

*Before the*  
**Federal Communications Commission**  
*Washington, DC*

In the Matter of	)	
	)	
Amendment of Parts 73 and 74 of the	)	MB Docket No. 03-185
Commission’s Rules to Establish Rules for	)	
Digital Low Power Television and Television	)	
	)	
Expanding the Economic and Innovation	)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive	)	
Auctions	)	
	)	
Amendment of Part 15 of the Commission’s	)	ET Docket No. 14-175
Rules to Eliminate the Analog Tuner	)	
Requirement	)	

To: The Commission

**REPLY COMMENTS OF THE MULTICULTURAL MEDIA,**  
**TELECOM AND INTERNET COUNCIL**

The Multicultural Media, Telecom and Internet Council (MMTC – formerly the Minority Media and Telecommunications Council)<sup>1</sup> respectfully submits these reply comments in response to the *Third Notice of Proposed Rulemaking* in this proceeding<sup>2</sup> that seeks to explore ways of preserving the important services provided by low power television (LPTV) stations and the opportunities they offer for more minority, multicultural, and female ownership, to mitigate the impact of the incentive auction on LPTV, to broaden the base of media ownership, to

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<sup>1</sup> MMTC is a national nonprofit organization dedicated to promoting and preserving equal opportunity and civil rights in the mass media, telecommunications and broadband industries, and closing the digital divide. MMTC is generally recognized as the nation’s leading advocate for minority advancement in communications. **These Reply Comments reflect the institutional views of MMTC and are not intended to represent the individual views of MMTC’s officers, directors and advisors.** Leave is respectfully requested to accept these reply comments two days out of time.

<sup>2</sup> *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations et al., Third Notice of Proposed Rulemaking*, 29 FCC Rcd 12536, released on October 10, 2014 (“3<sup>rd</sup> NPRM”).

stimulate competition and diverse programming, and to facilitate ownership of media dissemination outlets by small businesses.<sup>3</sup>

LPTV is a valuable medium that provides local service and programming to niche markets and small communities. A concise description of the underlying objectives of Low Power Television Service appears in the Commission's web site: The FCC created the Low-Power Television (LPTV) service in 1982 to provide opportunities for locally-oriented television service in small communities. These communities may be in rural areas or individual communities within larger urban areas. LPTV service offers programming tailored to the interests of viewers in small localized areas in a less expensive and more flexible way than traditional full-service/power TV stations. It has created opportunities for new entry into television broadcasting, provided a means of local self-expression, and permitted fuller use of the broadcast spectrum. LPTV stations are currently undertaking their transition to digital operations.<sup>4</sup>

LPTV also provides a unique entry point to *ownership* of broadcast facilities, an essential component of minority entrepreneurship, which MMTC has long advocated. A 2009 survey of LPTV stations conducted by the Community Broadcasters Association provided the following analysis of LPTV ownership and programming<sup>5</sup>:

- 57% of LPTV stations have been on the air for more than 10 years
- 20% of LPTV stations have at least 10 employees
- 45% of LPTV stations are owned or partially owned by a minority.
  - 43% of these stations have a minority owner of at least 51% of the station
  - 24% of LPTV owners are Hispanic
  - 10% of LPTV owners are African American
  - 3% of LPTV owners are Asian
  - 3% of LPTV owners are Native American
  - 34% of LPTV owners are multi-racial
- 60% of LPTV stations are owned or partially owned by women
- 66% of LPTV stations offer at least some foreign-language programming
- 78% of LPTV stations that offer foreign language programming air at least 10 hours weekly of foreign language programming
- 83% of LPTV stations have local programming

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<sup>3</sup> See Comments of Spectrum Evolution, Inc. filed in this proceeding on January 12, 2015.

<sup>4</sup> See <http://www.fcc.gov/guides/low-power-television-lptv-service> (last visited Feb. 3, 2015).

<sup>5</sup> See <http://www.spectrumevolution.org/wp-content/uploads/2010/10/LPTV-Industry-Survey-1.pdf> (last visited Feb. 4, 2015).

- 49% of LPTV stations that have local programming air at least 10 hours of local programming each week
  - 55% offer religious local programming
  - 38% offer family-oriented local programming
  - 36% offer local sports programming
  - 31% offer local news
  - 28% offer foreign-language local programming

Various commenters in this proceeding have requested the compilation of current and more complete information from the FCC's databases. Nevertheless, MMTC is satisfied that, for the purposes of this proceeding, the above snapshot provides an approximate description in all essential respects of LPTV ownership.

TV translators are a type of LPTV station that adds to the diversity of programming and ownership. They serve the public interest by reaching out to rural audiences, the elderly, the less affluent and minorities. As pointed out in the Comments filed by the National Translator Association ("NTA"),<sup>6</sup> the viewers and residents in rural areas are disproportionately lower income, elderly, and are frequently minority individuals and families. The existing translator TV service has been available at low or no cost to these persons for a period approaching 50 years. MMTC concurs with NTA that even if the broadband services or cable television operators were able – or willing – to technically replace lost rural free TV service, the replacements would come at a cost far higher than the rural residents are accustomed or able to afford.

Weigel Broadcasting Co. ("Weigel"), licensee of WBND-LD, South Bend-Elkhart, Indiana, filed Comments that describe the existing service from LPTV stations that serve their communities as the functional equivalent of full power stations.<sup>7</sup> These stations are regarded – by viewers, advertisers, and networks and other programmers alike – as competitive substitutes

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<sup>6</sup> Comments of National Translator Association filed on January 12, 2015. *See* <http://apps.fcc.gov/ecfs/document/view?id=60001013005> (last visited Feb. 3, 2015).

<sup>7</sup> Comments of Weigel Broadcasting Co. filed on January 12, 2015. *See* <http://apps.fcc.gov/ecfs/document/view?id=60001012963> (last visited Feb. 3, 2015).

for the full power stations in their markets. MMTC agrees with Weigel -- failure to preserve service from these stations is contrary to the core Communications Act imperatives of diversity and competition and would result in irreparable harm to viewers and the public interest.

The National Association of Broadcasters filed Comments that underscore the risk that proceeding poses to the continued existence of LPTV:

Low power television and translator stations face an uncertain future as a result of the looming broadcast incentive auction and subsequent industry-shaking repacking. Depending on how repacking unfolds, many LPTV stations are likely to be forced off the air entirely, or will be forced to seek channel sharing arrangements to give them any hope of staying on the air. Further, even if channels are available for LPTV and translator stations, broadcasters are not eligible for reimbursement of any costs associated with relocating such stations. It is therefore unreasonable to require broadcasters to invest in new low power facilities today that may well be displaced in repacking in the next few years.<sup>8</sup>

It is important that the Commission continue to acknowledge the role of diverse, entrepreneurial, community-based, free, over-the-air broadcast service, as well as the freedom to innovate, as part of its implementation of the Spectrum Act.<sup>9</sup> Nothing in the Spectrum Act prohibits the Commission from taking steps to preserve service and unleash low power stations to innovate where appropriate.

MMTC has long been an advocate of the incentive auction and has encouraged the Commission to hold the auction expeditiously in order to satisfy the urgent need for additional commercial wireless spectrum.<sup>10</sup> In addition, MMTC urges the Commission to balance the important opportunity for spectrum repurposing with the appropriate language regarding the Commission's stewardship for LPTV contained in Section 6403(b) of the Spectrum Act:

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<sup>8</sup> Comments of National Association of Broadcasters filed on August 14, 2014. *See* <http://apps.fcc.gov/ecfs/document/view?id=60001012766> (last visited Feb. 3, 2015).

<sup>9</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6403(b)(5) (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (the "Spectrum Act").

<sup>10</sup> Initial Comments of the Incentive Auction Advocates filed on January 25, 2013. *See* <http://mmtconline.org/wp-content/uploads/2013/01/IAA-Incentive-Auctions-Comments-012513.pdf> (last visited Feb. 3, 2015).

*LOW-POWER TELEVISION USAGE RIGHTS. — Nothing in this subsection shall be construed to alter the spectrum usage rights of low-power television stations.*

The Commission has acknowledged that it has discretion under the Spectrum Act to protect certain facilities in the repacking process.<sup>11</sup>

MMTC congratulates the Commission in its recent efforts to promote minority and multicultural involvement in broadcasting.<sup>12</sup> Preserving LPTV will help ensure that our nation will not take a step backward in efforts while spectrum is repurposed for possible future minority auction involvement.

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<sup>11</sup> See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order*, 29 FCC Rcd 6567, 6674 ¶ 241 (“[W]e have discretion to grant protection to additional facilities where appropriate.”)

<sup>12</sup> See Chairman Tom Wheeler and Commissioner Mignon Clyburn, *Making Good on the Promise of Independent Minority Ownership of Television Stations* (December 4, 2014), available at <http://www.fcc.gov/blog/making-good-promise-independent-minority-ownership-television-stations> (last visited Feb. 3, 2015).

Respectfully submitted,

**MULTICULTURAL MEDIA,  
TELECOM AND INTERNET COUNCIL**

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February 4, 2015