

110TH CONGRESS  
2D SESSION

# H. R. 5846

To require the Federal Communications Commission to auction spectrum  
for a free and open access broadband service.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2008

Ms. ESHOO (for herself, Mr. CANNON, and Mr. MARKEY) introduced the  
following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To require the Federal Communications Commission to auc-  
tion spectrum for a free and open access broadband  
service.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wireless Internet Na-  
5 tionwide for Families Act of 2008”.

6 **SEC. 2. OPEN ACCESS BROADBAND SPECTRUM AUCTION.**

7 Section 309(j) of the Communications Act of 1934  
8 (47 U.S.C. 309(j)) is amended by adding at the end the  
9 following new paragraph:

1           “(17) OPEN ACCESS BROADBAND SPECTRUM  
2 AUCTION.—

3           “(A) AUCTIONS REQUIRED.—The Commis-  
4 sion shall promote nationwide broadband com-  
5 petition through the use of wireless services by  
6 issuing nationwide licenses, for a term of not  
7 less than 15 years, for two bands of frequencies  
8 that consist of an initial band and a second  
9 band of frequencies—

10           “(i) each of which shall be composed  
11 of 20 megahertz of unpaired contiguous  
12 spectrum;

13           “(ii) the initial band of which shall be  
14 spectrum located between 2155 and 2180  
15 megahertz, inclusive; and

16           “(iii) the second band of which shall  
17 be spectrum that—

18           “(I) is located under 3 gigahertz;

19           and

20           “(II) is not part of the recovered  
21 analog spectrum, as such term is de-  
22 fined in paragraph (15)(C)(vi).

23           “(B) DEADLINES FOR INITIAL AUCTION.—

24           The Commission shall carry out the initial auc-  
25 tions required by this paragraph by—

1           “(i) commencing an auction of a sin-  
2           gle nationwide license for the initial band  
3           described in subparagraph (A)(ii) not later  
4           than 180 days after the date of enactment  
5           of the Wireless Internet Nationwide for  
6           Families Act of 2008; and

7           “(ii) depositing the proceeds of such  
8           auction in accordance with paragraph  
9           (8)(A) not later than 210 days after such  
10          date of enactment.

11          “(C) SECOND AUCTION.—The Commission  
12          shall commence and complete a separate rule-  
13          making or other procedures for licensing  
14          through auction additional unpaired contiguous  
15          spectrum of 20 megahertz below 3 gigahertz  
16          within 1 year of such date of enactment. Such  
17          auction shall be conducted without the condi-  
18          tions specified in subparagraph (F) unless the  
19          Commission finds it is in the public interest to  
20          do so pursuant to a rulemaking.

21          “(D) INTERFERENCE PROTECTION.—The  
22          Commission shall ensure that licensees of spec-  
23          trum obtained pursuant to an auction under  
24          this paragraph and licensees of adjacent spec-

1 trum are mutually and adequately protected  
2 from harmful interference.

3 “(E) SERVICE AND AUCTION RULES.—At  
4 least 30 days prior to the deadlines established  
5 in subparagraphs (B)(i) and (C), the Commis-  
6 sion shall promulgate service and auction rules  
7 for the licenses issued under subparagraphs (B)  
8 and (C) that—

9 “(i) make available spectrally efficient  
10 nationwide broadband services; and

11 “(ii) promote the goals listed in sub-  
12 paragraphs (B), (D) and (F) of paragraph  
13 (4).

14 “(F) CONTENT OF SERVICE REQUIRE-  
15 MENTS RULES FOR AUCTIONED SPECTRUM.—  
16 The Commission shall promulgate such rules  
17 and regulations as are necessary to require, as  
18 conditions of the licenses for the use of the fre-  
19 quencies auctioned under this paragraph, that  
20 the licensees shall—

21 “(i) offer, at a minimum, always-on  
22 wireless broadband services within 2 years  
23 from the date of receipt of the license, and  
24 complete the construction of such wireless  
25 network with a signal covering at least 95

1 percent of the population of the United  
2 States and its territories within 10 years  
3 from the initial operation of the network;

4 “(ii) offer a data service that is faster  
5 than 200 kilobits per second one way (sub-  
6 ject to subparagraph (G)) for free to con-  
7 sumers and authorized public safety users  
8 without subscription, airtime, usage, or  
9 other charges;

10 “(iii) consistent with section 230 of  
11 this Act, offer such free data service with  
12 a technology protection measure or meas-  
13 ures that protect underage users from ac-  
14 cessing obscene or indecent material  
15 through such service;

16 “(iv) provide such free data services  
17 on a wireless network that permits open  
18 access to affiliated and unaffiliated con-  
19 sumer devices by providing, publicly and  
20 royalty-free, published technical standards  
21 for developing and deploying subscriber  
22 equipment that can operate on the network  
23 subject to this paragraph; and

24 “(v) provide such free data services  
25 using advanced and spectrally efficient

1 wireless technologies that provide services  
2 to the largest feasible number of users and  
3 encourages broadband competition making  
4 broadband services more available and af-  
5 fordable.

6 “(G) REVIEW OF FREE DATA SERVICE RE-  
7 QUIREMENT.—The Commission shall evaluate  
8 whether the speed of free services under sub-  
9 paragraph (F) should be increased in light of  
10 consumer demand, developments in wireless  
11 broadband technologies, and the public interest  
12 and shall conduct the first such evaluation 5  
13 years after the licensee commences operations,  
14 and shall conduct subsequent evaluations at the  
15 time of license renewal thereafter.

16 “(H) BIENNIAL BROADBAND SPECTRUM  
17 UTILIZATION REPORT.—

18 “(i) Beginning in March of 2009, the  
19 Commission and the National Tele-  
20 communications and Information Adminis-  
21 tration shall jointly review competitive  
22 market conditions with respect to avail-  
23 ability and affordability of broadband as  
24 well as the state of utilization of spectrum  
25 under the Commission’s and the Adminis-

1           tration’s respective jurisdictions. There-  
2           after, the Commission and the Administra-  
3           tion shall provide Congress a joint bian-  
4           nual report of their findings.

5           “(ii) Such reports shall consider the  
6           state-of-the-art efficient use of all spec-  
7           trum bands and shall include the basis on  
8           which such utilization and efficiency are  
9           determined.

10          “(iii) In making their recommenda-  
11          tions, the Commission and the Administra-  
12          tion shall expressly consider the techno-  
13          logical advances in commercial use of the  
14          spectrum as well as other relevant uses in-  
15          cluding public safety, national defense and  
16          other uses as determined by the public in-  
17          terest.

18          “(iv) The joint report shall also pro-  
19          vide specific recommendations for the re-  
20          allocation or reassignment of spectrum  
21          found to be underutilized in light of the  
22          public interest, necessity and convenience  
23          found in promoting broadband availability  
24          and affordability. In the joint report, the  
25          Commission and the Administration shall

1                   also recommend to Congress any statutory  
2                   changes that would be required to imple-  
3                   ment any such reassignment or realloca-  
4                   tion within 24 months of the report.”.

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