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DISH -- No Surprises Yet in FCC DBSD/TerreStar Docket

Key Takeaways

So far, no surprises in the comment docket at the FCC is good news for DISH as it seeks approval to build a satellite broadband network.

Yesterday was the deadline for petitions to deny DISH's applications to transfer spectrum licenses bought from DBSD and TerreStar in bankruptcy and waive requirements for dual-mode handsets and other rules.

We think LightSquared's continued GPS interference problems only serves to make DISH look good, but criticism of FCC's decision making in the LightSquared docket will serve to slow down a decision on DISH.

We believe DISH is more likely than not to receive approval, but not approval won't come until end of this year or Q1 2012. We expect the FCC to impose conditions to ensure build-out of a network and prevent spectrum flipping.

Opposition to petitions to deny filed yesterday are due October 27 and replies are due November 3. We will be looking for more commentary out of DISH when they report 3Q earnings, expected in the beginning of November.

Discussion

We have approached the next milestone in DISH's plans to build out a satellite broadband network. In the FCC proceedings to transfer spectrum licenses from DBSD and TerreStar, waive the integrated service rule (requiring dual-mode satellite-terrestrial handsets), and other regulatory requirements, petitions to deny were due yesterday.

We have checked the docket and only see three relevant outside filings on the question. One comment is in support of the application, another comment is against the application, and the third asks for similar regulatory relief.

We don't see any surprises here and that is good news.

Summary of Filings

The GPS Industry Council, LightSquared's chief antagonist, supports the application and writes that there appears to be no GPS interference issue with

Tickers:

*DISH, DTV, CMCSA, CVC, TWC,
T, VZ, S, CLWR, GSAT*

the spectrum. As we've seen from the multi-pronged campaign it is waging against LightSquared, we think it is good to be on their side.

Aldo I. Perez, a TerreStar shareholder whose equity was erased in the bankruptcy, writes that the FCC should deny the applications. Perez alleges that DISH will charge more for dual-mode handsets if given a waiver from the integrated service requirement and that most customers would require such a device. He also contests waiver of the requirement to have a spare satellite and alleges that there could be harmful interference across the 2 GHz band.

Globalstar (**GSAT**) asks that if the FCC waives the integrated service requirement for DISH, then it should do so for all other mobile satellite spectrum (MSS) licensees. Though DISH claims that a waiver would follow FCC precedent (LightSquared), conversations at the FCC earlier this year indicate that these applications are considered on a case-by-case basis on their own merits.

LightSquared Implications for DISH

More hostile Congressional hearings on LightSquared (most recently last week) and ongoing concerns over GPS interference is good for DISH and serves to put them in a favorable light. As we wrote above, the GPS Industry Council's stamp of approval in the DISH docket is a good thing to have on the record.

While LightSquared's technical flaws only make DISH look stronger, we believe criticism that the FCC moved to fast in its initial conditional approval for LightSquared will serve to slow down a DISH decision. Based on the timing of comments on the docket, we think that the very end of this year is a possibility or Q1 2012.

Conditions

We continue to believe that DISH will receive approval to transfer the DBSD and TerreStar licenses as well as waiver from the dual-mode handset requirement, but not without conditions.

With the emergence of satellite broadband business models, we think FCC has found itself in a tenuous position of having to decide on regulatory matters that could significantly increase the market value of telecom assets. In that context and based on previous conversations at the FCC regarding LightSquared, we expect approval to come with conditions to ensure build-out of a network and to prevent near-term spectrum flipping.

The administration has proposed that FCC be allowed to monetize valuable spectrum by imposing "spectrum fees" on licensees. The FCC does not currently have authority to do this and would require Congressional authorization. While everything is on the table against the backdrop of deficit reduction and the work of the Super Committee, we think spectrum fees appear to be too much like a punitive industry tax and would not be enacted.

Next Milestones

We will be checking the docket this week to see if any comments are posted late. The next deadline is October 27 when oppositions to petitions to deny are due. Replies are due November 3.

With DISH expected to report 3Q earnings in the beginning of November, we will be looking for more commentary out of the company on their FCC proceedings.

Investment Thesis

We think DISH is more likely than not to receive FCC approval to transfer spectrum licenses bought from DBSD and TerreStar in bankruptcy and waiver of requirements for dual-mode handsets and other rules by year end or Q1 2012.

We believe that approval will come with conditions to ensure build-out of a network and to prevent near-term spectrum flipping.

A positive waiver decision at the FCC would significantly increase the value of **DISH's** new spectrum and allow it to launch a satellite broadband network in competition to existing wireless carriers **T**, **VZ**, **S**, and **CLWR** and video providers **DTV**, **CVC**, **CMCSA**, and **TWC**.

Recent Memos on this Topic:

[First Deadline Today in Terrestrial/DBSD and ATC Waiver Applications](#),¹
Capital Alpha Outlook, October 17

[More Hill Noise Not Helpful for LightSquared](#),² *Telecom Roundup*, October 14

[DISH benefits from LightSquared's Slow Death by Testing](#),³ September 15

[More Work Ahead After Final LightSquared-GPS Report](#),⁴ July 5

¹ <http://www.capalphadc.com/wp-content/uploads/2011/10/outlook-note-10-17-11.pdf>

² <http://www.capalphadc.com/wp-content/uploads/2011/10/2011-10-14-telecom-roundup.pdf>

³ <http://www.capalphadc.com/wp-content/uploads/2011/09/2011-09-15-lightsquared.pdf>

⁴ <http://www.capalphadc.com/wp-content/uploads/2011/07/2011-07-05-lightsquared.pdf>