

**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)	

**REPLY COMMENTS IN SUPPORT OF PETITION FOR RECONSIDERATION
OF BONTEN MEDIA GROUP, INC. AND RAYCOM MEDIA, INC.**

Bonten Media Group, Inc. (“Bonten”) and Raycom Media, Inc. (“Raycom,” and together with Bonten, “Petitioners”) file these Reply Comments to urge the Commission to expeditiously grant the Petition for Reconsideration filed by Petitioners in this proceeding, which no party has opposed.¹ As explained in the Petition, each of the Petitioners sought authority more than three years ago to move one of its stations — Bonten’s WCYB and Raycom’s WMC — from a low VHF channel to a UHF channel.² Petitioners filed these requests after extensive efforts to restore over-the-air broadcast television service to viewers who lost service as a result of the digital television transition — a population that includes a disproportionately high number of minority and low-income households — proved insufficient.³ Although Petitioners filed their requests before the Media Bureau established a freeze on the filing of new channel-substitution

¹ Petition for Reconsideration of Bonten Media Group, Inc. and Raycom Media, Inc., GN Docket No. 12-268 (filed Sept. 15, 2014) (“Petition”).

² Petition at 1.

³ Petition at 3-6.

petitions, and despite the Media Bureau’s commitment to continue processing pre-freeze petitions,⁴ Petitioners’ requests languished.

In its *Report & Order* setting rules for the repacking of the broadcast television band, the Commission proposed to further hinder the Petitioners’ efforts to restore service to viewers by denying protection in the repacking to Petitioners’ proposed UHF facilities and further directing the Media Bureau to summarily dismiss — without public comment — any pending VHF-to-UHF channel-substitution petitions that in the Bureau’s view would “result in an impermissible loss of existing service” or that otherwise has not made a public-interest showing to the Bureau’s satisfaction.⁵ Any remaining petitions would be held in abeyance until the Bureau lifts the existing filing freeze — creating years of additional delay for the affected viewers and stations.

As the Petition explained, the *Report & Order* disregards the substantial public interest benefits of the improved service that would result from granting Petitioners’ channel-substitution requests.⁶ Moreover, the *Report & Order* exaggerates the effect that granting Petitioners’ requests — which are the *only* pending low-VHF-to-UHF substitution requests — would have on the repacking.⁷ The *Report & Order* inequitably denies relief to Petitioners after granting such relief to similarly situated stations, including some whose requests also were

⁴ *Freeze on the Filing of Petitions for Digital Channel Substitutions, Effective Immediately*, Public Notice, 26 FCC Rcd 7721 (MB 2011) (stating that “[t]he Media Bureau will continue its processing of rulemaking petitions that are already on file”) (“*Channel Substitution Freeze PN*”).

⁵ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report & Order, 29 FCC Rcd 6567, at ¶¶ 228-231 (2014) (“*Report & Order*”).

⁶ Petition at 5-6.

⁷ Petition at 6-10.

pending when the Bureau imposed its freeze.⁸ The Petition accordingly urged the Commission to reconsider this portion of the *Report & Order*.

No party opposed the Petition or refuted its arguments in favor of the relief requested therein. As the National Association of Broadcasters noted in support of the Petition, the *Report & Order* improperly assumes that “repurposing spectrum is more important than protecting over-the-air viewers,” an assumption that does not reflect the Spectrum Act’s balance of interests.⁹ Indeed, as the Petition noted, Congress included language in the Spectrum Act specifically permitting VHF-to-UHF reassignments like Petitioners’ if “a request from such licensee for the reassignment was pending at the Commission on May 31, 2011.”¹⁰ Petitioners agree with NAB that it would violate basic notions of procedural fair play for the Commission to effectively change the date of the freeze retroactively.¹¹ Such a move would be particularly improper given Congress’s clear reliance on the Media Bureau’s commitment to process pre-freeze petitions in the ordinary course.¹²

For more than three years, Petitioners have urged the Commission to allow WCYB and WMC to restore service to viewers in the stations’ core service areas by substituting UHF channels for the stations’ existing low-VHF channels. Congress provided the Commission with explicit authority to act on these pending requests, thus establishing in plain statutory language that action on these requests serves the Spectrum Act’s goals, which are multifaceted

⁸ Petition at 10-15.

⁹ Comments of the National Association of Broadcasters, GN Docket No. 12-268, at 17 (filed Nov. 12, 2014) (“NAB Comments”).

¹⁰ Petition at 7 (citing Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 125 Stat. 156, Title VI, § 6403(g)(1)(B)(2) (2012)).

¹¹ NAB Comments at 17.

¹² See Petition at 7.

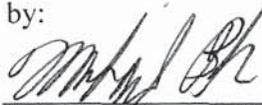
and include protection of the public's free, over-the-air television service, not just reallocation of spectrum to wireless providers. Yet the *Report & Order* ignores the clear benefits of allowing Petitioners' stations to improve their core service, exaggerates the purported effects these requests would have on the Incentive Auction and the repacking, and violates the Commission's obligation to treat similarly situated parties the same. For the reasons set forth herein and in the Petition, the Commission should reconsider this portion of the *Report & Order*, direct the Media Bureau to process Petitioners' requests on an expedited basis, and grant protection in the repacking to Petitioners' new facilities, if approved.

Respectfully submitted,

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