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C-Band Private Sale? Not So Fast...

Issue: As the Federal Communications Commission (FCC) considers the reallocation of C-band spectrum to cellular carriers in anticipation of 5G deployment, key stakeholders are escalating efforts to influence how the spectrum is auctioned and ultimately who will receive the proceeds. The C-Band Alliance (CBA), comprising the 4 largest satellite operators utilizing the C-band, has put forth a proposal for transferring parts of the 3.7 to 4.2 GHz band over the secondary market, which the group touts as the fastest way to reallocate spectrum compared to an FCC incentive auction. While all indications suggest the FCC may proceed with the deregulatory CBA plan, recent broad-based comments from industry and public interest groups suggest litigation risk and fundamental policy objections could materially alter and delay a private sale.

Impact: On Tuesday, New America, an outspoken critic of the CBA's plan and a historically left-leaning public interest group, hosted a panel to discuss the merits of an incentive auction versus a private sale. While the CBA claim they were not invited to speak on the panel, a diverse group of stakeholders, including Charter Communications, Google, the American Cable Association, and the fiscally conservative Citizens Against Government Waste, voiced opposition to the CBA's plan. Colleen King, Vice President of Regulatory Affairs at Charter Communications, stated, "*We think that a private sale could result in years of litigation over backroom deals with private companies. The litigation risks of the private sale proposal are high, which is why we think an FCC auction is rally the fastest way to get this critical 5G spectrum out into the marketplace.*" Similarly, Staci Pies, Senior Policy Counsel at Google, stated, "*Litigation can take a very long time... The fastest way to ensure deployment is through an auction.*" While refraining from stating outright that their companies would take legal action in the event of a private sale, these comments and others represent growing and diverse opposition to the CBA plan, although opposition appears to be focused on the legally ambiguous foundation proposed by the CBA and upon which 5G deployment would depend, rather than on the destination of the funds from a secondary market auction. ACG

Analytics believes that this level of broad-based opposition is unlikely to be ignored.

For likely or potential Next Steps, please contact Meilee Wong at info@acg-analytics.com.

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