



February 9, 2015

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

Re: In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Notice of *Ex Parte* Communication

Dear Ms. Dortch:

On February 6, 2015, Bruce Franca, Robert Weller, Patrick McFadden and the undersigned of the National Association of Broadcasters (“NAB”) met with Gary Epstein, Howard Symons, Dorann Bunkin, A.J. Glusman, and Melissa Dunford of the Incentive Auction Task Force, Brett Tarnutzer, Jonathan McCormack and Sasha Javid of the Wireless Telecommunications Bureau, Martin Doczkat, Aspasia Paroutsas and Barbara Pavon of the Office of Engineering and Technology, and William Lake, Chief of the Media Bureau.

During this meeting, NAB discussed the Commission’s proposed procedures for conducting the incentive auction and how to ensure adequate broadcaster participation in the reverse auction. A number of the Commission’s proposals represent positive steps towards a successful auction. In particular, NAB noted its support for the Commission’s proposal to consider population as well as interference potential in setting proposed opening bids. NAB believes this best reflects broadcast stations’ potential value to the auction.

NAB is concerned, however, by the Commission’s proposal to employ so-called “Dynamic Reserve Pricing” (“DRP”) during the reverse auction. DRP, which would allow Commission to continue to drop bid prices it offers to broadcasters even when their stations cannot be repacked in the TV band, raises at least three major problems. First, at a high level, DRP runs headlong into Congress’s clear instruction in the Spectrum Act to hold a market-based auction. Second, DRP threatens broadcaster participation in the auction because it gives the Commission wide latitude to lower a broadcaster’s otherwise winning bid. This creates uncertainty about the rules and what value a broadcaster might ultimately realize through the auction. Third, to the degree the

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Commission believes it essential to employ DRP, it must limit its application to a very narrow class of circumstances. At the moment, the Commission only circumscribes DRP's use by its exceptionally broad 20 percent limit on market impairment. If the FCC is truly concerned about a few outlier markets holding up the auction – which is by no means likely in the first instance – then it should cabin DRP to address only the rarest of cases and thus use a metric that solves only the identified problem (e.g., a limit on market impairment of perhaps two percent rather than 20 percent of weighted population).

NAB also urged the Commission to adopt more flexible channel sharing rules. Much of the potential interest in the auction is likely to come from broadcasters who desire to continue to serve their communities, and thus making sharing a truly viable option is essential. Most notably, the FCC should reverse course and allow parties to enter into channel sharing arrangements after the auction.

Finally, NAB asked the Commission to publicly clarify certain elements of its latest auction information release. On February 6, 2015, the Commission made public proposed maximum and median *opening bid prices* for stations in all markets. Given the fact that those prices were presented in the same format the Commission used in its October Greenhill Report, which included *high-end final station values* and not opening bid prices, there has already been a great deal of confusion as to what the numbers signify. For example, the February 6 document indicates that the Commission's maximum proposed opening bid in St. Louis is \$260 million, yet the estimated maximum high-end compensation for St. Louis in the October Greenhill Report is only \$21 million (and the Commission likely will not need any participants in St. Louis to clear 84 MHz and at most one participant to clear 120 MHz). The Commission should make clear that these two numbers are wholly unrelated, so as not to inadvertently and improperly raise broadcasters' expectations.

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NAB looks forward to continuing to work with the Commission to help it hold the most effective and efficient broadcast TV spectrum incentive auction, and to do so expeditiously.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rick Kaplan", with a long horizontal line extending to the right from the end of the signature.

Rick Kaplan
General Counsel and Executive Vice President,
Legal and Regulatory Affairs
National Association of Broadcasters

cc: Gary Epstein
Howard Symons
Dorann Bunkin
A.J. Glusman
Melissa Dunford
Brett Tarnutzer
Jonathan McCormack
Sasha Javid
Martin Doczkat
Aspasia Paroutsas
Barbara Pavon
William Lake