



601 Pennsylvania Ave. NW
North Building, Suite 800
Washington, DC 20004

July 17, 2017

Written Ex Parte Communication

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: *The Incentive Auction Task Force and Media Bureau Announce Procedures For Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, MB Docket No. 16-306; GN Docket No. 12-268

Dear Ms. Dortch:

I am writing to inform you of a voluntary commitment that T-Mobile USA, Inc.¹ (“T-Mobile”) is making to compensate certain low power television stations that operate on a secondary basis and are unable to obtain a permanent channel in time to accommodate T-Mobile’s rapid deployment of broadband service in the 600 MHz band. As detailed more fully below, T-Mobile is offering to pay the reasonable costs associated for such stations to move from a temporary channel to a permanent channel. While these stations are required to vacate the 600 MHz band when the broadband provider is ready to initiate service, T-Mobile recognizes that some of these stations may need to move twice, and T-Mobile is willing to go beyond what is required and compensate these stations for the additional move. T-Mobile’s voluntary commitment will significantly ease the burden on these stations and help ensure that their service to the public is not disrupted.

T-Mobile is moving quickly to realize the benefits of the incentive auction that Congress and the FCC envisioned by deploying competitive broadband services throughout the country, particularly in rural America. Broadband stimulates economic growth, creates jobs, and enhances global competitiveness while revamping fields as diverse as education, energy production and agriculture. Indeed, after the 600 MHz auction closed with nearly \$20 billion in winning bids, a bipartisan group of House Energy and Commerce Committee leaders declared the auction a “success” that had “revolutionized the way that our nation makes spectrum

¹ T-Mobile USA, Inc. is a wholly owned subsidiary of T-Mobile US, Inc., a publicly traded company.

allocation decisions.”² Representatives Greg Walden, Frank Pallone, Jr., Marsha Blackburn and Mike Doyle added that they expected all stakeholders to continue to “work together to free up our airwaves and usher in the future of wireless broadband.”³

T-Mobile began laying the foundation for accelerated broadband deployment well over a year ago by investing in the people and equipment necessary to clear the 600 MHz band within the 39 months adopted by the FCC to allow deployment of wireless advanced broadband services throughout the country. T-Mobile has spent considerable time and money to better understand broadcasters’ needs and to accelerate broadcasters’ post-auction transition to new facilities.⁴ Our efforts include investing in broadcast equipment manufacturing capacity and installation resources and providing relocation assistance to public television stations.⁵ To further accelerate the rapid deployment of wireless broadband throughout America, T-Mobile today announces that it will assist in paying the duplicative costs that low-power television and TV translator licensees might reasonably incur as a result of T-Mobile’s rapid 600 MHz broadband deployment.

T-Mobile expects to have at least ten megahertz of 600 MHz spectrum clear and ready for deployment across an area covering more than one million square miles by the end of 2017.⁶ T-Mobile’s rapid rollout of its newly won 600 MHz licenses will include hundreds of thousands of square miles of rural and remote portions of the country whose residents the traditional wireless carriers have all too often overlooked and underserved. Most of the spectrum T-Mobile will use to support its massive investment in broadband infrastructure is unencumbered and will support immediate broadband deployment. But in some areas, legacy low-power television and TV translator stations operate on a secondary, non-interference basis.⁷

² Press Release, Energy and Commerce Committee, Bipartisan Committee Leaders Comment on Incentive Auction (Feb. 15, 2017), <http://bit.ly/2lkHrsT>.

³ *Id.*

⁴ See *On Time and On Budget: Completing the 600 MHz Incentive Auction Repacking Process Within the FCC’s 39-Month Relocation Deadline and the Budget Established by Congress*, Report, T-Mobile, BTTI, Hammett & Edison (filed as an attachment to the Ex Parte Notice of T-Mobile to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268, AU Docket No. 14-252 (filed Feb. 17, 2016)), <http://bit.ly/2nAvVeJ>; *On Time and On Budget: A Response to Digital Tech Consulting, Inc.’s March 2016 Presentation on the State of Broadcaster Relocation Resources*, Report, T-Mobile, BTTI, Hammett & Edison (filed as an attachment to the Ex Parte Notice of T-Mobile to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268, AU Docket No. 14-252 (filed May 11, 2016)), <http://bit.ly/2uP191Q>.

⁵ See Press Release, PBS, Public Television Joins Forces With T-Mobile to Preserve Access to Public Television for Millions in Rural America (June 29, 2017), <http://to.pbs.org/2tteX4V>; Press Release, Electronics Research, Inc., ERI to accelerate completion of TV channel repack post FCC’s Broadcast Incentive Auction (2016), <http://bit.ly/2vamDpD>; *ERI and T-Mobile Deal for Crews and Facilities Puts 39-month Repack Deadline Closer to Being Met*, WIRELESS ESTIMATOR (April 21, 2016), <http://bit.ly/2suBJED>.

⁶ See, e.g., *T-Mobile Is Kicking Off 600 MHz Testing This Summer*, WIRELESS WEEK, <http://bit.ly/2s9j0RU> (June 15, 2017).

⁷ Low-power television and television translator stations operating in the 600 MHz band are collectively referred to here as “secondary stations” or “secondary licensees.”

These secondary stations enjoy fewer protections than full-power and Class A licensees. Secondary licensees were ineligible to participate in the incentive auction, ineligible for relocation funds and not entitled to protection against harmful interference under the FCC's rules.⁸ As a result, secondary stations must terminate operations in the 600 MHz after receiving notice from the new licensees in the band.⁹ Consistent with these notice provisions, T-Mobile has already notified some secondary 600 MHz LPTV and television translator licensees of T-Mobile's deployment plans and the secondary licensees' obligation to avoid causing interference to T-Mobile's mobile broadband operations.¹⁰

T-Mobile recognizes the valuable services that these secondary licensees can provide to the public, and the FCC has adopted numerous measures to support legacy secondary operations, including a process by which secondary licensees displaced by 600 MHz broadband deployments can seek new licenses in the remaining broadcast spectrum below the 600 MHz band.¹¹ Under the FCC's rules, displaced secondary stations will have an opportunity to file applications to access another channel in the repacked TV band or to enter channel-sharing arrangements during a so-called Special Displacement Window the Media Bureau will open no sooner than November 13, 2017.¹²

In some areas, however, the Special Displacement Window for secondary licensees could occur after T-Mobile's planned 600 MHz wireless broadband deployment. The potential for T-Mobile's broadband deployment to outpace the anticipated timing of the FCC's displacement window could require some secondary licensees to relocate to temporary channels that differ from the permanent alternative channels the secondary operators may receive following the assignment of frequencies available during the Special Displacement Window. As a result, some secondary operators could face two sets of relocation expenses – one set of relocation expenses prior to the opening of the Special Displacement Window and a second set of relocation

⁸ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567 ¶¶ 236-241 (2014), <http://bit.ly/1DL0pdy> (“Incentive Auction Order”), *aff'd*, *Nat'l Assoc. of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015).

⁹ See *id.* ¶ 668.

¹⁰ See Letter from Michael A. Lewis, DLA Piper, LLP (US) to Marlene H. Dortch, Docket Nos. 16-306, 12-268 (June 1, 2017), available at <http://bit.ly/2sFf0qd>.

¹¹ See *Incentive Auction Order* ¶ 657.

¹² The FCC has said it intends to announce an opportunity for secondary licensees to apply for new channels after the primary full power and Class A television licensees have had an opportunity to apply for their preferred channel locations. See *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858 ¶ 15 (MB 2017); *Incentive Auction Order* ¶¶ 552-553. To allow sufficient time for primary licensees to select their preferred locations, the so-called Special Displacement Window for LPTV licensees cannot occur until “approximately seven to eight months after release of the Closing and Channel Reassignment Public Notice on April 13, 2017,” or sometime between November and December of 2017. See *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translator Stations During the Post-Incentive Auction Transition*, Public Notice, 32 FCC Rcd 3860 ¶ 15 (MB 2017), <http://bit.ly/2sUWKgS>.

expenses after processing requests for alternative channels received during the Special Displacement Window.

This type of double-payment risk, while fully consistent with the Spectrum Act of 2012, has generated concern among some secondary licensees.¹³ T-Mobile has heard those concerns and wants to address them because even though the Spectrum Act of 2012 requires secondary licensees to pay their own relocation costs, T-Mobile appreciates that its rapid deployment may create an additional burden on these secondary operators if they need to relocate more than once.

T-Mobile therefore will reimburse eligible secondary licensees¹⁴ for the costs that they reasonably incur to comply with the permanent channel assignment they may receive under the Special Displacement Window to the extent those channel assignments differ from the channel assignment these licensees may build following displacement from the 600 MHz band due to T-Mobile's rapid broadband deployment.¹⁵

¹³ See Reply Comments of Free Access & Broadcast Telemidia, LLC, GN Docket No. 12-268, MB Docket No. 16-306 (filed Nov. 15, 2016), <http://fcc.us/2u9UPoQ> (“[The Commission] failed to size the additional cost imposed on LPTV businesses of having to move two or more times without reimbursement that other licensees are given”); Comments of National Translator Association, GN Docket No. 12-268, MB Docket No. 16-306 (filed Oct. 31, 2016), <http://bit.ly/2t5Hbhn>; see also Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012).

¹⁴ Only translator and LPTV licensees that must terminate existing operations due to T-Mobile's 600 MHz band deployments that occur prior to the Special Displacement Window are eligible to participate in the reimbursement program administered by T-Mobile (Supplemental Reimbursement Program). T-Mobile will not reimburse second-move expenses for secondary licensees that are not operational or are not validly licensed at the time they receive notice of T-Mobile's intent to deploy, nor will T-Mobile reimburse second-move expenses for secondary licensees that discontinue operations on their own initiative or due to a third-party's 600 MHz band deployment. The Supplemental Reimbursement Program is intended to allow eligible secondary licensees to purchase and install facilities that are comparable to those in operation at the time of receiving notice of T-Mobile's intent to deploy; therefore, the Supplemental Reimbursement Program excludes costs that may be necessary to resolve mutual exclusivity among licensees as well as other ancillary or consequential expenses that might be associated with relocation. This reimbursement provision is also based on the current clearing process and timeline and may not be available if the timeline or process is significantly altered or delayed.

¹⁵ For full-power and Class A television licensees, for example, the Spectrum Act of 2012 requires that the FCC “reimburse costs reasonably incurred by” reassigned to new channels and the FCC has established numerous guidelines on what types of costs are, in fact, “reasonably incurred.” See 47 U.S.C. § 1452(b)(4)(A)(i) (directing the FCC to pay from the relocation fund costs “reasonably incurred” by certain eligible broadcast television licensees); see also *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Declaratory Ruling, 31 FCC Rcd 4246 (MB 2016), <http://bit.ly/2tFSVcy> (“Reimbursement Declaratory Ruling”); *Incentive Auction Task Force and Media Bureau Finalize Catalog of Reimbursement Expenses*, Public Notice, 32 FCC Rcd 1199 (MB 2017), <http://bit.ly/2tFxbgX>. In administering the Supplemental Reimbursement Program, T-Mobile will generally follow the procedures and reimbursement guidelines established by the FCC. For example, the FCC has developed a Catalog of Eligible Expenses, which identifies the kinds and amounts of expenses that will be reimbursed to full-power and Class A television licensees, who are required to relocate to a new channel. See *Catalog of Potential Expenses and Estimated Costs*, FCC (2017 Update), <http://bit.ly/2sWyFGn>. T-Mobile will use the Catalog of Eligible Expenses as a general guide for cost reimbursement of eligible secondary stations. In addition, the FCC has held that “[a]ll claimed expenses are subject to review by the Media Bureau

T-Mobile's voluntary commitment to reimburse secondary 600 MHz licensees for the reasonable cost of any second move that would be required due to T-Mobile's rapid broadband deployment will ensure that no secondary licensee in the 600 MHz band has to pay twice to relocate operations following the 600 MHz incentive auction. T-Mobile's voluntarily commitment will help minimize the overall effect on secondary stations in the band while continuing to permit rapid deployment of broadband service throughout the nation.

Secondary licensees eligible for T-Mobile's Supplemental Reimbursement Program will have received notice of T-Mobile's intent to deploy in their area; they should contact the representative listed in their notice letter for additional information about this program. Should the Commission have questions concerning this letter or T-Mobile's voluntary commitment to secondary licensees in the 600 MHz band, please feel free to contact me.

Sincerely,

Steve B. Sharkey
Vice President, Government Affairs
Technology and Engineering Policy
T-MOBILE USA, INC.
(202) 654-5900

to ensure that each expense is reasonable.” *Incentive Auction Order* ¶ 622. When reimbursing LPTV licensees for the cost of duplicative relocation expenses, T-Mobile will likewise reserve the right to ensure the reasonableness of each expense in the context of the planned relocation, including reviewing the costs associated with both the first and second moves to ensure that costs are attributed in a reasonable way. Once an LPTV operator submits a valid request for reimbursement, T-Mobile will reimburse the claim within a reasonable amount of time of receiving it, consistent with the duration of time necessary for the reimbursement of final expenses for full-power and Class A television licensees. Finally, the Commission's reimbursement program includes a sunset date: no expenses will be reimbursed after the close of the three-year relocation period. *See Reimbursement Declaratory Ruling* ¶ 2. In reimbursing LPTV and TV translator operators for the duplicative relocation expenses of eligible secondary licensees, T-Mobile will follow a similar policy: all reimbursement claims will have had to have been submitted and processed during the three-year relocation period.