

Questions for the Record from Chairman John Thune
To
Dr. Pierre de Vries

Question 1. Mr. de Vries, you have recommend creating a Court of Spectrum Claims to deal with spectrum disputes. In what way would your proposal help alleviate conflicts in the marketplace that are likely to occur as spectrum utilization increases?

Answer. A Court of Spectrum Claims would provide a forum and a process where conflicts in the marketplace—especially between federal and commercial users, but also others—could be resolved.

It could help prevent conflict, or nip it in the bud, by providing parties with the reassurance that any disputes that might arise could be resolved in a neutral forum with expertise in spectrum matters. The Court would be independent of the FCC and NTIA whose interests, or perceived interests, might cause concern to some or all of the parties to a dispute.

The Court's most important contribution would be in fostering cooperation—the flip-side of conflict. Successfully freeing up and sharing government spectrum for others to use productively—and likewise, for government users to gain access to non-federal spectrum—requires a back-stop to ensure that the promised access rights and interference protections in such a bi-lateral market will be delivered.

Since federal and commercial spectrum users are under the mutually exclusive jurisdictions of the Department of Commerce and the FCC, there is a need for a new entity—a Court of Spectrum Claims, for example—that can oversee both types of users (federal ones and private ones), adjudicate potential disputes, and spur cooperation in advance of any judicial claim.