



**LPTV
SPECTRUM
RIGHTS
COALITION**

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Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Email Regarding GN Docket No. 12-268, MB Docket No. 14-57 & MB Docket No. 14-90

Dear Ms. Dortch:

The LPTV Spectrum Rights Coalition, (the “Coalition”), represents a diverse group of over 155 FCC LPTV licensees with more than 1000 built /licensed LPTV stations, and new construction permits, in most all 50 states, DC, and Puerto Rico. We also have as members numerous programming networks and professional service providers to the LPTV industry. Our members provide 100s of diverse, local, and national channels reaching more than 75+ million viewers. Within the Incentive Spectrum Auction National Proposed Rule Making (page 119), in response to the Auction Act itself, the FCC asks,

“We invite comment on measures that the Commission might take outside of the context of the multiple ownership rules to address any impact on diversity that may result from the incentive auction.... We envision that such measures might include ways to encourage multicasting opportunities or other alternative means of program delivery that could help to ensure that consumers will continue to have access to specialized or minority-oriented programming post- auction.”

With the above in mind, we ask that within both the Comcast-Time Warner-Charter, and AT&T-Direct TV mergers, that the FCC ask from each of the participants, for a comprehensive accounting of how many LPTV stations they currently carry, which markets they carry them within, and the terms of these arrangements, such as must-carry, leased access, or retransmission consent.

If the FCC is to comply with the intent of Congress in regards to the Incentive Spectrum Auction, it needs to investigate how the MVPD industry in total, as well as these mergers, are currently integrating local and diverse content into their line-up's and at what costs. This will give the FCC the needed data points it requires to ascertain whether or not there should be further LPTV accommodation with the Auction and repacking process for the local and national diverse content networks which air on LPTV. This is especially important since Comcast, in its' September 23, 2014 Reply Comments in the MB-14-57 Docket, on page 321 says:

"Comcast is free to enter into retransmission consent deals with some LPTV stations and not others based on its editorial discretion and business judgment..."

While Comcast may have the right to make editorial, or First Amendment choices about which content it airs on its' systems, our Coalition believes it is abusing the leased access rules by offering zero-cost rates to some LPTV stations, and standard rates to others. This is why we ask for the terms of all leased access contracts and retransmission consent contracts for LPTV stations.

In addition, the FCC needs to request from each of the merger participants' two key data points in regards to "civic content". This is the E&G of the PEG cable channels across the country. The reason this is important data to gather is that our Coalition has first-hand experience in hearing from local government agencies and local LPTV operators that local cable franchise agreements are being used to prevent LPTV stations from airing education and government content created within the PEG systems. In so much that in many communities cable carriage is less than 50% of the local households, and local community funds are being used to produce this local civic and education programming, it is not reasonable at all for cable MVPD to demand that local jurisdictions not allow LPTV stations from airing local civic and education content.

We ask the FCC have each of the cable MVPD in these mergers provide their local franchise agreements for review to see if any negative covenants are within them which would prohibit LPTV and other local broadcasters from airing local civic and education content produced and aired by the PEG groups. This request does not include the P of the PEG, the public content, as that is private and not funded from taxpayer funds or rights of way fees. And we believe that this data may actually show "transactional harm" to LPTV.

And finally, we ask that in the case of the AT&T-Direct TV merger, that the FCC request from Direct TV how it determines which LPTV stations are included in their local databases which are part of the customer premise equipment they provide. LPTV operators all across the country are reporting that Direct TV does not list within the databases in the equipment they provide all of the local LPTV stations. This is a no-cost activity, and one that LPTV operators are reporting that DISH TV does do.

Respectfully submitted,

Mike Gravino
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