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LightSquared's Loss is Still DISH's Gain

Highlights

- We maintain that the FCC's Valentine's Day proposed denial of LightSquared's satellite network is good news for DISH and its own satellite broadband aspirations.
- We think LightSquared's options are limited with its current spectrum and we doubt that it would be able to pull off a spectrum swap with its government agitators.
- We believe DISH is likely to win FCC approval this spring or summer for the license transfers and regulatory waivers it needs to build its satellite broadband network and that differences in its anticipated business model may make certain LightSquared-specific transfer conditions irrelevant.

Discussion

Valentine's Day breakups are hard.

The FCC announced Tuesday night that it seeking to revoke LightSquared's January 2011 conditional approval to build its proposed satellite broadband network, unraveling LightSquared's business model.

The FCC announcement was preceded by the NTIA's release of interference reports showing LightSquared's plans would cause harmful unmitigated interference to [cellular](#),¹ [general navigation](#),² and [aviation](#)³ GPS receivers. The NTIA [officially recommended](#)⁴ that LightSquared not be allowed to launch.

¹ http://www.ntia.doc.gov/files/ntia/publications/cellular_device_report.pdf

² <http://www.gps.gov/news/2012/02/lightsquared/NPEF-report.pdf>

³ <http://www.gps.gov/news/2012/02/lightsquared/FAA-report.pdf>

⁴ http://www.ntia.doc.gov/files/ntia/publications/lightsquared_letter_to_chairman_genachowski_-_feb_14_2012.pdf

Ticker(s):
DISH, DTV, CMCSA, CVC,
TWC, CHTR, ISAT, IRDM,
GSAT, AMT, CCI, SBAC, T, VZ,
S, CLWR, PCS, LEAP, USM,
NOK, SI

The FCC issued a [public notice yesterday](#)⁵ soliciting comment on the NTIA's findings and the Commission's decision to block LightSquared. Comments are due March 1. In the interim, LightSquared is reported to be looking for ways around the the problem, including [a potential spectrum swap with the Defense Department](#).⁶ Given the sustained, year-long uproar over LightSquared within the various corners of the Washington defense apparatus, we doubt LightSquared would be able to pull this off. It is not clear what legal recourse LightSquared might have against the government

Expectations of Negative LightSquared Decision

LightSquared's falling out with the government over GPS interference has long been expected by most investors and informed observers, but the sting of being dumped will still leave the company's private investors, debt holders, vendors, roaming customers, and network partners with broken hearts.

We have held that LightSquared's GPS problems bode well for DISH, who is planning its own satellite broadband network also contingent on FCC approval but with non-interfering spectrum in addition to the financial advantages it has as a public company. By all accounts, compared to LightSquared, DISH has been viewed as the prettiest girl at the dance.

We see LightSquared's failure as a positive development for DISH as it seeks a rebound relationship with the FCC.

DISH Status

Pending at the Commission are DISH applications to take ownership of satellite spectrum licenses purchased last year out of bankruptcy from DBSD and TerreStar (International Bureau [docket #11-150](#)⁷) and waivers from certain FCC rules including those requiring dual-mode satellite-terrestrial handsets that would allow the deployment of a substantial ground network (a.k.a., Ancillary Terrestrial Component or ATC waiver, [docket #11-149](#)⁸).

Investors will note that the FCC granted LightSquared an ATC waiver conditioned on GPS interference problems being resolved.

We are expecting FCC decisions on the DISH dockets this spring or summer; The FCC's own internal non-binding 180-day transaction review "shot clock" runs out in March.

⁵ http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0215/DA-12-214A1.pdf

⁶ <http://professional.wsj.com/article/BT-CO-20120215-715252.html>

⁷ http://fjallfoss.fcc.gov/ecfs/comment_search/execute?proceeding=11-150

⁸ http://fjallfoss.fcc.gov/ecfs/comment_search/execute?proceeding=11-149

Wireless Broadband Competition Narrative

As we have written before, we think DISH has positioned itself for a positive outcome at the FCC. It is seeking to combine complimentary, non-interfering, fallow spectrum to build a nationwide broadband network in competition with existing cellular wireless incumbents -- touching on themes from the FCC's 2010 *National Broadband Plan*, the past two editions of the *Wireless Competition Report*, and the rejection AT&T's T-Mobile transaction.

The GPS Industry Council, LightSquared's chief antagonist, gave its [stamp of approval](#)⁹ to DISH's proposal last October, confirming that it does not interfere with GPS receivers. Early concerns that DISH may interfere with PCS licensees (Sprint is closest in proximity) have been allayed.

DISH Conditions

Given the FCC's experience with LightSquared, investors been concerned with the existence and severity of conditions attached to a DISH approval.

Considering the differences between LightSquared and DISH's network models, we don't think LightSquared's effective prohibition on substantial wholesale arrangements with AT&T and Verizon would also be applied to DISH. Most expect DISH to be launching a retail wireless offering that would be in competition to existing incumbents. With LightSquared's wholesale model, the FCC wanted to prevent LightSquared's capacity from being bought out by the largest carriers. Wholesale/roaming restrictions in this manner may also be less relevant if DISH pursues a fixed network.

Furthermore, we do not think that the FCC would explicitly prohibit DISH from partnering with an existing incumbent such as AT&T and Verizon to help build the network. Network sharing arrangements are common and investors expect DISH may need help technical and financial help in deploying the network. If DISH can prove that launching their competitive offering will require a limited relationship with a larger carrier we don't think that the FCC would seek to prevent it in a meaningful way.

We ultimately think the most restrictive conditions in the realm of possibility for DISH could be those to make sure DISH actually builds an offering and does not flip the spectrum at a profit after the FCC gives approval for an ATC waiver. The FCC was sensitive to this issue in the original LightSquared (then SkyTerra) license transfer to hedge fund Harbinger Capital Partners in 2010 and addressed it by dictating coverage milestones and regular status reporting to the FCC. We also note that FCC's statutory duty to review and condition license transfers itself also provides a barrier to regulatory arbitrage.

⁹ <http://apps.fcc.gov/ecfs/document/view?id=7021714779>

Investment Thesis

We think DISH is positioned well for a positive outcome at the FCC on the transfer of spectrum licenses bought from DBSD and TerreStar in bankruptcy and waiver of requirements for dual-mode handsets and other rules.

We believe that approval is more likely than not, but it would come with SkyTerra-like conditions to prevent spectrum flipping by requiring DISH to build and operate a network.

We think LightSquared's ongoing GPS troubles make DISH look good, but criticism over FCC process in that docket as well as broader policy concerns over ATC waivers will serve to slow down a DISH decision.

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 services in competition to existing wireless carriers T, VZ, S, PCS, LEAP, and CLWR and video providers DTV, CVC, CMCSA, and TWC.

Selected recent memos on this topic:

[LightSquared: Technically Not Over 'Til It's Over](#),¹⁰ Capital Alpha Telecom Outlook, January 30, 2012

[Satellite/Wireless: LightSquared Needs an Endgame](#),¹¹ Capital Alpha Telecom Outlook, January 23, 2012

[DISH -- ATC Concerns will Contribute to Delay in DBSD/TerreStar Docket](#),¹² October 19, 2011

[DISH -- No Surprises Yet in DBSD/TerreStar Docket](#),¹³ October 18, 2011

[DISH Benefits from LightSquared's Slow Death by Testing](#),¹⁴ September 15, 2011

¹⁰ <http://www.capalphadc.com/wp-content/uploads/2012/01/2012-01-30-telecom-outlook.pdf>

¹¹ <http://www.capalphadc.com/wp-content/uploads/2012/01/2012-01-23-telecom-outlook.pdf>

¹² <http://www.capalphadc.com/wp-content/uploads/2011/10/2011-10-19-dish.pdf>

¹³ <http://www.capalphadc.com/wp-content/uploads/2011/10/2011-10-18-dish.pdf>

¹⁴ <http://www.capalphadc.com/wp-content/uploads/2011/09/2011-09-15-lightsquared.pdf>

Analyst Certification

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