

Round-Table Conference on the Auctioning of Broadcasting Frequencies

IRIS 1999-8:1/25

*Sari Galapo
Institute for Information Law (IViR), University of Amsterdam*

An international round-table conference was held on 8 May 1999 at the Institute for Information Law (IViR) in Amsterdam to discuss the issue of auctioning broadcasting frequencies. The conference was organised by the Institute for Information Law (IViR) and the European Audiovisual Observatory (EAO), in co-operation with the Dutch National Programme for Information Technology and Law (ITeR).

The conference introduced the various mechanisms for assigning licenses, namely, 'first come, first served', lottery, 'beauty contest', and auctioning. Compared to the 'traditional' mechanisms, auctions appear to facilitate an economically efficient selection of broadcasters, while they have been criticised for the difficulty of incorporating 'soft' criteria, i.e., political, social and cultural requirements imposed upon licensees, into the process. It was suggested that 'harder', and thus more easily verifiable, criteria are capable of inclusion in an auction mechanism, whereas 'softer' criteria are more compatible with a 'beauty contest'. The scheme implemented in the United Kingdom for auctions of commercial television and radio licenses included content requirements specifying minimum hours for certain categories of programming. The highest bid would be the winning bid only if judged to be sustainable. The regime for the auctioning of commercial national radio licenses was similar, with an additional pre-specification of formats.

The auctions raised substantial revenue for the government, transparency was improved and the licensees have thus far complied with the set quality criteria. The UK auctions were criticised, however, on the ground that they amounted to 'beauty contests' in the degree of discretion given to the regulator to decide whether bids had met the quality and sustainability requirements.

In contrast with the UK auctions, the Swedish auctions of commercial local radio licenses involved no quality criteria. The auction was a multiple-round, open auction where the highest bid would be granted the license. The mechanism was 'pure' and relatively simple and cheap to administer.

Although the auctions raised significant funds and resulted in the creation of a large number of local stations, it has since been subject to parliamentary

investigation following suggestions that it allows for networking resulting in ownership concentration and that diversity has suffered as the new stations opted for music radio. In the United States, licenses for personal communications services (PCS) have been auctioned off by using simultaneous interactive computer-assisted bidding and auctions continued until only a single bidder remained, which at times lasted up to several months. A separate block of spectrum was initially set aside for women, members of minority groups and small businesses, but this was held unconstitutional and was never put to auction. Small sections of spectrum were also auctioned in the hope that they would appeal to these applicants.

In the primary round of auctions a bidding frenzy forced prices up so that many licensees, who were faced with high setup costs, defaulted on their payments. This was most pronounced for women and minority entrepreneurs, many of whom sold their licenses to larger companies. In the second phase of auctions, the original blocks were reopened for auction but they sold for only a fraction of the original price. One of the main issues that arose during the discussion was the extent to which 'soft' criteria can be included in an auction regime. 'Soft' criteria have played an important role in broadcasting in the past in terms of content requirements placed upon broadcasters as well as requirements relating to the ownership and control of broadcasting licenses. There was significant debate regarding the extent to which the setting of such requirements is compatible with an auction mechanism. A number of the participants argued that the setting of 'soft' criteria amounts to an interference with the operation of an open market. They argued that open market mechanisms will ensure that there is diversity in broadcasting. It was suggested that 'soft' criteria are not compatible with economic approaches to selection such as auctions. A number of the participants, however, were of the view that 'soft' criteria may well be capable of inclusion in an auction mechanism. It was argued that requirements that can be clearly identified and specified prior to the auction may well be introduced and enforced. It was also stated that an abundance of commercial broadcasters does not necessarily imply greater diversity. Since ownership is often concentrated in the hands of a small number of large companies, an open market will not always guarantee greater diversity. It was also suggested that governments have a role to play in ensuring that the spectrum, as a public good, is used in a way in which it promotes public goals.

In conclusion, it was said that the auction mechanism is probably, despite its flaws, the most efficient and best method for assigning frequencies. The view was expressed that difficulties arising when seeking to include 'soft' criteria are equally present in 'beauty contests'. An auction, however, was believed to be superior by virtue of its transparency, efficiency and ability to maximise revenue.

Auctioning Frequencies for Broadcasting. Report of the Round-table Conference organised by IVIR and the Observatory, Amsterdam 8 May 1999.

