



February 3, 2015

VIA ELECTRONIC FILING

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

**Re: Expanding the Economic and Innovation Opportunities of
Spectrum Through Incentive Auctions, GN Docket No. 12-268;
Broadcast Incentive Auction Comment Public Notice Auction 1000,
1001 and 1002, AU Docket No. 14-252**

NOTICE OF ORAL EX PARTE PRESENTATION

Dear Ms. Dortch:

On Tuesday, February 3, 2015, the undersigned Executive Director of the Expanding Opportunities for Broadcasters Coalition (the "Coalition"), Peter Cramton of the University of Maryland, Todd Stansbury and Ari Meltzer of Wiley Rein LLP, and representatives of the licensees of auction-eligible television stations¹ met with Gary Epstein (IATF Chairman), Howard Symons (IATF Vice Chairman), William Lake (MB Chief), Melissa Dunford (WTB), AJ Glusman (IATF), Mary Margaret Jackson (IATF), Sasha Javid (WTB), and Brett Tarnutzer (WTB). Participating telephonically were Richard Bodorff of Wiley Rein LLP and additional representatives of the licensees of auction-eligible television stations, on behalf of the Coalition, and Paul Milgrom and Ilya Segal of Stanford University, on behalf of the FCC.

¹ Pursuant to the Media Bureau's February 28, 2014 public notice (DA 14-268), broadcast participants may participate in meetings with Commission staff to discuss incentive auction matters without disclosing their identities. The members of the Coalition own both full power and Class A television stations in a number of markets, including stations in several of the ten largest DMAs.



During the meeting, the Coalition representatives expressed their gratitude for the incredible work that the FCC staff has done to develop comprehensive proposals for the forthcoming Incentive Auction. The Coalition particularly appreciates the willingness of the Incentive Auction Task Force to engage in an open and thoughtful dialogue and to entertain the Coalition’s alternatives to the proposals in the *Auction Comment Public Notice* regarding opening prices to broadcast stations, dynamic reserve pricing (“DRP”), and reverse auction transparency. The Coalition also commended the Commission and the auction Staff for their commitment to maintaining the current timeline for conducting the Incentive Auction.

On opening prices, the Coalition representatives explained that the Commission’s formula to calculate opening prices was devised before bidders paid record-breaking prices in the AWS-3 auction. The Coalition argued that opening prices should be increased to reflect the current market reality. In addition, the Coalition argued that the Commission cannot justify from a legal or policy standpoint offering vastly different starting prices—prices hundreds of millions of dollars apart in many cases—to stations with nearly the identical impact on clearing spectrum. Accordingly, the Coalition urged the Commission to revise its formula to reduce, if not eliminate, the price disparity between stations with similar spectrum clearing impact.

The Coalition representatives described several alternative formulas that they have considered for calculating opening prices that better reflect a station’s “impact on the repacking process,” as required under the rules that the Commission adopted in the *Incentive Auction Report and Order*.² These formulas include factors such as the frequency at which a station is frozen in repeated auction simulations, the relative value of spectrum precluded by a given station, and the population precluded by a given station.

The Coalition evaluated each of these formulas for robustness (likelihood to result in a successful auction); estimated loss of population coverage; and estimated total clearing cost. As expected, the Coalition found that formulas such as the FCC’s, which prioritize payments to stations that

² *Expanding the Economic and Innovation Opportunities for Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd. 6567 ¶ 451 (2014).



serve the greatest population, result, unnecessarily, in the greatest loss of over-the-air television service.

The Coalition representatives explained that a preferable compromise between the formula proposed in the *Auction Comment Public Notice* and those preferred by the Coalition would modify the volume factor in the FCC's proposed formula to preserve, but reduce the weight of, a station's interference free population, as follows:

$$\text{Station Volume} = (\text{Interference})^{0.5} \times (\text{Population})^{0.25}$$

The Coalition representatives explained that this compromise formula would enhance public welfare by **increasing opening prices for all but eight of the 2,172 stations** included in the FCC's constraint files,³ thereby encouraging greater broadcaster participation, transferring more spectrum for mobile broadband use, and reducing the loss of over-the-air television service. Additionally, they explained that, using the revised pricing formula, the FCC can reallocate 126 MHz of spectrum in almost all markets at ultimate prices well below the AWS-3 prices—leaving substantial funds for deficit reduction.

The Coalition representatives also urged the Commission to abandon its proposals for calculating the initial clearing target and for DRP, which are overly complicated and will introduce unnecessary impairment and potential inter-service interference to the auction and the post-auction 600 MHz band. The Coalition encouraged the FCC to instead prioritize reallocating as much spectrum as possible for mobile broadband use. To achieve this goal, the Coalition representatives encouraged the Commission to set the initial clearing target based on the maximum amount of spectrum that can be reallocated in either New York or Los Angeles (whichever is higher, based on initial broadcaster registrations to participate in the auction).

To address the limited number of stations that cannot be repacked at the initial clearing target, the Coalition urged the FCC to adopt Round Zero Reserve ("RZR", pronounced "razor") pricing. Under RZR pricing, stations that

³ Of the eight stations whose opening prices will not increase, four are VHF stations, and none will experience a reduction of greater than two percent.



would need to be “frozen” at the start of the auction would receive a RZR price (based on a pre-determined formula) that they could accept or reject. One option for the RZR price would be double the maximum value for that station’s DMA, as reflected in the October 2014 Greenhill information package.

Stations that accept would be paid the RZR price. Stations that reject the RZR price would be repacked. The auction then would proceed for all remaining stations, without the need to create any additional impairments of the 600 MHz band. Attached as Exhibit A, hereto, is a chart illustrating how RZR pricing would work. Compared to RZR, DRP would destroy spectrum value by creating unnecessary impairments just to save a very small percentage of total clearing costs—costs easily covered by expected forward auction revenues (including from areas where the FCC can aggregate spectrum at no cost).

On transparency, the Coalition representatives explained that while they understand that there may be a valid justification for restricting the release of some *limited* amount of information during the reverse auction, the Commission should adopt rules consistent with its recognition of the need to provide broadcasters with the information they need to make sensible business judgments and an opportunity for price discovery. The disparity between the amount of information that the Commission intends to provide during the forward and reverse auctions is particularly striking, given that the broadcast market has a much more competitive market structure than mobile broadband.

Finally, on auction timing, the Coalition expressed its agreement with Chairman Wheeler’s recent statement, upon the closing of Auction 97, that “there will continue to be strong demand for valuable low-band spectrum that will be made available in the Incentive Auction early next year.”⁴ Carriers will have the incentive and the financial capacity to bid aggressively in early 2016. Given exploding consumer demand for wireless broadband, and given that the reallocated spectrum will not become available to carriers and to consumers

⁴ Statement of FCC Chairman Tom Wheeler on Auction 97 (Jan. 29, 2015), <http://www.fcc.gov/document/chairman-wheeler-statement-auction-97> (last visited Feb. 3, 2015).

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until several years after the auction, further delay would materially disserve the public interest.

The Coalition representatives stressed that their proposals will serve the public interest by enabling the FCC to conduct the auction as planned in 2016, reallocate 126 MHz of spectrum on a near-nationwide basis, and produce substantially greater public welfare than the proposals set forth in the *Auction Comment Public Notice*.

Pursuant to Section 1.1206 of the Commission's rules, attached hereto is a copy of the written presentation that was provided at the meeting.

Respectfully Submitted,

/s/ Preston Padden /s/

Preston Padden
Executive Director
Expanding Opportunities for
Broadcasters Coalition

cc: Gary Epstein, Howard Symons, William Lake, Melissa Dunford, AJ Glusman, Mary Margaret Jackson, Sasha Javid, Brett Tarnutzer, Paul Milgrom, Ilya Segal

EXHIBIT

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Time

Stations

Communication

FCC

