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## HOW THE TELECOM BILL GIVES AWAY \$70 BILLION IN FAMILY TAX RELIEF TO THE BROADCAST INDUSTRY

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During the past year, House and Senate Republicans have been working tirelessly to enact a balanced budget plan that gives America's families much-needed tax relief.<sup>1</sup> Simultaneously, they have devised a plan to deregulate the U.S. telecommunications industry, freeing it from over six decades of regulatory red tape.<sup>2</sup> Unfortunately, these efforts have come into conflict because the telecom bill potentially would cheat American families and taxpayers out of tens of billions of dollars of tax relief merely to appease special interests within the multibillion-dollar broadcast industry.

Buried deep in the almost 300-page telecom bill, which stalled after a tentative conference agreement was reached, is a clause requiring that the Federal Communications Commission (FCC) carry out an ill-conceived plan giving America's broadcast industry additional licenses to use part of the electromagnetic spectrum to broadcast digital television services. Broadcasters already possess licenses which allow them to provide the traditional analog television programming with which most Americans are familiar; now they have convinced Congress and the FCC to give them additional licenses to make the transition to superior resolution digital television free-of-charge until they can give back their old spectrum licenses for auctioning some time in the future.

Senate Majority Leader Robert Dole (R-KS) has intervened at the last minute and raised serious questions about the fairness of such an enormous giveaway of federal spectrum property without taxpayer compensation. As he told *The New York Times* recently, "This is a big, big corporate wel-

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- 1 See Angela Antonelli *et al.*, "A Guide to Crafting a Tax Package for the Budget Reconciliation," Heritage Foundation *Backgrounder* No. 1043, July 21, 1995 and Scott A. Hodge, "Balanced Budget Talking Points #4: The \$500-per-child Tax Credit Means One Month's Food and Mortgage for a Typical American Family," Heritage Foundation *F.Y.I.* No. 75, December 4, 1995.
  - 2 See Adam D. Thierer, "Telecommunications Unbound," *The World and I*, November 1995, pp. 66-71; Adam D. Thierer, "A Report Card on the Pressler Telecommunications Plan (S. 652)," Heritage Foundation *Issue Bulletin* No. 209, May 5, 1995; Adam D. Thierer, "Improving the House Telecommunications Plan (H.R. 1555)," Heritage Foundation *Backgrounder Update* No. 255, July 11, 1995.

fare project. Here we're cutting Medicaid and doing all the painful things while we lend [broadcasters] the spectrum for 12 years. Why shouldn't they pay for it?"<sup>3</sup>

Indeed, at a time when Congress is working to balance the federal budget while providing families and investors with tax relief, it is ironic that it should give away such a valuable asset to some of the wealthiest companies in the country. Experts at the FCC have estimated that auctioning the spectrum that broadcasters are demanding could raise as much as \$70 billion. To put this into perspective, \$70 billion would pay for:

- ✓ Three years of the congressionally approved \$500-per-child tax credit that benefits 28 million families raising 51 million children.
- ✓ The entire economic growth tax package proposed by Congress, including the capital gains tax cut.
- ✓ \$70 billion in debt reduction that would save taxpayers nearly \$3 billion each year in interest payments on the national debt.

With agreement almost reached on the House and Senate telecommunications bills (H.R. 1555 and S. 652), this represents what may be the last chance to alter a disastrous policy which combines the worst elements of corporate welfare and industrial policy at the expense of American taxpayers.

**A Misguided and Costly Plan.** Many things are wrong with this plan. First, it represents arrogant industrial planning on the part of the federal government. Legislators and FCC bureaucrats are arguing in essence that a single digital broadcast television channel should emerge to replace the current analog channel Americans are used to receiving from major networks. This is the equivalent of industrial planning, since federal policymakers in effect are attempting to determine a specific outcome within the highly innovative telecommunications industry. No one knows what type of video services will be demanded or even viable in the future. But, instead of letting the market decide, policymakers are trying to pre-determine the shape of competition within the broadcast video marketplace.

Second, broadcasters have justified this giveaway by appealing to false fears and technological misperceptions. The truth is, broadcasting can survive without a handout. Someone always will find a way to deliver television video programming to consumers at affordable rates. If incumbent broadcasters feel they really need additional spectrum to compete with their many new rivals (cable, satellite television, on-line computer services, for example), they can purchase it on the open market in an auction like everyone else. It is difficult to sympathize with firms like the Walt Disney Co. (which just spent \$19 billion to acquire ABC) and Westinghouse Electric Corp. (which spent \$5 billion for CBS) when they plead impoverishment as a defense.<sup>4</sup>

Third, broadcasters also argue that failure to give them a handout will mean the death of "free over the air television." They apparently want legislators to believe that Americans would rather shell out billions more in taxes for deficit reduction than spend the small amount that may be required to purchase certain video services from competing providers. The idea that television service will be too expensive for Americans to afford without a giveaway is a straw man; competition, not corporate handouts, will provide more and better quality television programming at extremely affordable rates.

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3 William Safire, "Stop the Giveaway," *The New York Times*, January 4, 1996, p. A21.

4 See Adam D. Thierer, "The Great Taxpayer Rip-off of 1995," *Regulation* No. 4, 1995, pp. 21-23.

This leads to the fourth and most outrageous broadcast industry justification for the spectrum giveaway: that without it, they will not be able to continue to deliver a host of quality “public interest” services to the consumer. In other words, they can continue to air quality children’s programming and other educational fare only if the government gives them additional free licenses. This is a questionable justification for free additional spectrum licenses, however, given that broadcasters have been criticized so severely in the past precisely for the mediocre quality of their television broadcasts. Apparently, they now expect Congress and the American people to ignore just how poorly they have lived up to their “public interest” obligations and instead give them just one more chance to prove themselves, albeit at substantial cost to the taxpayer.

Finally, other spectrum users are justifiably angry at being forced to spend billions in recent auctions of other spectrum licenses for non-broadcast services. Cellular firms, telephone companies, the cable industry, and other communications companies are asking why broadcasters are receiving free spectrum properties from the government when they have been forced to pay on the open market in recent auctions for additional spectrum. To date, these auctions have raised almost \$10 billion for the U.S. Treasury. This is \$10 billion less that American taxpayers and families will have to pay to help reduce the deficit. Yet the broadcasters, using specious arguments and blatant political influence, have convinced Congress to forgo an additional \$10 billion to \$70 billion in spectrum revenues and just give this spectrum away to their industry without taxpayer compensation.

**Overwhelming Opposition to Multibillion Dollar “Rip-Off.”** Although this giveaway has gone largely unnoticed by the public, many critics on both the left and right have voiced their opposition. *The Wall Street Journal* labeled it “a multi-billion dollar handout for wealthy TV-station owners,” and warned that Republican capitulation on the issue would be “wildly at odds with their anti-entitlement ideology.”<sup>5</sup> The *Journal* also remarks that this giveaway is all the more remarkable since this is a Congress “desperately scrambling to balance the budget, making its job harder by voluntarily forgoing billions in spectrum auction revenues.”<sup>6</sup> Karen Kerrigan, president of the Small Business Survival Committee, also refers to the plan as “one of the greatest government giveaways in history,” and notes that it “reflects wasteful stewardship of a valuable asset.”<sup>7</sup> Liberal public-interest groups such as the Consumer Federation of America, People for the American Way, and the Media Access Project also have expressed opposition.<sup>8</sup>

According to *Time* magazine, “The spectrum handout is a classic example of how government subsidies live on after their rationales have expired.”<sup>9</sup> The editorial page of *The New York Times* also sides with Senator Dole in his effort to stop the “big giveaway,” arguing that “Mr. Dole is taking the right action to protect taxpayers.”<sup>10</sup> And *Times* columnist William Safire calls the giveaway “an outrageous taxpayer rip-off.”<sup>11</sup> “This rip-off is on a scale vaster than dreamed of by yesterday’s robber barons. It’s as if each American family is to be taxed \$1,000 to enrich the stockholders of Disney, G.E. and Westinghouse.”<sup>12</sup> That is exactly what is about to take place.

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5 “GOP Giveaway,” *The Wall Street Journal*, September 12, 1995, p. A26.

6 “I-Way Detours,” *The Wall Street Journal*, December 27, 1995, p. 10.

7 Karen Kerrigan, “Hijacking the Broadcast Spectrum,” *The Washington Times*, August 21, 1995, p. A18.

8 See Kirk Victor, “Broadcast Unplugged?,” *National Journal*, September 2, 1995.

9 John Greenwald, “Prestidigitation,” *Time*, January 22, 1996, p. 56.

10 “Mr. Dole Fights a Big Giveaway,” *The New York Times*, January 19, 1996, p. A28.

11 William Safire, “The Greatest Auction Ever,” *The New York Times*, March 16, 1995.

12 Safire, “Stop the Giveaway.”

**Families and Investors Will Pay the Price.** As mentioned above, it is unlikely that broadcasters will be put out of business if forced to bid on spectrum rights through competitive auction. However, if taxpayers are cheated out of a significant portion of the tax cuts promised them as an element of the balanced budget, they will be hurt significantly. Economic analysis conducted by Heritage Foundation economists shows that the tax cut element of the Balanced Budget Act of 1995 would add some \$1,500 per household in higher GDP than the same plan without tax cuts. Also, household income would be increased on average by nearly \$2,000.<sup>13</sup> There is no justification for forcing individual families and the economy in general to lose these benefits while a few well-connected companies benefit from free spectrum.

**The Answer is to Auction.** Even if the auctions did not pull in the full \$70 billion, anything raised to offset the deficit and lower the burden on American taxpayers and families would be worth the effort. But it is very likely an auction of this taxpayer property would generate such revenues. The spectrum being given away is among the most valuable in the government's possession, since it can be used for multiple applications, not just television broadcasting. William Safire has even noted that these numbers may be too low, arguing that the sale of additional spectrum eventually could raise a staggering half-trillion dollars for the U.S. Treasury.<sup>14</sup>

Equally as important will be the effect of an auction on competition within the entire telecommunications industry. Selling off the spectrum will ensure it is put to its most highly valued use and mean more competition throughout the industry. As Peter C. Cramton of the University of Maryland notes: "Nearly every constituent benefits from auctioning the airwaves. Taxpayers, consumers, and firms are all better off with auctions. The only losers are inefficient firms, which are unsuccessful in the auctions, but have a chance in lotteries or comparative hearings."<sup>15</sup> Like lotteries and comparative hearings, which have been used by the FCC to distribute TV licenses in the past, this current giveaway would sacrifice market efficiency to special-interest influence.

Clearly, however, the most important aspect of such an auction would be what it would do for American taxpayers and families — lower the burden the federal deficit places upon them. Again, as Cramton argues, "The auction outcome is compelling to taxpayers. So long as budget deficits remain a problem, it is hard to imagine that Congress would be able to reverse the auction decision without setting off a grass-roots rebellion among taxpayers."<sup>16</sup> Yet this is exactly what is about to occur. If policymakers want to do what is in the best interests of American taxpayers and families, they must look beyond the self-interested motivations and misperceptions being put forward by the multibillion-dollar broadcast industry, which has nothing to lose and everything to gain by taking valuable taxpayer property without compensation.

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13 For a complete discussion of the economic impact of tax cuts as part of a balanced budget see William W. Beach and John S. Barry, "Balanced Budget Talking Points #9: Why Tax Relief Is Necessary in a Balanced Budget," Heritage Foundation *F.Y.I.* No. 83, December 29, 1995.

14 Safire, "Stop the Giveaway."

15 Peter C. Cramton, "Money Out of Thin Air: The Nationwide Narrowband PCS Auction," *Journal of Economics and Management Strategy*, Vol. 4, No. 2 (Summer 1995), p. 339.

16 *Ibid.*