



October 10, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software, ET Docket No. 13-26, Office of Engineering and Technology Seeks to Supplement the Incentive Auction Proceeding Record Regarding Potential Interference Between Broadcast Television and Wireless Services, ET Docket No. 14-14, Notice of Ex Parte Communication

Dear Ms. Dortch:

On October 8, 2014, Bruce Franca, Robert Weller and the undersigned of the National Association of Broadcasters ("NAB") met with Matthew Berry, Chief of Staff for Commissioner Pai. In a separate meeting on October 9, Victor Tawil, Patrick McFadden and the undersigned met with Renee Gregory, Legal Advisor for Chairman Wheeler. During these meetings, NAB discussed the current proposal set for a vote at the Commission's October 17, 2014, meeting addressing the methodology for predicting inter-service interference between broadcast and wireless operations, and whether to cap the amount of population loss any one broadcaster can receive as a result of the incentive auction. NAB appreciates the efforts of the Commission's staff with respect to the methodology for predicting inter-service interference, and generally does not object to the approach the staff is taking.

NAB remains concerned that, without any meaningful cap on aggregate interference, the Commission staff will be granted the unconstrained ability to assess any level of interference to a non-participating station during the auction process. The failure to cabin the staff's discretion in this manner would be a plain violation of the Spectrum Act, and threaten the ability of viewers across the country to maintain access to the thousands of stations that remain on the air following the auction.

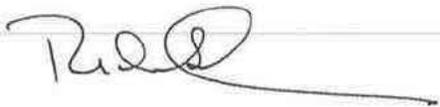
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Interference, however, is not a proxy for population loss, which is the focus of the Spectrum Act (although with coverage area). NAB has submitted record evidence demonstrating that the staff's 2% number is misleading, because that number underestimates the amount of population losses stations can receive. The staff did not take into account that more than half of all stations will move, and thus arrived at a smaller per station percentage. Even if the staff's analysis was accurate (that a meaningful metric is interference), however, it seems eminently reasonable for the Commission to cap the amount of aggregate population loss at that level. Indeed, what reason could the Commission have for not capping interference at a threshold it insists will never be crossed? NAB has advocated a 1% cap since January 2013, but has recently indicated that a 2% cap, while far from ideal, might meet the Spectrum Act's preservation mandate.

Any suggestion that a cap is infeasible is specious. First, among other things, the FCC could simply add an aggregate cap element to its existing constraint files. Second, if the reason for not adopting a cap is because the feasibility checker allegedly renders a cap impossible, then the Commission should revisit the use of this mechanism, as it is the Spectrum Act, and not the Commission's sunk costs in a particular feasibility model, that should govern the auction's operation.

NAB has worked tirelessly to ensure a timely and successful incentive auction that is fair to all parties and that benefits the American public. We believe strongly that these goals can be achieved while also remaining faithful to the Spectrum Act and ensuring that broadcasters and their viewers are not harmed. The best way to do that in this instance is to foster confidence among broadcasters that they will not be unduly harmed during repacking by providing them the certainty they need through capping the amount of new losses in population served they can receive during the process.

Respectfully Submitted,



Rick Kaplan
Executive Vice President, Strategic Planning
National Association of Broadcasters

cc: Matthew Berry
Renee Gregory