

# C-Band: In First Day of 3.0, Pai Goes Public and Thune/Wicker Sets New Price Point. Now What?

November 19, 2019 by Blair Levin

Over the weekend, we wrote that the C-Band policy was about to move to Version 3.0. [\(LINK\)](#) Yesterday, a one-two punch from Chairman Pai and Senators Thune and Wicker set the framework for that new version.

First, [in a tweet](#), Pai committed to an FCC auction by the end of 2020. The tweet was consistent with our weekend view that the FCC order will not be circulated until early next year.

Second, Senators introduced legislation that would also require an FCC auction by the end of 2020 and in addition, “require the FCC to capture for the taxpayer at least 50 percent of the fair market value of the spectrum.” That means that the most CBA could obtain for its members would be an amount equal to 50% minus relocation expenses to other current users. Unlike the CBA proposal offered Friday, the proceeds would be pre-tax. As we had discussed, Eutelsat saying that the satellite companies should get at least 50% may have seemed to them like it was setting a ceiling but to members of Congress, that was the floor. [\(LINK\)](#)

So what happens now? We will let our colleague, Vivek Stalam, discuss the financial implications for Intelsat in a separate note, while we focus on the new policy direction.

First, Pai and the staff have to work overtime to put together an item for the other Commissioners to approve. There are many details to be worked out, particularly on the transition, but we think Pai has the votes for the order. We suspect Commissioner Starks (and potentially Rosenworcel) will be on board as Starks already endorsed an FCC auction and praised Pai’s new direction. Commissioner O’Rielly will be highly critical internally, as he has been a consistent and strong advocate for all the iterations of CBA’s plan, but we believe this is a situation in which Pai will not depend on his vote. We also think Carr will support whatever Pai proposes.

Second, Pai cannot afford to wait for Congress to legislate to meet his own deadline of an auction in 2020. But Thune and Wicker publicly endorsing Pai’s decision and providing him the details on the financial split is significant regardless of what the House and Senate do. The order likely will be fully consistent with the draft legislation in terms of the allocation of proceeds. Pai could seek to obtain more money for the government but we think it would be difficult, unless Thune and Wicker concur, for Pai to advocate accepting less.

Third, Thune and Wicker will try to move the bill but there are many obstacles to anything passing soon. We suspect the public announcement of the bill was designed to give cover to Pai for his actions, reassert Thune and Wicker as the drivers of telecom policy (instead of, for example, Senator Kennedy and/or the White House) and possibly create a situation in which CBA comes to believe that their members are better off with legislation than an FCC policy that might end up offering them less money or being tied up in litigation uncertainty.

There are also big question marks. Senator Kennedy will continue his efforts and has already criticized the Thune/Wicker proposal for giving too much away to the satellite companies, but we await to see how strongly he

pushes a higher number for the government. While we think legislation unlikely, we await to see whether the House Democrats bring up their own version of the bill, whether there are other items they may want added, and whether that affects the politics at the FCC. We await signs from the White House as to whether they wish for anything else out of the process. We await signs from Verizon and other CBA supporters among the stakeholders as to whether they accept the new framework.

But the big question mark is how does the CBA proceed? It now knows what Pai intends to do on the most important issues for them and that he has the political cover to do it. Its statement said it intended to work with the FCC on “an effective alternative plan” though it also noted that “the full cooperation of the satellite operators will be required to ensure the successful clearing of the C-Band...” As we noted over the weekend, there are ways to provide more funds to CBA members than just direct relocation expenses, but it is unclear if the current proposal can be structured in a way that would be acceptable to them.

As my colleague Vivek Stalam notes ([HERE](#)), Intelsat’s equity value under the Thune / Wicker proposal is close to \$0 if auction proceeds only end up in the consensus range of \$20-30BN. As such, the current proposal carries the risk of CBA non-participation in the process. As we noted this weekend, any transition without CBA participation would take longer than a transition with CBA participation, creating obstacles for the often stated consensus policy goal of making the spectrum available rapidly. But while that goal, at a high level, is one all the stakeholders voice, there are a multitude of interpretations as to how that goal should be prioritized among other goals. The next few weeks will tell us how the new framework re-scrambles the politics among the various stakeholders and within the various coalitions, as the real negotiations are just beginning.