

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Expanding the Economic and Innovation) **GN Docket No. 12-268**
Opportunities of Spectrum through Incentive)
Auctions)

To: The Commission (Electronically Filed)

COMMENTS OF WATCHTV, INC.
ON PETITIONS FOR RECONSIDERATION

1. WatchTV, Inc. (“WatchTV”) hereby submits these Comments in response to several of the Petitions for Reconsideration filed in this proceeding.¹ WatchTV is the licensee of seven Class A Television Stations and seven Low Power Television (“LPTV”) stations and has applications pending for construction permits for additional new LPTV stations. It has a significant stake in this proceeding in terms of the anticipated results of repacking the spectrum and the relief to be made available to displaced Class A and LPTV stations. WatchTV filed initial comments on January 25, 2013, urging the Commission to pay special heed to the comments of Spectrum Evolution, Inc., advocating for more flexibility in how television broadcasters are permitted to utilize their spectrum assets.

2. WatchTV supports those petitioners for reconsideration which have urged that broadcasters be unleashed from restrictions on technologies they may employ, because new TV technologies will facilitate increased and more competitively priced provision of broadband services to the public. The sooner that unleashing occurs, the sooner the public will enjoy the benefits.

¹ Notice of the Petitions for Reconsideration and the 15-day deadline for responding to those Petitions was published at 79 FR 63883 (Oct. 27, 2014).

3. WatchTV is also an active supporter of the incentive auction process and intends to offer some or all of its Class A stations for sale in that auction. It has told the Commission in several *ex parte* meetings,² and continues to urge, that delays in releasing information telling television broadcasters how much money they may receive and when it will be received has created uncertainty that makes it increasingly difficult over time to make business plans. **The longer the delay, the more likely that broadcasters will have to replace aging equipment; and the more licensees are forced to rebuild their conventional TV facilities, the less likely they will be to sell, or the more money they will need to be offered to incentivize them to sell.** Conversely, the more promptly the Commission proceeds with all steps, the more auction participation the Commission can expect to attract, and at lower selling prices. WatchTV has also noted that much of the undesirable uncertainty that delay has created could be ameliorated, if not eliminated, if prospective auction participants were allowed to declare their intentions now and then take their stations dark pending the auction, thereby eliminating the financial drain that increases the level of revenue the stations will need to realize from the incentive auction.³

4. But the principal purpose of these Comments is to stress the importance of the Commission's responding favorably to Petitioners for Reconsideration that have urged unleashing television broadcasters to deploy new advanced technologies at the earliest possible date. The position taken by the Media Bureau that all TV broadcasters must transmit with the same technological standard and must move in lock-step to any new standard makes little sense

² See *Ex Parte* reports filed in this proceeding by WatchTV on June 28, 2013, October 29, 2013, January 21, 2014, and April 21, 2014.

³ Putting a licensee that plans to sell in the auction in a position where it must purchase replacement equipment to stay on the air makes even less sense in light of the anticipated near-term adoption of an improved ATSC technical standard. Equipment purchased today may become obsolete prior to the end of its normal useful life; or at least its post-auction resale value will be prematurely diminished if it operates with a backward-looking technology.

in today's hardware environment, where multiple HDMI and USB ports on nearly all TV receivers enable those receivers to be used to receive a myriad of signal formats with the addition of external devices which can be as complex as a sophisticated set-top box but also as simple as a \$10 external USB dongle. Moreover, the rapid development of software-defined receivers will allow a receiver to process a variety of signal formats in a manner essentially transparent to the television viewer. The idea that adoption of a new standard, no matter how incompatible with ATSC 1.0, will require the public to replace the receivers they just bought after the 2009 full power TV digital transition is misguided. The evolution of advanced digital formats will be vastly different from the transition from analog to digital and can be accomplished one or many times with far less disruption and cost.

5. Furthermore, shackling TV broadcasters technologically prior to the incentive auction, which in turn shackles their ability to grow their businesses economically, harms the public by curtailing competition and the variety of services and lower prices that competition always brings. The Commission seems to be driven toward the single goal of moving spectrum out of the hands of TV broadcasters into the hands of wireless service providers, with a result that is expected to concentrate spectrum resources in the hands of the few wealthiest companies that are able to bid the most for it. Congress never directed the Commission to concentrate resources or to pave the way for higher prices, which usually result from concentration. If whatever spectrum crunch may exist today is to be alleviated, the universe of competitive providers must be expanded, not contracted.

6. The Petition for Reconsideration by Artemis Networks, LLC ("Artemis") illustrates WatchTV's point. Simply redeploying more and more spectrum to wireless point-to-point will not fix the capacity problem. Artemis' new pCell™ technology promises to multiply the

capacity of the spectrum in leaps and bounds, but who has the best incentive to deploy this kind of improvement? The most likely entities are those other than entities that profit from cornering spectrum resources and declaring scarcity. Broadcasters could do it if allowed. The Advanced Television Broadcasting Alliance (“ATBA”) made this point in its Petition for Reconsideration – that the spectrum crunch is overstated and is best dealt with by the prompt deployment of new technologies by *all* providers.

7. TV stations, and especially LPTV stations that have the least success with the current broadcast business model and are the most likely to adopt new models, could provide competitive broadband services without any need to abandon, free over-the-air television service. They only need to be given more flexibility in their signal format. The Commission should open application opportunities for such flexibility as soon as possible, for many reasons, including (a) to benefit the public that pays high prices today for wireless services, (b) to avoid crippling broadcast services that are such a critical tool for the dissemination of the information and provide the diversity of voices that enables our democracy to function effectively,⁴ and (c) to avoid the stifling of diverse minority, ethnic, and female station ownership that is more pervasive in the LPTV industry than anywhere else.

8. WatchTV also strongly supports the points made by the LPTV Spectrum Rights Coalition, Free Access & Broadcast Telemedia, LLC, and ATBA that those LPTV stations which survive repacking of the TV spectrum will clearly remain licensed entities and as such will have

⁴ The importance of one-to-many content dissemination, which is what “broadcasting” is, has not been lost on the wireless service providers that expect to amass greater spectrum resources after the forward auction. Verizon Wireless has publicized its plans to use spectrum being taken from broadcasters to enter business itself. *See*: <http://www.verizonwireless.com/news/article/2013/01/verizon-wireless-4G-LTE-broadcast.html>. If Verizon can broadcast, why can broadcasters not provide broadband? WatchTV is ready to serve when TV technology is unleashed.

priority in spectrum occupancy over any unlicensed service under rules and policies which have been in effect for decades. There is no legal support that justifies (a) repurposing TV spectrum for unlicensed broadband, (b) not allowing TV stations to provide competitive broadband services in addition to broadcasting, and then (c) elevating the status of unlicensed services to allow them to crowd out broadcasters. Congress has done nothing in any statute to direct the Commission to disadvantage broadcasters so severely.

9. Finally, WatchTV questions the Commission's hierarchy that elevates Digital Replacement Translators ("DRTs") above LPTV stations and TV translators in finding homes in the truncated TV spectrum that will remain after repacking. It may be appropriate to favor DRTs where they are truly needed, but today's technology is far ahead of the technology of 2009 in terms of where true need will exist. Current broadcasting technologies support distributed antenna systems and on-channel boosters that can be used to fill in gaps in a full power station's digital service area; and boosters can be more effective for the public, because they can share the same PSIP with the primary station. The placement of on-channel distributed antennas at the fringe of a full power station's service contour, aimed into the core of the service area, along with boosters strategically placed at locations where the primary station signal is severely shadowed, can provide high quality reception throughout a full power station's service area without occupying additional channels that will be needed by LPTV stations and TV translators that have nowhere else to go. DRTs if favored at all, should be favored only in the rare circumstance that no other solution is available; and a stringent engineering showing of actual, as opposed to theoretical, need should be required.⁵

⁵ Stringent requirements for DTVs will not cripple full power stations in reaching the public, as digital technology provides for multiple streams, some of which LPTV stations can make

10. In sum, the incentive and forward auctions will not alone achieve the desired goal of relieving wireless spectrum congestion. Relief will require significant new technological advances, which new industry entrants will have the greatest incentive to deploy. Allowing TV broadcasters, including LPTV stations, to deploy these advances will quicken their deployment, as well as increasing competition and ownership diversity. These are the most realistic free-market approaches that are likely to broaden geographic deployment and control prices, and they can accomplish those objectives without burdening taxpayers and/or ratepayers by tacking charges on their bills that force them to subsidize what private capital would finance if allowed to reap the benefits.

11. Meanwhile, for those TV broadcasters who plan to participate in the incentive auction, early information and the ability to suspend money-draining existing business operations will be the best way to stimulate the maximum amount of participation.

Respectfully submitted,



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available to full power stations that feel their signal needs a boost. That is a better solution than pre-empting and shuttering an LPTV station for lack of post-repack spectrum home.

CERTIFICATE OF SERVICE

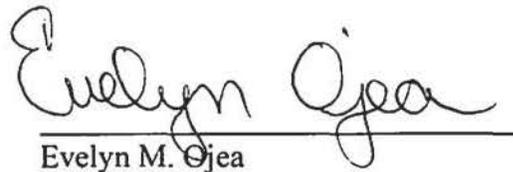
I, Evelyn Ojea, an Assistant with the office of Fletcher, Heald & Hildreth PLC, hereby certify that a true and correct copy of the foregoing "Comments of WatchTV, Inc. on Petitions for Reconsideration" was sent on this 12th day of November, 2014, via First-Class United States mail, postage pre-paid, or as otherwise specified, to the following:

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