

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Over the past decade, the Commission has filed twenty-one law enforcement actions against telemarketers engaged in FCC license-related investment fraud. These have involved myriad wireless technologies, such as cellular telephones,(6) wireless cable,(7) specialized mobile radio ("SMR"),(8) and interactive video and data services ("IVDS").(9) The Securities and Exchange Commission ("SEC") has also filed approximately twenty law enforcement actions against telemarketers engaged in FCC license-related fraud.(10) The combined sales of the companies targeted in the approximately forty actions filed by the FTC and the SEC approach \$400,000,000. Six of the FTC's most recent actions, filed in January 1996 as part of "Project Roadblock," a law enforcement effort of the FTC and twenty-one states targeting hi-tech frauds, involved telemarketers who sold application preparation and acquisition services primarily for paging licenses.(11) The FCC assisted this effort by providing the FTC with consumer complaints and expertise on paging licensing and other FCC procedures.

Telecommunications investment frauds associated with FCC licenses are of two basic types: "license application mills" and "build-out" schemes. License application mills sell application preparation services for acquisition of FCC wireless licenses, and typically charge a fee of several thousand dollars per license. Promoters of build-out schemes usually sell interests in limited liability companies or general partnerships which supposedly will acquire FCC wireless licenses and build and operate telecommunications systems that use these licenses. These promoters also charge a fee of several thousand dollars per interest.

Both schemes are carrier cypoe.4h()13(s)-3g act13(se)1(s)-2 l2(or)14h7 S1y0 Td [(s.C72u9nh7 0e)1n1mIS1(b)149a40 a.C72u9nh7 4h

applications for thousands of consumers who almost certainly have neither the intention nor the financial wherewithal to provide telecommunications service,⁽¹⁷⁾ rather than for bona fide businesses that need and use paging channels.

The database of pending applications for 931 MHz licenses alone suggests the⁽¹⁷⁾

recently awarded through competitive bidding.(25) In both of these cases, telemarketers sold consumers interests in partnerships that supposedly would operate a telecommunications systems using IVDS licenses acquired through auction. In one of the cases, the partnership itself was the bidder, but the telemarketer pocketed the majority of the money it raised, and rendered the partnership financially incapable of building and operating a telecommunications system that would generate the kind of financial returns promised.(26) In the other case, through a series of transactions, the auction winner (an affiliate of the telemarketer) ultimately will transfer the IVDS license to a partnership of consumer investors, but for over fifteen times the amount of the winning bid.(27)

The Commission supports the FCC's goal to structure competitive bidding rules "to ensure that bidders and licensees are qualified and will be able to construct systems quickly and offer service to the public." (95) While the Commission offers no view on the proposed rules from the standpoint of telecommunications policy, the Commission believes that certain proposed bidding procedures will help deter fraud. These measures include the proposed rules that require a bidder to disclose its business classification (100), to post upfront payments (104-05), and to post a down payment in short order (106). The Commission believes that the proposed transfer disclosure rules that would carefully scrutinize a transfer of a license by an auction winner who had not yet begun commercial service (112) also would help deter fraud.(28) These disclosures to the FCC would inhibit fraudulent telemarketers from obtaining a license at auction, and then "flipping" it to coalitions of unqualified and unsuspecting consumers for a multiple of its auction value.

The Commission believes, however, that the proposed bidding procedures can be strengthened further "to ensure that auction winners have the necessary financial capabilities to complete payment for the license and to pay for the costs of constructing a system" (106), and thereby prevent fraudulent abuse of the auction process. for the scN-3389omminners,13()17

15. "Pending applicants" includes applications for new channels only and excludes modification applications by incumbents to expand on existing channels.

16. The Commission is aware that some "individual consumer" licensees may have acquired licenses for legitimate

