

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
INCENTIVE AUCTION TASK FORCE)
AND MEDIA BUREAU SEEK COMMENT) MB Docket No. 16-306
ON POST-INCENTIVE AUCTION TRANSITION)
SCHEDULING PLAN)
)
Expanding the Economic and)
Innovation Opportunities of) GN Docket No. 12-268
Spectrum through Incentive Auctions)

To: The Commission

**NATIONAL TRANSLATOR ASSOCIATION COMMENTS
IN THE NOTICE OF PROPOSED RULEMAKING**

The National Translator Association (NTA) here submits its comments with respect to the staff proposals for a segmented transition schedule to the forthcoming incentive auction re-packing (DA 16-1095).

NTA is a trade association representing some 3,658 TV translators and the communities for which they provide vital telecommunications services. Our goal, since the early days of television broadcasting, has been to assure as far as possible the availability to all the people of the United States a free over-the-air broadcast service. For most of our history, this goal has been shared with the U.S. Congress and by generations of Commissioners and staff of the Federal Communications Commission.

With the incentive auction, now underway, we note that this core objectives has ceased to be shared within the current cadre of incumbent governmental executives. An express goal of the auction, aside from its freeing spectrum for new uses, is to reduce the population of over-the-air television broadcast services, both commercial and non-commercial. The predicate of this goal is that these services do not represent value to the public, comparable to the alternatives. Of course NTA disagrees with this formulation but we are resigned to the fact that, in the longest term, it will not change and that eventually, it will need to be judged by history. In the current fashion, telecommunications services are regarded as valuable only insofar as they can be monetized. All citizens and residents are reduced to their market role as "consumers." Not today, but some day out there in the distance, it may be recognized that this valuation is too crabbed and narrow for a Nation that depends on communications to freely exercise First Amendment rights and to secure representation through an informed electorate.

This large concern comes home with particular force, in those rural communities that depend for their television service, in substantial part, on clusters and networks of over-the-air television translators. Since 1981 they have been joined by low power television broadcast service, a small but meritorious expansion of choice for citizens and viewers (or if you insist, consumers). These interests, being small, largely rural, and unrepresented by lobbyists, have been safely disregarded, in the FCC recommendations that led to the incentive auction legislation, and now in the various re-packing scenarios. Before we discuss the ideas that underlay the current public notice, we remind the Agency of two salient facts. First, the incentive auction and the repacking scenario have been designed as though TV translators did not exist. Second, to the extent that relocation and reassignment costs are incurred, a

reimbursement mechanism has been established for full service and Class A TV stations. Again, TV translators and low power television station are treated as shadows on the wall, and are faced with the harsh choices of going out of service, or of incurring one or more retrofits as an unfunded Federal mandate.

It has been understood for some time that the FCC envisions a 39-month repacking scenario, beginning immediately upon the satisfaction of the final stage rule. Serious questions have been raised as to whether or not the transition can be attained during this, a rather arbitrarily selected window of three months plus 36 months. The present notice leaves this target alone, but attempts to make compliance with it more likely, by slicing and dicing into 10 phases, as determined by two computer-based tools. NTA suggests that this may be valuable in addressing some resource bottle necks, such as equipment supply and skilled installers. But if the schedule is fundamentally infirm, chopping it into bite sized increments will not do much good. From NTA's perspective, an unattractive feature of this approach, with its illusion of precision through computer modeling, is that it makes the selection of priorities increasingly obscure. If, as suggested at para. 26, the process could be subject to an individual station's statutory right of reconsideration, there is nontrivial risk that the entire scenario could degenerate into chaos. Of course, from NTA's standpoint, our core objection is that the selection of prioritized stages will be done according to a hierarchy of computerized objectives that treats the existing translators and LPTV stations as though they did not exist.

In view of all this NTA believes that, specifically as it affects TV translators, the 39 month scenario should not precede channel changes and other changes permitted by TV translators and LPTV stations. Rather, from the very beginning of the 39-month window, all TV translators and LPTV stations should be assumed to be entitled to displacement relief, under existing procedures and provided that operation on a non-interfering basis is maintained. There should be no limit on the number of such changes per station. Further, the one-year non-operation statute should be categorically waived for TV translators and LPTV stations, in recognition that suspension of operations at any time and for any length of time during the 39-month period will be preferable to the irrevocable loss of ongoing services. There will be time enough after the 39 month window to give stations adequate opportunity to confirm that they have retrofitted, and are ready to go back on the air.

We note that the Commission in the past has declined so much as to recommend to the Congress that any retrofit compensation scheme include TV translators. If it turns out that the allowed transition fund of \$1.75 billion proves inadequate and there is movement toward a supplemental appropriation, NTA submits that the Commission has an obligation to stand up for the rural residents whose service they are terminating, and urge that funding be included for these services.

Finally, we reiterate our core position that no rural TV translator service should be terminated by Federal administrative fiat. Only unless and until new or displaced services are ready to come on line should TV translators be required to vacate their incumbent channels and service areas.

James R. McDonald, President