehicle.

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Introduction

Radio spectrum ("spectrum") is the continuum of frequencies allocated for radio transmissions and is a finite and valuable resource. It is necessary for companies seeking to provide wireless services, such as radio broadcasting, mobile communications, and satellite services. In 1934, Congress created the Federal Communications Commission (FCC), an independent agency, to manage nonfederal use of spectrum. The FCC allocates segments of usable and available spectrum for various uses, such as radio broadcasting, mobile communications, satellite services, and land mobile radio communications. It grants licenses to nonfederal entities to use specific frequencies within those bands and sets terms and conditions to serve the public interest, avoid interference between users, and promote the most efficient use of spectrum. According to the FCC, "Managing the airwaves is arguably the agency's most important function. Nearly every commercial device that transmits a wireless signal on a radio frequency, from AM radios to satellites to 5G cell phones, must comply with our rules, from licensing to interference."[1]

In 1993, Congress authorized the FCC to use competitive bidding (i.e., auctions) to grant licenses for rights to use specific frequencies for commercial wireless communications. That authority was originally due to expire on September 30, 1998, but Congress has extended it several times. The most recent long-term extension in 2012—through September 30, 2022—was granted as part of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96). Four additional extensions were made during the 117th Congress:

- On September 30, 2022, President Biden signed the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023 (P.L. 117-180, H.R. 6833). Division C, Section 101 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority through December 16, 2022.
- On December 16, 2022, President Biden signed the Further Continuing Appropriations and Extensions Act, 2023 (H.R. 1437, P.L. 117-229). Division B, Title I, Section 101 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 16, 2022, to December 23, 2022.
- On December 23, 2022, President Biden signed the Further Additional Continuing Appropriations and Extensions Act, 2023 (H.R. 4373, P.L. 117-264). Division B, Title I, Section 101 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 23, 2022, to December 30, 2022.
- On December 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023 (H.R. 2617).[2] Division O, Title IX, Section 901 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 30, 2022, to March 9, 2023.

During the 117th Congress, Members introduced several pieces of legislation that would extend the FCC's spectrum auction authority, either as stand-alone legislation or as part of comprehensive spectrum legislation. The Spectrum Innovation Act of 2022 (S. 4117), introduced

[1] FCC Podcast, *More than Seven Dirty Words,* episode #18, "Going Once, Going Infinitely: How the FCC Went from 'Beauty Contests' to Spectrum Auctions," January 19, 2021, at https://www.fcc.gov/news-events/podcast.

[2] The Public Law number was not available at the time of publication.

on April 28, 2022, would auction the 3.1-3.45 GHz band of spectrum and would extend the FCC's auction authority to auction this segment for seven years from the enactment of the bill. The Extending America's Spectrum Auction Leadership Act of 2022 (H.R. 7783), introduced on May 16, 2022, would extend FCC auction authority through March 31, 2024. On July 27, 2022, the House passed a comprehensive spectrum package, the Spectrum Innovation Act of 2022 (H.R. 7624), which would extend FCC auction authority through March 2024. Among its other provisions, the bill would require the auction of the 3.1-3.45 Gigahertz (GHz) band, and allocate auction revenues to fund next generation 911 improvements and the Secure and Trusted Communications Network Reimbursement Program—a program to "rip and replace" untrusted equipment from U.S. telecommunication networks. The bill has been under consideration in the Senate.

This report provides a brief history of FCC spectrum auction authority, legislative activity in the 117th Congress, and a discussion of policy options.

History of the FCC's Spectrum Auction Authority

Congress added Section 309(i) to the Communications Act of 1934 in the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35),[3] granting the FCC authority to assign licenses to pre-qualified applicants by random selection (i.e., lottery). Under the lottery system, these applicants would apply for spectrum licenses and the FCC would randomly assign frequencies to them. However, as stated by the FCC in a 1997 report to Congress, the pre-qualification process itself often took many months (20 months in one case), and some license winners had "no intention of providing service to the public" and instead "were eager to trade their license rights for windfall profits."[4]

Such profiteering led Congress to grant the FCC authority to conduct auctions to assign spectrum. Congress added Section 309(j) to the Communications Act of 1934 in the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66, §6002),[5] which allowed the FCC to use competitive bidding (i.e., auctions) to grant spectrum licenses.[6] The act required the FCC to protect the public interest and promote specific objectives, such as speeding deployment of new technology and services to rural regions, increasing competition and diversity among licensees, recovering some of the value of this federal resource for the public, and achieving the most efficient use of spectrum.[7] By awarding licenses to the highest bidders from a diverse pool and including build-out requirements as a condition of licensing, the FCC could ensure that spectrum-holders were ready and able to use the spectrum, to provide services to consumers in all areas, and to enhance competition. Under this act, the FCC's auction authority would have expired on September 30, 1998.

[3] See Communications Act of 1934, as amended (§309(i)), at https://transition.fcc.gov/Reports/1934new.pdf.

[4] Federal Communications Commission, *Report to Congress on Spectrum Auctions*, FCC 97-353, adopted September 30, 1997, released October 9, 1997, p. 7, at https://wireless.fcc.gov/auctions/data/papersAndStudies/fc970353.pdf.

[5] The Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, §6002, 107 Stat. 312, 387-392.

[6] Sections 309(j)(7) and (8) discuss treatment of revenue from spectrum auctions, and state that the FCC may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of federal revenue.

[7] FCC, *In the Matter of Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases* (Gen. Docket No. 90-264), Notice of Proposed Rulemaking, May 10, 1990, p. 4050, at https://www.fcc.gov/document/amendment-proposals-reform-comparative-hearing-process-expedite.

On August 5, 1997, Congress extended the FCC's auction authority for 10 years through the passage of the Balanced Budget Act of 1997 (P.L. 105-33, §3002), allowing the FCC to use competitive bidding for license applications through September 30, 2007.

The Deficit Reduction Act of 2005 (P.L. 109-171, §3003), enacted February 8, 2006, extended FCC auction authority for four years, through September 30, 2011. The act specified that $7.363 billion of proceeds from the authorized auctions be applied to deficit reduction. It also set aside a portion of the proceeds for digital television transition and public safety communications, and created the Digital Television Transition and Public Safety Fund.[8]

The Digital Television Delay Act (P.L. 111-4, §5), enacted February 11, 2009, extended FCC auction authority for one year, through September 30, 2012, to manage the auctions mandated under P.L. 109-171.

The Middle-Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96, Title VI) included several spectrum-related provisions. It established a process for television broadcasters to release spectrum licensed to them and for the FCC to auction that spectrum for commercial use. It included provisions to auction certain spectrum and apply revenues from those auctions toward deficit reduction. It also required revenues be used to establish a new agency to manage the public safety broadband network (First Responder Network Authority), to build out that network, and to fund several new public safety programs and initiatives. The act (§6405) also extended the FCC's auction authority for 10 years, through September 30, 2022.

The Spectrum Pipeline Act of 2015, which was included as Title X in the Bipartisan Budget Act of 2015 (P.L. 114-74), requires the FCC to auction certain spectrum as specified in Section 1004(a) of the act. The act extends FCC auction authority for this spectrum through September 30, 2025. A "spectrum pipeline plan" refers to the federal government selecting specific frequencies for auction and setting the timeline for conducting these auctions. **Figure 1** illustrates the timeline of changes to the FCC's spectrum auction authority, which is due to expire on September 30, 2022, except for certain spectrum auctioned under the authority of the Spectrum Pipeline Act of 2015.

Proposals in the 117th Congress to Extend the FCC's Spectrum Auction Authority

In anticipation of the FCC's spectrum auction authority expiring on September 30, 2022, some Members introduced legislation during the 117th Congress to extend it.

Extending America's Spectrum Auction Leadership Act of 2022 (H.R. 7783)

The Extending America's Spectrum Auction Leadership Act of 2022 (H.R. 7783), introduced on May 16, 2022, would extend FCC auction authority through March 31, 2024 (i.e., 18 months from its September 30, 2022, expiration). The House Energy and Commerce Committee's Subcommittee on Communications and Technology approved the bill on June 15, 2022, with bipartisan support.

[8] For more information, see CRS Report R40674, *Spectrum Policy in the Age of Broadband: Issues for Congress*, by Linda K. Moore. For further information, congressional readers may contact Jill C. Gallagher or Patricia Moloney Figliola.

Figure 1. Timeline of Changes to the FCC's Spectrum Auction Authority
(1981-2022)

1981
Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35, §1242)
Granted FCC authority to select licensees based on random selection.

1993
Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66, §6002)
Granted FCC authority to use competetive bidding with public interest objectives.
Auction authority to expire September 30, 1998.

1997
Balanced Budget Act of 1997 (P.L. 105-33, §3002)
Extended FCC auction authority through September 30, 2007.

2006
The Deficit Reduction Act of 2005 (P.L. 109-171, §3003)
Extended FCC auction authority to September 30, 2011.
Mandated certain activities and set aside a portion of revenues for specific purposes (e.g., public safety communications).

2009
The Digital Television Delay Act (P.L. 111-4, §5)
Extended FCC auction authority to September 30, 2012.

2012
The Middle-Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96, Title VI)
Extended FCC auction authority through September 30, 2022.
Mandated certain auctions and set aside a portion of the revenues for specific purposes (e.g., 911, FirstNet).

2015
Spectrum Pipeline Act of 2015 (CSEA), 2003 (P.L. 114-74, §1004)
Requires FCC to auction certain spectrums and extends FCC auction authority for this spectrum through September 30, 2025.

2022
Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023 (P.L. 117-180, Division C, §101)
Extended the FCC's auction authority through December 16, 2022.
Further Continuing Appropriations and Extensions Act, 2023 (P.L. 117-229, Division B, Title I, §101)
Extends the FCC's auction authority through December 23, 2022.
Further Additional Continuing Appropriations and Extensions Act, 2023 (P.L. 117-264, Division B, Title I, §101)
Extended the FCC's auction authority through December 30, 2022.
Consolidated Appropriations Act, 2023 (H.R. 2617*, Division O, Title IX, §901)
Extended the FCC's auction authority through March 9, 2023.

*Public Law number not available at time of publication.

Source: CRS.

Spectrum Innovation Act of 2022 (H.R. 7624)

The Spectrum Innovation Act of 2022 (H.R. 7624), introduced on April 28, 2022, was passed by the House on July 27, 2022 (H.Rept. 117-429), and referred to the Senate Committee on Commerce, Science, and Transportation. The bill, as passed by the House, would extend the FCC's spectrum auction authority through March 31, 2024 (the same timeline proposed and approved by the House Energy and Commerce Committee's Subcommittee on Communications and Technology in H.R. 7783).

This bill would also specify a process for auctioning a segment of spectrum between 3.1 GHz and 3.45 GHz for nonfederal use, shared federal and nonfederal use, or a combination of uses. Specifically, the bill would allow federal entities operating in the band (i.e., Department of Defense [DOD]) to use funding from the Spectrum Relocation Fund[9] for the purpose of research and development, engineering studies, economic analyses, activities with respect to reconfiguring systems,[10] or other planning activities to make spectrum available for nonfederal or shared federal and nonfederal use. Among other things, the bill would establish the Public Safety and Secure Networks Fund and direct a portion of spectrum auction proceeds for specific purposes. The bill would provide $3.08 billion in spectrum auction revenues to supplement the Secure and Trusted Communications Networks Reimbursement Program—a program that reimburses telecommunications providers for replacing equipment that poses risks to national security and safety.[11] Additionally, the bill would also make available $10 billion from such revenues to improve 911 systems and services.

Spectrum Innovation Act of 2022 (S. 4117)

The Spectrum Innovation Act of 2022 (S. 4117), introduced on April 28, 2022, would auction the 3.1-3.45 GHz band of spectrum and would extend the FCC's auction authority to auction this segment for seven years from the date of enactment of the bill. The bill directs the Office of Management and Budget to transfer funding from the Spectrum Relocation Fund to federal entities to plan and conduct studies to facilitate the reallocation, with oversight from the National Telecommunications and Information Administration (NTIA) and the Executive Office of the President. It requires the Department of Commerce (DOC) to identify 200 MHz for reallocation and to work with DOD, FCC, and the White House Office of Science and Technology Policy to make spectrum available for new uses, while also protecting incumbent users. The bill was referred to the Committee on Commerce, Science, and Transportation.

Senate Hearing: "The Future of Spectrum"

On August 2, 2022, the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Communications, Media, and Broadband held a hearing, "The Future of Spectrum."[12] Senator Ben Ray Luján, Chair of the Subcommittee, Senator Roger Wicker, ranking member of the full committee, and Senator John Thune, ranking member of the subcommittee, noted the importance of renewing the FCC's spectrum authority in their opening statements. Many committee members expressed support for a short-term extension of FCC authority, continued work on a long-term spectrum strategy, and enhanced coordination between the FCC and NTIA to balance commercial and federal agency needs.[13]

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[9] As authorized by the Commercial Spectrum Enhancement Act, Title II of P.L. 108-494, the Spectrum Relocation Fund provides a centralized and streamlined funding mechanism through which federal agencies can recover the costs associated with relocating their radio communications systems or sharing the reallocated spectrum.

[10] The auction of the 3.1-3.45 GHz band was authorized in the Infrastructure Investment and Jobs Act (P.L. 117-58, §90008(b)); H.R. 7624 proposes to repeal §90008.

[11] For more information on the program, see CRS Insight IN11663, *Secure and Trusted Communications Networks Reimbursement Program: Frequently Asked Questions*, by Jill C. Gallagher.

[12] U.S. Congress, Senate Committee on Commerce, Science, and Transportation, Subcommittee on Communication, Media, and Broadband, *Future of Spectrum*, 117th Cong., 2nd sess., August 2, 2022, at https://www.commerce.senate.gov/2022/8/future-of-spectrum.

[13] See opening statements of Senators Luján, Wicker, and Thune. "Senate Hearing on Wireless Spectrum," C-

Industry witnesses supported approval of a short-term extension to ensure FCC authority does not lapse, especially as the FCC was (at the time of the hearing), conducting the auction of 2.5 GHz spectrum. They also asserted that a short-term extension would allow Congress and agency stakeholders time to develop comprehensive spectrum legislation that would, among other things, identify a spectrum pipeline and determine how to spend spectrum auction revenues.[14] A witness from Public Knowledge, a public interest group, argued that a longer-term extension or permanent extension could facilitate long-term planning to make spectrum available for a variety of users, protect the public interest in spectrum decisions, and to ensure spectrum auction revenues benefit public interest objectives.[15]

Temporary Extensions of the FCC's Spectrum Auction Authority

Congress passed and President Biden signed four bills at the end of the 117th Congress to extend the FCC's spectrum auction authority so it would not lapse.

December 16, 2022

Division C, Title I, Section 101 of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023 (P.L. 117-180) extended the FCC's spectrum auction authority from September 30, 2022, to December 16, 2022. It does not include any other spectrum provisions (e.g., spectrum pipeline, discussion of auction proceeds, coordination requirements). The Senate included the auction authority language in the bill and passed it on September 29, 2022, the House passed the bill on September 30, 2022, and President Biden signed the bill into law on September 30, 2022.

December 23, 2022

On December 16, 2022, President Biden signed the Further Continuing Appropriations and Extensions Act, 2023 (P.L. 117-229). Division B, Title I, Section 101 of the law amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 16, 2022, to December 23, 2022.

December 30, 2022

On December 23, 2022, President Biden signed the Further Additional Continuing Appropriations and Extensions Act, 2023 (H.R. 4373, P.L. 117-264). Division B, Title I, Section 101 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 23, 2022, to December 30, 2022.

SPAN.org, August 2, 2022, at https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum. This link allows for full text searching of the video, as well as filtering by speaker.

[14] "Senate Hearing on Wireless Spectrum," C-SPAN.org, August 2, 2022, at https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum. (See opening statements of Meredith Atwell Baker, President and chief executive officer of CTIA, a wireless industry organization (00:23:58)).

[15] Ibid. (See statement of Christopher Lewis, President, Public Knowledge [00:21:490].)

March 9, 2023

- On December 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023 (H.R. 2617).[16] Division O, Title IX, Section 901 amended the Communications Act of 1934 (47 U.S.C. 309(j)(11)) to extend the FCC's spectrum auction authority from December 30, 2022, to March 9, 2023.

What Happens If the FCC's Spectrum Auction Authority Lapses?

If Congress does not reach agreement to extend the FCC's spectrum auction authority by March 9, 2023, the FCC will no longer be able to auction spectrum licenses, potentially creating uncertainty for the FCC and industry on future spectrum availability.

Additionally, the 117th Congress will end on January 3, 2023. Thus, any legislation previously introduced in the 117th (e.g., H.R. 7624), would need to be reintroduced in the 118th Congress to be considered.

Options for Congress

There are four key elements to the proposals under consideration to extend the FCC's spectrum auction authority:

- the duration of the extension (short-term versus long-term),
- whether and how to codify interagency coordination between the FCC and NTIA,
- selection of the specific bands of spectrum to include in the future spectrum pipeline, and
- funding priorities for auction revenues.

Discussion

Some Members assert that a long-term extension of the FCC's spectrum auction authority must be integral to any comprehensive spectrum legislation, similar to that which was included in P.L. 112-96, Title VI.[17] That legislation included provisions addressing spectrum auction revenue allocation, a spectrum pipeline, and an extension of FCC spectrum auction authority. Those Members contend that a spectrum pipeline and spectrum authority gives both agencies and industry planning certainty.[18]

The Senate may consider H.R. 7624, which the House passed on July 28, 2022. The bill would extend the FCC's spectrum auction authority through March 31, 2024, authorize the auction of the 3.1-3.45 GHz segment of spectrum, designate $3.08 billion in spectrum auction revenues to supplement the Secure and Trusted Communications Networks Reimbursement Program, and provide $10 billion to improve 911 systems and services. The House requested concurrence from

[16] The Public Law number was not available at the time of publication.

[17] Jimm Phillips and Howard Buskirk, "Congress Extends Spectrum Bill Talks via FCC Stopgap, but Stumbling Blocks Remain," Communications Daily, October 3, 2022, Congress Extends Spectrum Bill Talks Via FCC Stopgap, but Stumbling Blocks Remain (communicationsdaily.com).

[18] "Senate Hearing on Wireless Spectrum," C-SPAN.org, August 2, 2022, at https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum. (See opening statements. (See statement of Senator John Thune [0:14:38].)

the Senate on July 28, 2022; the Senate referred it to the Senate Committee on Commerce, Science, and Transportation.

The Chair of the Senate Committee on Commerce, Science and Transportation, Senator Maria Cantwell, opposed the 18-month extension in H.R. 7624, and expressed interest in developing a spectrum package that includes a long-term extension, addresses interagency coordination on spectrum, and includes Senate Commerce Committee input on policy and funding priorities.[19] Senator Cantwell has also stressed the need for an assessment of spectrum needs to aid long-term planning,[20] interagency coordination,[21] and consensus on funding initiatives.[22] In the past, Senator Cantwell has supported using spectrum auction revenues for rural broadband and 911 improvements.[23] Senator Luján, Chair of the Subcommittee on Communications, Media, and Broadband, also favors a longer-term extension of FCC spectrum auction authority, and a spectrum package that includes development of a spectrum pipeline, enhanced interagency coordination on spectrum planning, and funding for 911 improvements and projects to close the digital divide.[24]

Other Members favor decoupling the extension of FCC's spectrum auction authority from other measures being considered for comprehensive spectrum legislation. Senator Roger Wicker, ranking member of the committee, expressed support for a short-term spectrum auction authorization to ensure the FCC's spectrum auction authority does not lapse, but also for more comprehensive legislation in the future that would include a spectrum pipeline, timelines for auction, and provisions to improve interagency coordination.[25] In the past, Senator Wicker has supported proposals to use spectrum auction revenues to fund shortfalls in the Secure and Trusted Communications Network Reimbursement Program.[26] Senator John Thune, ranking member of

[19] Jimm Phillips and Howard Buskirk, "Dueling House, Senate Spectrum Bill Approaches to Clash Before August Recess," *Communications Daily*, July 19, 2022, at https://communicationsdaily.com/article/view?search_id=595110&p=1&id=1310457&BC=bc_633421f8b5575.

[20] "Senate Hearing on Wireless Spectrum," C-SPAN.org, August 2, 2022, https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum. (See statements of Senators Maria Cantwell [01:42:32].)

[21] Senator Maria Cantwell, "Cantwell Demands Stringent Protections for Weather Data, Limits on Spectrum Use," press released, December 5, 2019, https://www.commerce.senate.gov/2019/12/cantwell-demands-stringent-protections-for-weather-data-limits-on-spectrum-use; see also Letter from Senator Maria Cantwell to FCC Chairman Ajit Pai on the 5.9 GHz band, November 17, 2020, and Letter from multiple U.S. Senators (including Senator Cantwell) to FCC Chairman Pai on the FCC Order granting Ligado Networks authority to deploy a terrestrial network, May 15, 2020, at https://www.fcc.gov/chairman-letters-congress.

[22] Jimm Phillips and Howard Buskirk, "Spectrum Bill Talks Continue; Cantwell Balks at 18-month FCC Auction Law Extension," *Communications Daily*, June 29, 2022, at https://communicationsdaily.com/news/2022/06/29/Spectrum-Bill-Talks-Continue-Cantwell-Balks-at-18Month-FCC-Auction-Law-Extension-2206280070. (Discusses Senator Cantwell stating that she would like Senate Commerce to weigh in on House legislation, "instead of automatically backing the House proposals.")

[23] See, for example, S. 2956; see also Jimm Phillips and Howard Buskirk, "Congress Extends Spectrum Bill Talks Via FCC Stopgap, but Stumbling Blocks Remain," *Communications Daily*, October 3, 2022, https://communicationsdaily.com/article/view?search_id=596822&id=1377718. (Discussing Senator Cantwell's interest in using spectrum auction revenue for middle-mile deployments along municipal rights-of-way, to expand broadband access, as proposed in S. 4763.)

[24] "Senate Hearing on Wireless Spectrum," C-SPAN.org, August 2, 2022, at https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum. (See statement of Senator Ben Ray Lujan [02:10:07].)

[25] "Senate Hearing on Wireless Spectrum," C-SPAN.org, August 2, 2022, at https://www.c-span.org/video/?522120-1/senate-hearing-wireless-spectrum. (See opening statements of Senator Roger Wicker [00:07:27].)

[26] Letter from 34 U.S. Senators, to Senator Schumer and Senator McConnell, September 8, 2022, at https://www.hickenlooper.senate.gov/wp-content/uploads/2022/09/Secure-Networks-Act-Reimbursement-Program-Shortfall-Signed.pdf.

the subcommittee, supports a short-term authorization, with continued work on a larger spectrum package that includes a spectrum pipeline plan, interagency coordination, and funding for the Secure and Trusted Communications Network Reimbursement Program.[27]

Many Members support comprehensive spectrum legislation, with differences focused on the details of the package (e.g., spectrum pipeline, spectrum auction revenues) and the duration of a FCC spectrum auction authority extension. If Congress cannot come to an agreement on a broader package or pass a stand-alone spectrum auction authority extension through March 9, 2023, the FCC will be unable to auction spectrum.

Table 1 presents five policy options for Congress to extend the FCC's spectrum auction authority, including possible benefits and challenges of each.

Table 1. FCC Spectrum Authority: Congressional Options

Option for Congress	Possible Benefit	Possible Challenge
Approve language in a potential subsequent CR extending FCC auction authority for the term of the CR.	May extend the FCC spectrum auction authority while Members negotiate a broader spectrum package.	Delays decisionmaking on many issues that could interfere with spectrum planning.
Approve stand-alone bill to extend FCC auction authority, such as H.R. 7783.	FCC spectrum auction authority would not lapse.	Many Members have expressed interest in a comprehensive package (e.g., long-term spectrum authority, pipeline, spectrum planning, coordination, programs) similar to the provisions in P.L. 112-96, and may not support the stand-alone bill.
Reach agreement on H.R. 7624 through concurrence or negotiation. While House leadership has urged Senate concurrence on the bill, Senate lawmakers have expressed interest in negotiating certain elements.	H.R. 7624 is a comprehensive spectrum package that includes the identification of specific spectrum bands for auction, spending proposals, and extension of FCC authorities through March 2024. Many Members have expressed interest in a comprehensive package similar to that proposed in H.R. 7624 and P.L. 112-96, with differences focused on the details of the package.	H.R. 7624 may not include Senate priorities, and negotiations to accommodate amendments (similar to those in P.L. 112-96) could stretch beyond the date that the FCC's spectrum auction authority expires.
Grant the FCC long-term or permanent auction authority in legislation. The FCC, Public Knowledge, and some Members have expressed support for congressional initiatives giving the FCC long-term or permanent spectrum auction authority.	Would give the FCC and industry certainty in knowing the FCC has long-term or permanent auction authority. It may also enable long-term planning at the FCC, and help to ensure the auction process is serving the public interest.	Long-term or permanent authorities may reduce deadline-driven opportunities to for Congress to maintain oversight of FCC spectrum auction activity.

[27] Ibid. (See statement of Senator John Thune [0:12:54], Senator Luján [00:40:39].)

Extend FCC auction authority in the agency's FY2023 appropriations.	Provides continuity for a finite period of time to allow the FCC authority to continue its work on auctions (e.g., 2.5 GHz licensing).	Auction authority lapses on March 9, 2023. If an extension is not granted by that date, FCC would not be able to conduct any work related to spectrum auctions until an extension is made.

Source: CRS.

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