



Licensed vs. Unlicensed Wireless Internet: The Next Generation Essential Tenant Amenity

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Wireless Internet systems offer the workplace and the greater Internet community the full menu of the Internet broadband without any of the messy cables. The initial installation costs and/or relocation costs associated with wiring traditional broadband do not exist in the wireless environment. Wireless access points can be placed virtually in any location. The building owner that does not offer wireless systems to its future tenants runs the risk of alienating entire groups of current and potential tenants who will likely consider high speed mobile Internet access as

Internet solutions is to significantly reduce the infrastructure costs and thereby enjoy a larger return on investment.

For the past several months, unlicensed wireless Internet access has garnered a large amount of the public's attention. Although the technology comes in many types, (802.11a, 802.11b, and 802.11g) the label of "Wi-Fi" has been used by many to describe this unlicensed service. Unlicensed service does not require a license, so the capital outlay can be much lower, and as a result, the price to the customer can be quite low. Unlicensed wireless can be established virtually anywhere. However, the Federal Communications Commission (Commission) rules severely limit the range of unlicensed wireless. Amplifiers can be used, but that introduces another set of headaches and costs, and interference poses a constant threat. The Commission notes that unlicensed spectrum users are expected to resolve interference issues themselves. Additionally, interference to licensed operations is strictly prohibited.

Most recently, the public has been focused largely upon licensed wireless as a medium for Internet access. Licensed wireless offers higher power levels, lower frequencies, more ability to penetrate trees and buildings' walls, and longer range. And because it's licensed, interference by competitors can be minimized. Licensed means just that: you are granted a license from the Commission to use a part of a protected spectrum that should provide interference-free operation. The mistaken belief that licensed spectrum "guarantees" interference-free operations and that unlicensed spectrum is assured vast levels of interference continues to exist

among many operators. While the Commission advocates a spectrum policy where interference does not occur to either user, only licensed operators get the added benefit of Commission assistance with interference issues.

Based on the forgoing, several matters should be carefully considered prior to creating and investing in a business plan involving a wireless Internet access system.

One of the distinct advantages of operating in the unlicensed spectrum is the ease of implementation due to the inexpensive costs of equipment. While the equipment is inexpensive for the building owner, it is just as inexpensive to tenants. The result may not only bring about situations where the tenants are obtaining service for themselves, but also situations where a building owner and tenants are competing against one another for other tenant's usage revenue. Therefore, the building owner may wish to limit tenants from providing their own wireless Internet.

Prior to restricting or limiting a tenant's competing wireless Internet usage, it is imperative that the building owner be aware of all of the Commission rules that may apply. One applicable rule is the "Over the Air Reception Device" rules (OTARD). The rules expressly prohibit restrictions that impair the installation, maintenance or use of antennas within exclusive use or control of tenant. Initially, the rules only applied to video programming devices; several years ago, the Commission expanded the protection to fixed wireless signals. The impact of the Commission's expansion may have added significance if and when the Commission is asked to rule on a matter involving a Wi-Fi landlord tenant dispute.

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critical as a working bathroom.

Both cable modems and Digital Subscriber Lines (DSL) require some level of inside wiring. The economic burden placed upon the building owner for the installation, maintenance and removal of such wiring can sometimes be quite sizable. A number of building owners throughout the country have begun exploring the use of wireless technology to complement or replace the more traditional Internet wireline access technologies. One of the main reasons for building owners implementing wireless

Traditionally, licensed wireless operations have been relegated to a select few. The requirement to purchase such spectrum in expensive auctions and the regulatory fees associated with ownership typically reduces the pool of owners to established telecommunication entities.

However, the use and/or ownership of licensed wireless Internet by the building owner has been given a fresh lease on life due to the Commission's release of the *Secondary Markets Order released in early October (See Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets FCC 03-113)*. The Order allows for licensees to lease all or a portion of their wireless spectrum to other parties. The Order applies to all licensees that hold exclusive rights to use the licensed spectrum. One leasing option allowed for leasing arrangement to be entered into without the need for Commission approval, to the extent the

licensees maintain an active oversight role to ensure lessee complies with all applicable rules, retains responsibility for all interactions with Commission and remains the primary responsible party for violation of the applicable rules.

By entering into a spectrum lease, an entirely new business model emerges that benefits both the lessor/licensee and lessee/building owner. The lessor/licensee benefits by securing a set payment from an interested stakeholder. More specifically, instead of just another product, the building owner now has a direct monetary stake in selling as much usage as possible to tenants that will recognize and appreciate the licensee as the provider. While some contracts may have provided for revenue sharing, the terms and conditions are often tilted in favor of the licensee. Conversely, in a leasing relationship, the building owner is solely in control of the terms, conditions and prices.

As with any building owner provided amenity, a business case analysis should be performed prior to implementation to ensure a maximum return on investment and a minimum amount of conflicts. Only through a thorough review of the legal and regulatory advantages and disadvantages of providing unlicensed or licensed wireless Internet access to his/her tenants will a building owner ensure that he/she is providing an effective and profitable next generation amenity. ■

About the Author

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