AWS AUCTION ENDS WITH $13.7 BILLION IN NET WINNING BIDS

After six weeks and 161 rounds, the FCC’s advanced wireless service (AWS) auction closed on Monday, earning the praise of FCC Chairman Kevin Martin as “the biggest, most successful wireless auction in the Commission’s history.” Total gross bids reached $13.9 billion, fulfilling the predictions of many analysts who had forecasted proceeds of between $10 and $15 billion. After factoring in credits awarded to small businesses, the resulting net bid total amounted to $13.7 billion (indicating that small businesses did not play a significant role in the auction). One hundred four winning bidders were sent home with 1,087 licenses, leaving only 35 licenses unclaimed. The FCC is expected to re-offer the unclaimed licenses at a future auction. Among all bidders, T-Mobile stood as the champion, posting $4.18 billion for 120 licenses that encompass markets throughout the U.S. and that are expected to boost significantly T-Mobile’s competitive position among the major U.S. wireless operators. Verizon Wireless came in second with bids of $2.8 billion for 13 licenses. SpectrumCo, the consortium pairing Sprint Nextel with cable giants Comcast and Time Warner, took third place honors with bids of $2.38 billion for 137 licenses. Although a spokesman for Comcast stressed “we have no interest in being a fifth cell operator,” some analysts think the companies will use the AWS spectrum to deploy a nationwide wireless broadband network that would complement cable’s current triple-play bundle of video, telephone, and Internet services. MetroPCS and Cingular Wireless rounded out the top five, with winning bids of $1.39 billion for eight markets and $1.33 billion for 48 markets, respectively. Winning bidders are required to submit down payments within ten days of the issuance of a public notice announcing the completion of the auction. Cheering the results, Steve Largent, the president of wireless association CTIA, promised: “the industry will put this spectrum to great use . . . and the country will reap the benefits of the almost $14 billion that was raised.”

MARTIN ORDERS PROBE INTO ALLEGED SUPPRESSION OF MEDIA OWNERSHIP STUDIES

Responding to concerns raised by Senator Barbara Boxer (D-CA), FCC Chairman Kevin Martin has ordered an investigation regarding the alleged suppression of two draft FCC studies on media ownership concentration. The controversy over the FCC’s 2003 media ownership order and current FCC efforts to rewrite ownership rules that were struck down by the Third Circuit Court in 2004 took center stage at a Senate Commerce Committee hearing last week on Martin’s second nomination as FCC chairman. (Committee members approved the nomination on Tuesday.) During that hearing, Boxer produced a copy of an FCC working paper—drafted in 2004—in which agency officials concluded that locally-owned stations air more local news than stations owned by outsiders. According to sources, an FCC staff member, who has since left the agency, supplied the unpublished paper to Boxer. In a letter addressed to Martin, Boxer raised concerns about a second unpublished study, drafted in 2003, which examined concentration in the media industry. That study, made public by Boxer on Monday, shows that, between 1996 and 2003, the number of commercial radio and TV stations in operation increased by 5.9%, while the number of station owners fell by 35%. Observing “this is the second report in a week that I have received that appears to have been shelved by officials within the FCC,” Boxer asked Martin to “examine whether it was then or is now the practice of the FCC to suppress facts that are contrary to a desired outcome.” While denying knowledge of the unpublished reports (both of which were produced before
the start of his tenure as chairman), Martin told Boxer that he had asked the Inspector General of the FCC “to conduct an investigation into what happened to these draft documents” and pledged “to cooperate fully.”

**FCC APPROVES TRANSFER OF MSV LICENSES TO SKYTERRA**

A realignment of ownership interests through which control of Mobile Satellite Ventures (MSV) would be transferred from Motient Corporation to SkyTerra was approved last Friday by the FCC, which conditioned the transaction upon the parties’ compliance with national security provisions requested by the FBI and the Department of Homeland Security (DHS). MSV, which is the operator of an FCC-authorized mobile satellite service (MSS) system in the L-band, is owned by a limited partnership that is controlled by Motient. Each of MSV’s partners is also a stakeholder in TerreStar, which is an MSS operator in the S-band, and a proposed assignee of a license held by TMI of Canada to offer 2 GHz MSS service in the U.S. Under a multi-stage deal that is intended to facilitate the financing of both the MSV and the TMI/TerreStar MSS systems, SkyTerra would assume control of MSV and Motient (through a separate transaction) would acquire control of TerreStar. Dismissing objections raised by a Motient shareholder, the FCC concluded that the new ownership arrangement serves the public interest. The parties will also be required to abide by a November 2001 agreement, signed by the FBI, the DHS, Motient, and TMI, that requires the routing of communications traffic through a U.S. point-of-presence to permit electronic surveillance and other lawful monitoring activities by the U.S. government.

**WIRELESS CARRIERS FORM ALLIANCE ON 4G STANDARDS**

As the FCC’s auction for third-generation advanced wireless service licenses drew to a close, two participants in that auction—Sprint Nextel and T-Mobile—and other major carriers from around the world formed an alliance, dubbed the Next Generation Mobile Networks (NGMN) initiative, that would lay the groundwork for fourth generation (4G) systems by developing “a common vision” for future wireless technologies. Other NGMN participants include China Mobile, KPN of the Netherlands, Japan’s NTT DoCoMo, Vodafone of Great Britain and Orange of France. Gearing up for the development of 4G broadband wireless systems beyond the year 2010, NGMN members aim to promote the standardization of advanced technologies that are based on Internet protocol and that would take the industry a step farther than the highest-speed third-generation networks, such as High-Speed Packet Access (HSPA) and Evolution-Data Optimized (EVDO) systems. Noting that NGMN “is technology neutral,” a spokesman for Sprint-Nextel said, “we are creating a set of guidelines instead of technology choices” that would emphasize interoperability and compatibility with legacy networks. To achieve that goal, NGMN would work with existing standards groups and would also promote “a more transparent and predictable intellectual property rights regime.” A spokesman for Vodafone also noted that the group would help equipment manufacturers to develop technologies that reuse existing infrastructure and spectrum assets. Declaring that “the future of mobile networks should be determined by a mix of technical and performance standards, Thomas Geitner, the head of NGMN, said: “we are convinced that by drawing on our combined experience and commercial insight . . . we will be able to bring a whole new perspective to the debate and continue to ensure that we give our customers exactly what they want.”

**MOTOROLA STRIKES $3.9 BILLION DEAL FOR SYMBOL TECHNOLOGIES**

Reaching into the mobile enterprise market, Motorola announced plans Tuesday to acquire Symbol Technologies, a producer of mobile product solutions for businesses, in a cash deal worth $3.9 billion. Products marketed by Symbol include mobile bar-code readers that utilize radio frequency identification (RFID) technology as well as remote payment systems and software for mobile devices used by business customers. Symbol stockholders would receive $15 in cash for each share held. Contingent upon shareholder and antitrust approvals, Symbol would become a wholly owned subsidiary of Motorola at closing, which is expected by the end of this year or early next year. Motorola, the world’s second-largest handset producer behind Nokia of Finland, said the pact with Symbol would fulfill its goal of expanding into the enterprise sector after years of producing wireless handsets for retail customers. As Motorola CEO Ed Zander observed that “Motorola and Symbol share the same vision of a digital, mobile world for enterprises that matches the world people enjoy at home and at play,” Motorola networks and enterprise president Greg Brown predicted that, together, the companies will “be a leading player in enterprise mobility.”

**JUDGE DENIES BONDHOLDER REQUEST TO TAKE CONTROL OF ADELPHIA CHAPTER 11 PLAN**

Adelphia Communications stepped closer to ending its tortuous journey through the Chapter 11 process, as a New York bankruptcy judge barred a group of bondholders from interfering in the formation of Adelphia’s
reorganization plan. The decision by Judge Robert E. Gerber allows Adelphia to solicit votes on the latest version of its reorganization plan, which has undergone numerous revisions and which was filed with the court on Monday. Although Adelphia sought bankruptcy protection four years ago after being defrauded by its founder, John Rigas, the company’s emergence from bankruptcy has been delayed as a consequence of disputes among the company’s various creditors. Claiming that the reorganization plan submitted by Adelphia favors some creditors over others, bondholders in possession of $1.9 billion in senior notes asked the court to terminate Adelphia’s exclusive right to present the reorganization plan and to open the plan process to other parties. Noting that the plan under consideration is the product of intercreditor settlement talks ordered by the court, Gerber denied the request and further barred bondholders from reviving a lawsuit to resolve creditor disputes. Predicting that Adelphia’s latest proposal has “very substantial, but not universal, indications for potential approval,” Gerber added: “I believe the proposed plan plainly deserves to be put up for a vote.”

**TELECOM ITALIA CHAIRMAN RESIGNS**

Days after announcing a restructuring plan that could include the sale of Telecom Italia Mobile, Telecom Italia (TI) Chairman Marco Tronchetti Provera resigned abruptly last Friday after clashing with Italy’s prime minister over TI’s future direction. Last week, Provera disclosed that TI would spin off its fixed line and mobile phone units in an effort to increase financial efficiency and to enable TI to focus its energies on broadband and media services. TI’s move stands in contrast to the convergence strategy that many European telecom players are pursuing in the race to provide bundled services. Sources say that TI’s announcement surprised investors and members of the Italian government who fear the restructuring plan will result in TI assets being sold to foreigners. In a move that was described by observers as unprecedented, Italian prime minister Romano Prodi publicly questioned TI’s spin off strategy, inducing Provera to submit his resignation. Although Provera no longer holds an executive position at TI, he maintains his rank as TI’s controlling shareholder. Sources also indicate that TI board members continue to back the reorganization plan in spite of Provera’s departure. Guido Rossi, a former member of the Italian senate, will succeed Provera as TI chairman.

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