

112TH CONGRESS
1ST SESSION

H. R. 911

To require the National Telecommunications and Information Administration and the Federal Communications Commission to conduct an inventory of broadband spectrum, to authorize the Commission, contingent on the completion of such inventory, to conduct auctions of voluntarily relinquished spectrum usage rights and to share the revenues with the licensees who relinquished such rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2011

Mr. BARROW introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To require the National Telecommunications and Information Administration and the Federal Communications Commission to conduct an inventory of broadband spectrum, to authorize the Commission, contingent on the completion of such inventory, to conduct auctions of voluntarily relinquished spectrum usage rights and to share the revenues with the licensees who relinquished such rights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Spectrum Inventory
3 and Auction Act of 2011”.

4 **SEC. 2. INVENTORY OF BROADBAND SPECTRUM.**

5 Part B of title I of the National Telecommunications
6 and Information Administration Organization Act (47
7 U.S.C. 921 et seq.) is amended by adding at the end the
8 following new section:

9 **“SEC. 119. INVENTORY OF BROADBAND SPECTRUM.**

10 “(a) IN GENERAL.—The Assistant Secretary and the
11 Commission shall conduct an inventory of each broadband
12 radio spectrum band of frequencies listed in the United
13 States Table of Frequency Allocations. Such inventory
14 shall include—

15 “(1) the radio services authorized to operate in
16 each band of frequencies;

17 “(2) the identity of each Federal or non-Fed-
18 eral user within each such radio service authorized
19 to operate in each band of frequencies;

20 “(3) the activities, capabilities, functions, or
21 missions (including whether such activities, capabili-
22 ties, functions, or missions are space-based, air-
23 based, or ground-based) supported by the transmit-
24 ters, end-user terminals or receivers, or other radio
25 frequency devices authorized to operate in each band
26 of frequencies;

1 “(4) the total amount of spectrum, by band of
2 frequencies, assigned or licensed to each Federal or
3 non-Federal user (in percentage terms and in sum)
4 and the geographic areas covered by their respective
5 assignments or licenses;

6 “(5) the approximate number of transmitters,
7 end-user terminals or receivers, or other radio fre-
8 quency devices authorized to operate, as appropriate
9 to characterize the extent of use of each radio serv-
10 ice in each band of frequencies;

11 “(6) an approximation of the extent to which
12 each Federal or non-Federal user is using, by geog-
13 raphy, each band of frequencies, such as the amount
14 and percentage of time of use, number of end users,
15 or other measures as appropriate to the particular
16 band and radio service; and

17 “(7) to the greatest extent possible—

18 “(A) contour maps or other information
19 that illustrate the coverage area, receiver per-
20 formance, and other parameters relevant to an
21 assessment of the availability of spectrum in
22 each band;

23 “(B) for each band or range of fre-
24 quencies, the identity of each entity offering un-
25 licensed services and the types and approximate

1 number of unlicensed intentional radiators
2 verified or certified by the Commission that are
3 authorized to operate; and

4 “(C) for non-Federal users, any commer-
5 cial names under which facilities-based service
6 is offered to the public using the spectrum of
7 the non-Federal user, including the commercial
8 names under which the spectrum is being of-
9 fered through resale.

10 “(b) UPDATES OF INVENTORY.—The Assistant Sec-
11 retary and the Commission shall make all reasonable ef-
12 forts to update the inventory conducted under subsection
13 (a) on a quarterly basis, but in no event shall the updates
14 of the inventory be made less frequently than semiannu-
15 ally.

16 “(c) REPORTS TO CONGRESS.—

17 “(1) INVENTORY REPORTS.—Not later than De-
18 cember 31, 2011, and biennially thereafter, the As-
19 sistant Secretary and the Commission shall submit
20 to the Committee on Commerce, Science, and Trans-
21 portation of the Senate and to the Committee on
22 Energy and Commerce of the House of Representa-
23 tives a report containing—

24 “(A) the results of the inventory conducted
25 under subsection (a), including any updates to

1 the information in the inventory pursuant to
2 subsection (b);

3 “(B) a description of any information the
4 Assistant Secretary or the Commission deter-
5 mines is necessary for the inventory but that is
6 unavailable; and

7 “(C) a description of any information with
8 respect to which the head of an Executive agen-
9 cy has notified the Assistant Secretary under
10 subsection (e)(1)(A).

11 “(2) RELOCATION REPORTS.—Not later than
12 July 1, 2012, and biennially thereafter, the Assist-
13 ant Secretary and the Commission shall submit to
14 the Committee on Commerce, Science, and Trans-
15 portation of the Senate and the Committee on En-
16 ergy and Commerce of the House of Representatives
17 a report containing a recommendation of which
18 bands of frequencies inventoried under subsection
19 (a), if any, should be reallocated or otherwise made
20 available for shared access and an explanation of the
21 basis for that recommendation.

22 “(d) AVAILABILITY ON INTERNET.—

23 “(1) IN GENERAL.—Not later than March 31,
24 2012, the Assistant Secretary and the Commission

1 shall make the inventory conducted under subsection
2 (a) available to the public on an Internet website.

3 “(2) UPDATES.—Not later than 30 days after
4 each update of the inventory under subsection (b),
5 the Assistant Secretary and the Commission shall
6 update the information posted on the Internet
7 website under paragraph (1).

8 “(e) NATIONAL SECURITY EXCEPTION.—

9 “(1) IN GENERAL.—

10 “(A) NOTIFICATION BY AGENCY HEAD.—If
11 the head of an Executive agency (as defined in
12 section 105 of title 5, United States Code) de-
13 termines that public disclosure of certain infor-
14 mation held by such agency or a licensee of
15 non-Federal spectrum and required to be in-
16 cluded in the inventory under subsection (a)
17 would reveal classified national security infor-
18 mation and such public disclosure would be det-
19 rimental to national security, the agency head
20 shall notify the Assistant Secretary of that de-
21 termination and shall include descriptions of
22 the activities, capabilities, functions, or missions
23 (including whether they are space-based, air-
24 based, or ground-based) supported by the infor-
25 mation being withheld.

1 “(B) INFORMATION PROVIDED.—The
2 agency head shall provide to the Assistant Sec-
3 retary—

4 “(i) the publicly releasable informa-
5 tion required by subsection (a);

6 “(ii) to the maximum extent prac-
7 ticable, a summary description, suitable for
8 public release, of the classified national se-
9 curity information; and

10 “(iii) a classified annex, under appro-
11 priate cover, containing the classified na-
12 tional security information that the agency
13 head has determined must be withheld
14 from public disclosure.

15 “(2) ADDITIONAL DISCLOSURE.—The annex re-
16 quired under paragraph (1)(B)(iii) shall be provided
17 to the congressional committees described in sub-
18 section (c)(1) but shall not be released to the public
19 or provided to any unauthorized person through the
20 website described in subsection (d) or any other
21 means.

22 “(3) NATIONAL SECURITY COUNCIL CONSULTA-
23 TION.—Prior to any public release of the inventory
24 conducted under subsection (a), including submis-
25 sion of a report under subsection (c)(1) and the re-

1 lease of any information on the Internet under sub-
2 section (d), the Assistant Secretary and the Commis-
3 sion shall—

4 “(A) make available to the National Secu-
5 rity Council the information that the Assistant
6 Secretary and the Commission plan to release
7 to the public;

8 “(B) allow the National Security Council
9 not fewer than 30 days to identify information
10 that should not be released to the public be-
11 cause such release would threaten national se-
12 curity; and

13 “(C) not release to the public or provide to
14 any unauthorized person through the website
15 described in subsection (d) or any other means
16 any information identified by the National Se-
17 curity Council under subparagraph (B).

18 “(f) USE OF AGENCY RESOURCES.—In conducting
19 the inventory under subsection (a), the Assistant Sec-
20 retary and the Commission shall first use NTLA and Com-
21 mission resources, including existing databases, field test-
22 ing, and recordkeeping systems, and only request informa-
23 tion from Federal and non-Federal users if such informa-
24 tion cannot be obtained using such resources.”.

1 **SEC. 3. VOLUNTARY INCENTIVE AUCTION REVENUE SHAR-**
2 **ING.**

3 (a) IN GENERAL.—Section 309(j)(8) of the Commu-
4 nications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

5 (1) in subparagraph (A), by striking “(D), and
6 (E),” and inserting “(D), (E), and (F),”;

7 (2) in the first sentence of subparagraph (B),
8 by inserting “and except as provided in subpara-
9 graph (F)” after “subparagraph (A)”;

10 (3) in subparagraph (C)(i), by inserting “and
11 subparagraph (F)” after “subparagraph (E)(ii)”;

12 (4) in subparagraph (E)(ii), by inserting “and
13 except as provided in subparagraph (F)” after “Not-
14 withstanding subparagraph (A)”;

15 (5) by adding at the end the following new sub-
16 paragraph:

17 “(F) VOLUNTARY INCENTIVE AUCTION
18 REVENUE SHARING.—

19 “(i) IN GENERAL.—Subject to clause
20 (iv), notwithstanding subparagraphs (A),
21 (B), and (E), if the Commission deter-
22 mines that it is consistent with the public
23 interest in utilization of the spectrum for a
24 licensee to relinquish voluntarily some or
25 all of its licensed spectrum usage rights in
26 order to permit the assignment of new ini-

1 tial licenses or the allocation of spectrum
2 for unlicensed use subject to new service
3 rules, the proceeds from the use of a com-
4 petitive bidding system under this sub-
5 section in granting such rights to another
6 licensee shall be shared, in an amount or
7 percentage that the Commission considers
8 appropriate and that is more than de mini-
9 mis, with the licensee who voluntarily relin-
10 quished such rights.

11 “(ii) AMOUNTS NOT SHARED DEPOS-
12 ITED IN TREASURY.—In any case in which
13 a licensee voluntarily relinquishes licensed
14 spectrum usage rights under clause (i), the
15 Commission shall deposit in the Treasury
16 any portion of the proceeds described in
17 such clause that the Commission does not
18 share with the licensee.

19 “(iii) TREATMENT OF DEPOSITS OF
20 SUCCESSFUL BIDDERS.—Notwithstanding
21 subparagraph (C)(i), in the case of a per-
22 son who has paid a deposit to bid in a sys-
23 tem of competitive bidding used to grant
24 spectrum usage rights voluntarily relin-
25 quished under clause (i) and who has been

1 granted such rights under such system, the
2 Commission may treat such deposit as pro-
3 ceeds under this subparagraph if the Com-
4 mission considers it appropriate.

5 “(iv) AUTHORITY CONTINGENT ON
6 COMPLETION OF BROADBAND SPECTRUM
7 INVENTORY.—The Commission shall have
8 no authority to auction spectrum rights
9 voluntarily relinquished in accordance with
10 clause (i) until the Assistant Secretary of
11 Commerce for Communications and Infor-
12 mation and the Commission submit the ini-
13 tial report required by subsection (c)(1) of
14 section 119 of the National Telecommuni-
15 cations and Information Administration
16 Organization Act (relating to the inventory
17 of broadband spectrum conducted under
18 subsection (a) of such section) and make
19 such inventory available on an Internet
20 website (as required by subsection (d)(1)
21 of such section).”.

22 (b) FEDERAL COMMUNICATIONS COMMISSION AC-
23 TION.—Not later than 180 days after the date of enact-
24 ment of this Act, the Federal Communications Commis-
25 sion shall establish rules for the implementation of vol-

1 untary incentive auction revenue sharing under subpara-
2 graph (F) of section 309(j)(8) of the Communications Act
3 of 1934, as added by subsection (a)(5).

4 (c) PROHIBITION ON FEDERAL COMMUNICATIONS
5 COMMISSION ACTION.—The Federal Communications
6 Commission may not reclaim frequencies of broadcast tele-
7 vision licensees or any other licensees directly or indirectly
8 on an involuntary basis under subparagraph (F) of section
9 309(j)(8) of the Communications Act of 1934, as added
10 by subsection (a)(5).

11 **SEC. 4. EXTENSION OF FCC AUCTION AUTHORITY.**

12 Section 309(j)(11) of the Communications Act of
13 1934 (47 U.S.C. 309(j)(11)) is amended by striking
14 “2012” and inserting “2020”.

○