

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Expanding Flexible Use of the)	GN Docket No. 18-122
3.7 to 4.2 GHz Band)	
)	
Expanding Flexible Use in Mid-Band)	GN Docket No. 17-183
Spectrum Between 3.7 and 24 GHz)	

COMMENTS OF THE LOCAL BROADCASTERS

Block Communications, Inc., Gray Television, Inc. and Meredith Corporation

(collectively the “Local Broadcasters”) hereby submit these comments in response to the *Order and Notice of Proposed Rulemaking* (the “*Notice*”).¹

I. INTRODUCTION

The *Notice* seeks comment on whether and how the Commission should reallocate up to 500 MHz of mid-band spectrum between 3.7 and 4.2 GHz – commonly referred to as the “C-band” – from satellite to terrestrial use. This proceeding is one of many in which the Commission plans to repurpose spectrum for fifth-generation (“5G”) wireless, Internet of Things (“IoT”) and other spectrum-based services.

Collectively, the Local Broadcasters currently operate 160 television stations in 35 states across the country. Many of their stations are affiliates of the major networks, and most of the stations use receive-only earth station dishes to receive their network and other programming via C-band spectrum. Each dish is generally used to receive one network programming stream,

¹ *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Order and Notice of Proposed Rulemaking, GN Docket Nos. 18-122 and 17-183 (rel. July 13, 2018).

meaning that stations with multiple network affiliations must have multiple dishes. Most of the earth stations are located at the stations' primary studios, but many stations also have dishes at other locations, such as their tower sites or group facilities. Together, the Local Broadcasters registered more than 500 receive-only earth station dishes by the Commission's October 17 registration deadline.²

The Local Broadcasters recognize the Commission's goal to accelerate 5G adoption, but the Local Broadcasters urge the Commission to move forward carefully on the reallocation of C-band spectrum. Specifically, the Commission should only reallocate spectrum if doing so will not harm incumbent users. Further, if the Commission determines that reallocating C-band spectrum is in the public interest, the Commission must adopt protections for incumbent users so that their current operations will not be frozen in place. Contrary to the proposal in the *Notice*, C-band receive only earth station owners must be permitted to relocate or replace their earth stations if they move their facilities to new studios, new towers or other new locations, or if they acquire additional programming.

II. THE COMMISSION SHOULD CAREFULLY CONSIDER THE TRUE COSTS OF REALLOCATING THE C-BAND.

In the hands of wireless carriers, C-band spectrum is expected to be used for 5G services sold to consumers and businesses for a fee as part of wireless networks that integrate spectrum

² See *Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band; 90-Day Window to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, Public Notice, GN Docket No. 18-122 (rel. April 19, 2018); *International Bureau Announces 90-Day Extension of Filing Window, to October 17, 2018, to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band; Filing Options for Operators with Multiple Earth Station Antennas*, Public Notice, GN Docket No. 18-122 (rel. June 21, 2018). The Commission extended the deadline by two weeks on October 17 because the FCC's filing system could not handle the large number of registrations that were coming in at the deadline. See *International Bureau Announces Two-Week Extension of Filing Window for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, Public Notice, GN Docket No. 18-122 (rel. Oct. 17, 2018).

from many different spectrum bands, and a number of new spectrum bands are already being readied for reallocation and auction. For example, the Commission will conduct two auctions of high-band mmW spectrum starting in November 2018, and the Commission recently completed an auction of low-band 600 MHz spectrum in the broadcast incentive auction.³ The Commission also is considering reallocation and auction of other mid-band spectrum, including the 2.5 GHz EBS band and the 3.5 GHz band.⁴

As one input in large 5G networks, C-band spectrum is fungible for wireless carriers – other spectrum bands can and will offer the same or similar functionality as terrestrial C-band spectrum. In contrast, television and radio broadcasters and cable operators today rely on C-band spectrum to receive the programming they deliver to their viewers and listeners, and have done so for decades. Using C-band spectrum pursuant to contracts with satellite carriers, programmers can distribute programming nationwide to broadcasters and cable operators. While limited alternatives exist in some urban and suburban locations, no other method of delivering programming has the same reliability and national reach as C-band spectrum.

C-band spectrum delivers the nation’s most-watched programming every year. Without C-band, many Americans would not be able to watch the Super Bowl, the Oscars, the NCAA Tournament, coverage of Presidential debates, or any other network programming. The Local Broadcasters therefore agree with Commissioner O’Rielly that “any reallocation must fully protect the incumbent contractees that currently use C-band to bring many services to consumers

³ See, e.g., *Auctions of Upper Microwave Flexible Use Licenses for Next-Generation Wireless Services, Status of Short-Form Applications*, Public Notice, AU Docket No. 18-85 (rel. Oct. 10, 2018) (confirming that Auction 101 is scheduled to begin on November 14, 2018 and Auction 102 will begin at the conclusion of the bidding for Auction 101).

⁴ See *Transforming the 2.5 GHz Band*, Notice of Proposed Rulemaking, WT Docket No. 18-120 (rel. May 10, 2018); *Promoting Investment in the 3550-3700 MHz Band*, Report and Order, GN Docket No. 17-258 (rel. Oct. 24, 2018).

... any final proposal that doesn't do that will be close to a non-starter.”⁵ Commissioner Rosenworcel echoed this concern, stating that the Commission “need[s] to acknowledge that these frequencies are used right now by television and radio broadcasters and cable operators to deliver programming to more than 100 million American households.”⁶

As parties such as the National Association of Broadcasters, National Public Radio and NCTA – the Internet & Television Association already have explained, C-band spectrum is a critical input for the reliable delivery of programming to American households across the country, especially in rural and remote areas.⁷ Accordingly, when making decisions in this proceeding, the Commission must carefully consider the impact reallocation will have on programming delivery for free, over-the-air television and radio (and for cable television operators), and whether those costs are balanced by the value to consumers of incrementally more spectrum for wireless services which consumers may purchase for a fee. The Commission should move forward and reallocate spectrum only if it determines that the potential benefits to consumers via the wireless industry substantially outweigh the concrete benefits consumers enjoy now from broadcasters' current use of C-band spectrum.

⁵ Notice, Statement of Commissioner O’Rielly at 1.

⁶ Notice, Statement of Commissioner Rosenworcel at 1.

⁷ See, e.g., *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Reply Comments of the National Association of Broadcasters, GN Docket No. 18-122 (filed June 15, 2018) at 2-3; *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Ex Parte Notice of National Public Radio (NPR), GN Docket No. 18-122 (filed July 5, 2018); *International Bureau Seeks Comment on Satellite Communications Services for the Communications Marketplace Report*; Comments of NCTA – the Internet & Television Association, IB Docket No. 18-251 (filed Sept. 7, 2018).

III. C-BAND EARTH STATION OPERATORS MUST BE ALLOWED TO RELOCATE OR REPLACE THEIR SATELLITE DISHES IN THE FUTURE.

In the *Notice*, the Commission proposes to limit new C-band earth stations. All C-band earth station operators were instructed to register their dishes by October 17, 2018, and only registered dishes are likely to be recognized and protected should C-band spectrum be reallocated.⁸ In addition, going forward, the *Notice* proposes that earth station owners would be able to “modify these stations at the registered locations but not add new stations in new locations, and applications for new earth station registrations would not be allowed.”⁹ This proposal is unworkable and should be rejected.

First, there are many reasons why stations may move to new studio or tower locations. In just the last few years, Gray Television, for example, has strengthened its local news presence by constructing new, state-of-the-art television facilities in locations such as Madison, Wisconsin; Sioux Falls, South Dakota; and North Platte, Nebraska. In Sioux Falls, Gray relocated to a new studio in 2016. There was not room on the downtown building roof for all the C-band earth station dishes. Accordingly, as part of that project, Gray established a new satellite dish farm a few miles outside of town on land that was purchased for the project. This necessitated purchasing five new C-band earth station dishes for the new location, as Gray could not move the existing dishes without losing the programming feeds. If Gray acquires KDLT, it will need to add another C-band dish to the satellite dish farm.¹⁰

⁸ *Notice* at ¶ 27.

⁹ *Notice* at ¶ 30.

¹⁰ Gray’s application to acquire KDLT is currently pending. The closing of the Gray - Raycom transaction will also necessitate other C-band earth station moves. For example, in Odessa and Waco, where both Raycom and Gray own stations, Gray plans to take the Raycom Telemundo signal and move it from Raycom’s studio in both markets to the Gray studios. This will require both markets to purchase new C-band earth stations to receive the Telemundo programming.

In addition, Gray is currently constructing a new state-of-the-art 30,000 square foot facility using the latest broadcast technology to house its television stations in Augusta, Georgia. The new Augusta facility will be six miles from its current studio. When completed in late 2019, “the professional journalists of WRDW/WAGT will be able to bring the news that matters to . . . viewers quicker, with more vibrancy than ever before.”¹¹ When the move to the new studio takes place in 2019, Gray will need to relocate ten to twelve C-band earth stations to its new studio location.

Meredith has also moved C-band earth stations as part of transactions. For example, after owning KPHO in Phoenix since 1952, Meredith acquired another station in Phoenix, KTVK, in 2014. Owning two stations in Phoenix allowed Meredith to create a new, state-of-the-art news facility at the KTVK studio location. Combining the stations and their resources has allowed Meredith to produce almost 100 hours of local news programming in Phoenix each week. When the stations pooled their resources to open the new news facility, Meredith had to move the C-band earth stations used to receive CBS network programming from the old KPHO studios to the renovated KTVK site.

Block Communications provides another example of when broadcasters may need to move or replace earth stations in new locations. For Block, its television stations in Lima, Ohio, must move to a new television tower to accommodate station channel changes caused by the Incentive Auction repack. The new tower is currently under construction and should be completed in early 2019. When the tower is finished, however, Block may not be able to relocate or add C-band earth stations to its new tower location if the registration freeze remains.

¹¹ Hilton Howell, President and CEO of Gray Television, *News Release: Gray TV Breaks Ground on New WRDW-TV Station Facility in Georgia* (rel. July 12, 2018).

Second, in addition to physical moves that necessitate the relocation (or replacement) of earth stations, broadcasters may need to acquire new earth stations if they change or add network affiliation(s). The major television networks (ABC, NBC, CBS and FOX), as well as many of the smaller networks, use C-band spectrum to distribute programming to network affiliates and their owned and operated stations. When a network affiliation moves to a new station, the new affiliate needs a way to access the network's programming. In most cases, that is accomplished by relocating one or more receive-only C-band earth station dishes or by installing new dishes.

In Rapid City, South Dakota, for example, Gray Television acquired the ABC affiliation in 2016 and combined it with its existing operations in the market. To add the ABC programming, Gray invested millions of dollars in a major capital project to renovate and upgrade its studio into a new, state-of-the-art facility for its Rapid City stations, enabling the stations to expand and enrich their coverage of local news and events in western South Dakota. The expansion, renovations and new network affiliation required the installation of new equipment, including the relocation of two C-band earth station dishes. Similarly, in Wausau, Wisconsin, Gray Television acquired the FOX affiliation in the market and moved the FOX station into its existing building in Wausau. As part of that project, Gray again relocated two C-band earth station dishes several miles across town.

Stations adding smaller networks need to add C-band earth stations as well. For example, Gray Television added the CW network in five markets in September (Lincoln, Reno, Parkersburg, Presque Isle, and North Platte). In each of those markets (except Reno) there was no local CW option beforehand – it was a brand new service for the market. To add the new network, Gray had to purchase or repurpose C-band earth stations in each market. Gray has also added or is adding the ION network on multicasts in about a dozen markets. In the majority of

the markets, those new program streams require a new C-band earth station dish to be added at the market's studio or tower site. Similarly, Meredith has added new networks such as Escape, Grit and Laff to its stations' multicast channels. These channels, targeted to niche audiences, such as women ages 25-54, bring additional free, over-the-air programming to viewers in the Meredith station market areas. Adding these programming streams required Meredith to install new C-band earth stations in almost all cases.

As these examples show, the Commission's proposal in the *Notice* to freeze C-band earth station usage as of April 2018 is unworkable and would impose substantial harms on broadcasters. It would also impose substantial burdens on Commission staff, as they will be flooded with waiver requests by broadcasters who need to move or purchase C-band earth station dishes in order to transmit programming and information to the public. Indeed, the Local Broadcasters themselves have already filed waiver requests for needed earth stations that have been installed since the April 2018 freeze. Accordingly, the Local Broadcasters urge the Commission to allow broadcasters to relocate and/or replace C-band earth stations when stations physically move to new studios, tower sites or other new locations. Broadcasters also must be allowed to register new earth stations as their programming needs change. Without these protections, all Americans who watch or listen to free over-the-air television or radio will be harmed if stations lose their ability to reliably provide programming in all geographic areas.¹²

¹² The Local Broadcasters note that in other contexts, parties have argued that low income and minority populations are most likely to depend on cost-free television and radio for their news and entertainment. *See, e.g., Children's Television Programming Rules*, Notice of Proposed Rulemaking, MB Docket No. 18-202 (rel. July 13, 2018) at ¶ 43 (asking about the educational and informational needs of children in lower income families). The needs of those populations, especially those living in rural areas, would be especially at risk if the Commission fails to provide broadcasters with the flexibility to move or replace their receive-only C-band earth stations.

IV. CONSUMERS AND INCUMBENT C-BAND USERS SHOULD BE PROTECTED.

If the Commission determines to reallocate portions of the C-band, it must protect consumers who rely on broadcasters for their news and information by ensuring that current C-band users can continue to provide services after the reallocation. Consumers have already lost service from radio and television stations because of the post incentive-auction repack and recent events such as Hurricane Michael.¹³ Here, if the Commission reallocates C-band spectrum, it must acknowledge that many stations, especially smaller and rural stations, simply lack the resources either to retrofit their existing C-band earth stations or explore other programming delivery options. Accordingly, to adequately protect consumers, any reallocation must ensure that affected broadcasters have a way to continue receiving programming via satellite without requiring new investment.

The public interest suffers when free over-the-air broadcasting is curtailed. This is particularly the case when the free services provided by broadcasters are replaced by subscription wireless services that not all Americans can afford. Requiring viewers and listeners to subsidize the wireless industry by foregoing relied-upon services is flatly contrary to the public interest. Any Commission decision requiring new investment from broadcasters to facilitate the expansion of expensive subscription services is equally misguided.

If the Commission goes forward with the proposed reallocation, it must take into account the costs imposed on existing service providers and create mechanisms to ensure that consumers and incumbent users do not bear those costs. Accordingly, all broadcasters should be provided

¹³ The Local Broadcasters assume that many C-band earth stations used by television and radio stations and cable operators were destroyed by Hurricane Michael when it devastated the Florida panhandle less than a month ago. Will the current filing freeze allow broadcasters and cable operators to replace those dishes and resume delivering programming to viewers and listeners, or will those new dishes not be subject to protection or reimbursement if the Commission reallocates C-band spectrum?

with any needed filters and the technical assistance necessary to install them. Alternatively, if a wireless operator or satellite provider wishes to pay a broadcaster to switch to a different mode of programming delivery, those negotiations should be allowed, but only at the broadcaster's voluntary election. Broadcasters, however, should not be forced to vacate their C-band earth stations because they are moving or otherwise expanding their operations. By maintaining a freeze on new C-band earth station registrations or moves, the Commission would disrupt broadcasters' ability to offer their free, over-the-air services, hurting consumers and disserving the public interest.

Respectfully submitted,

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