I am a concerned citizen that has been following developments in the incentive auction and related issues pertaining to broadcast television and net neutrality for over a year now. I would like to make what I see to be important points that I believe the FCC has neglected so far in its conduct of the incentive auction.

First, while I applaud the commission's decision to postpone the incentive auction to "early 2016", it evidently still intends to commence the auction before the completion of the 2014 broadcast ownership review, slated to be completed by June 30, 2016.[1] In other words, broadcasters will be required to make decisions regarding their participation in the auction and the extent thereof before the FCC completes the review that will determine the ownership rules governing the post-auction landscape, which will determine the viability of stations to continue operating after the auction, at least with their present owners. I have pointed out before how those rules will, among other things, need to take into account the impact of channel sharing on ownership rules and, conversely, the impact of ownership rules on the decision to channel-share.[2] That the commission would postpone the incentive auctions to so close to the completion of the ownership review (within six months) without actually following it suggests the commission is simply trying to get the incentive auction completed as quickly as possible without allowing any time for anything to happen to derail it, regardless of the consequences for broadcasters – perhaps the general public getting wind of the incentive auctions' importance for the viability of broadcast television just as "cord-cutting" stands to make broadcast TV as relevant as it's ever been in the cable era.

The same may be said of the commission's lack of acknowledgement of the upcoming "ATSC 3.0" standard, which the broadcast industry hopes will offer enough improvements to justify a transition on the scale of the digital transition; ideally, a transition to ATSC 3.0 would occur concurrently with the incentive auction, to avoid disrupting the broadcast landscape twice, but broadcasters appear to be under pressure to complete ATSC 3.0 before the incentive auction, rather than the incentive auction waiting for broadcasters to complete ATSC 3.0.[3] Minimizing broadcaster disruption is not the only reason to coordinate the incentive auction with the adoption of ATSC 3.0; it is ultimately the other side of the same coin of the ownership review, as it will determine the viability of broadcast television itself going forward, and thus whether or not it's worth it to continue operating in the industry compared to surrendering spectrum to wireless companies.

That brings me to my other concern, which is that the regulatory imbalance facing the broadcast industry may be resulting in its devaluation compared to how it should actually be valued. Spectrum Evolution has already raised the importance of "technology-neutral" regulation to the broadcast industry, which seems to refer to technologies similar to ATSC 3.0, but the broadcast industry in general

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[1] Wireless Telecommunications Bureau, "COMMENT SOUGHT ON COMPETITIVE BIDDING PROCEDURES FOR BROADCAST INCENTIVE AUCTION 1000, INCLUDING AUCTIONS 1001 AND 1002", 17 Dec 2014, p5, retrieved from https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-191A1.pdf; Statement of Chairman Tom Wheeler on Broadcast Media Ownership, Diversity and Joint Sales Agreements, 15 Apr 2014, retrieved from http://www.fcc.gov/article/fcc-14-28a2.

[2] Reply Comments of Morgan Wick in the matter of MB Docket 14-50 (2014 Quadrennial Ownership Review), 8 Sep 2014, pp. 17-19, retrieved from http://apps.fcc.gov/ecfs/document/view?id=7521829536.

[3] Jessell, Harry A., "ATSC 3.0: Lead, Follow or Get Out Of The Way", TVNewsCheck, 14 Nov 2014, retrieved from http://www.tvnewscheck.com/article/80837/atsc-30-lead-follow-or-get-out-of-the-way.

faces a decided regulatory disadvantage in many ways.[4] In particular, the economics of the linear television industry, an economic landscape determined largely by commission decisions, so favor cable and satellite television that broadcasters have actually become disinclined to support their own nominal medium and have fought to keep people tied to their cable subscription in the name of preserving their retransmission consent revenue from cable operators, to the point of threatening to leave the free airwaves entirely if anything were to happen to cripple their retransmission consent leverage, even as it aided the process of cord-cutting.[5] This fact is one that should give the commission pause before assuming the broadcast industry has been entirely forthright in representing its own interests, not just in its filings with the commission in this matter or indeed in any matter, but in general. Of particular relevance to the incentive auction is the perception that broadcast stations represent a waste of space, especially in an age of video consumption over the Internet and in the face of wireless companies' demand for spectrum, because so few people consume broadcast television over-the-air – partly the result of poor decisions made during the digital transition, but not helped by broadcasters' reticence to do anything to make it easier lest they lose any retransmission consent revenue, including putting their full-throated support behind the push for ATSC 3.0.[6]

As part of the House Energy and Commerce Committee's efforts to rethink and update the Communications Act, I have laid out the case for the continued existence of linear television, *regardless of current market or regulatory facts*, and have also laid out the case to the Commission in a previous filing. In brief, while the Internet has become an important conduit for delivery of video for its ability to deliver a large amount of content to a small number of people, the great value of one-way means of communication such as linear television is its ability to deliver a small amount of content to a large number of people, in other words, the ability to deliver the same content to many people simultaneously, something of particular importance when it comes to live events such as sports. Video especially is so bandwidth-intensive that the great irony of the incentive auctions is that not only are wireless providers trying to claim spectrum from broadcasters that they need (if they do) primarily to handle the same video content broadcasters are currently providing, but the largest wireless companies have already recognized the importance of one-way means of transmission and have begun working on their own "LTE-Broadcast" or "LTE-Multicast" networks to fill the same function broadcasters already fill admirably and have done for well over half a century.[7]

This absurdity – that the commission would shrink the spectrum dedicated to the broadcast service for the benefit of companies that are developing and growing their own broadcast service – is partly the result of the inadequacy of the existing ATSC standard to reach mobile devices (without the poorly-

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[4] Comments of Spectrum Evolution, Inc., in the matter of MB Docket 03-185 (Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations), 12 Jan 2015, retrieved from http://apps.fcc.gov/ecfs/comment/view?id=60001007988.

[5] See Reply Comments of Morgan Wick in the matter of MB Docket RM-11728 (Petition to Amend the Commission's Rules Governing Practices of Video Programming Vendors), 14 Oct 2014, retrieved from http://apps.fcc.gov/ecfs/document/view?id=60000973497; also Reply Comments of Morgan Wick in the matter of MB Docket 14-50, pp. 13-14.

[6] Jewell, op. cit.

[7] Response of Morgan Wick to the House Committee on Energy and Commerce White Paper on Regulation of the Market for Video Content and Distribution, 23 Jan 2015, esp. pp. 1-3, retrieved from http://www.morganwick.com/commactupdate.pdf; Reply Comments of Morgan Wick in the matter of MB Docket 14-50, pp. 14-15.

supported "ATSC M/H" kludge), or anything other than a fixed television set, but more so attests to the unfair regulatory burden broadcasters have faced compared to alternative technologies and the lack of those same rules applied to wireless carriers, a regulatory mismatch various other commenters have highlighted and asked to be corrected.[8] In any case, it is hard to imagine that this approach would be preferable to the alternative when it comes to meeting the commission's goals, as the same content would be delivered separately by each wireless provider, diluting any spectrum efficiency gains; as control over multicast capabilities would be concentrated in a few large wireless companies as opposed to decentralized across many different companies across the nation under the model of broadcast localism; and as this centralization of control among wireless providers gives them a gatekeeper role that would undermine the spirit of the open Internet in a way the decentralized model would not. One model gives wireless providers the power to determine what content is able to take advantage of multicast for each provider's subscribers; the other lets the free market determine that outcome for all, regardless of provider or even lack thereof.

Broadcasters should be given a fair valuation of their spectrum that not only reflects its value to wireless companies – a value that may be determined less by the presence of a "spectrum crunch" that they seem to only invoke when it's beneficial to them and more by their desire to shut out competitors over anything else[9] – but also the potential of their own industry and technology freed of regulatory shackles, including its potential to greatly ease wireless companies' demand for spectrum. That is not to say the current allocation plan is ideal – it is still rooted in analog-age ideas of how much spectrum a broadcast television station should be expected to consume – but it would be a mighty shame if stations needlessly went off the air (or surrendered more spectrum than necessary) that might turn out to be necessary or at least desirable later because of a perception of their utility rooted in technological limitations already in the process of being overcome or a perception of their money-making potential rooted in a marketplace already changing in their favor, largely determined by outdated regulations, and in turn skewing the advocacy of the most powerful interests in their industry with the most power to influence policy. If the FCC is truly interested in the best use of spectrum, it should do everything in its power to ensure that broadcasters can maximize the highest and best use of their spectrum, not perpetuate a regulatory regime that ensures they not only cannot but aren't particularly inclined to.

Morgan Wick
Venice, CA
February 20, 2015

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[8] Comments of Spectrum Evolution, Inc., in the matter of MB Docket 03-185, p5; Comments of LIN Television Corporation d/b/a LIN Media in the matter of MB Docket 14-50 (2014 Quadrennial Ownership Review), 6 Aug 2014, retrieved from http://apps.fcc.gov/ecfs/document/view?id=7521750990.

[9] Bode, Karl, "Verizon Makes It Very Clear Its 'Spectrum Crunch' Never Existed", Techdirt, 18 Feb 2015, retrieved from https://www.techdirt.com/blog/wireless/articles/20150218/05533430065/verizon-makes-it-very-clear-its-spectrum-crunch-never-existed.shtml.