



February 26, 2015

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002, AU Docket No. 14-252, Notice of *Ex Parte* Communication

Dear Ms. Dortch:

On February 24, 2015, representatives of the National Association of Broadcasters (NAB) and other broadcaster representatives had separate meetings with Commissioner Mignon Clyburn, her Chief of Staff and Senior Legal Advisor Adonis Hoffman, her Legal Advisor Louis Peraertz, and Robin Colwell, Chief of Staff and Senior Legal Advisor for Commissioner Michael O’Rielly. A complete list of meeting attendees is attached.

During these meetings, the participants expressed their concern that the proposals in the Commission’s Public Notice on incentive auction procedures threaten the ongoing viability of translators in the western United States.¹ Specifically, the participants voiced their opposition to the Commission’s recent and marked retreat from the promise of a “near-nationwide” band plan. The participants explained that, while they supported the incentive auction, under no circumstances should the FCC adopt a plan where it would repurpose more spectrum in rural America – where there is an excess supply of spectrum for mobile broadband – than in major urban areas, such as New York and Los Angeles. The effect of such an approach would be to unnecessarily wipe out translator services, which are a critical source of news and information for many Americans.

The participants detailed the essential role translators play in providing service to rural communities in Western states. Many Designated Market Areas in these states are far

¹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002*, Public Notice, GN Docket No. 12-268, AU Docket No. 14-252, FCC 14-191 (rel. Dec. 17, 2014) (“Comment PN”).

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too large to cover with reliable over-the-air service without the use of translators. For a sense of perspective, the Spokane, Washington DMA, if mapped over the Northeast corridor, would cover parts of DMAs from Buffalo, New York to Baltimore, Maryland.²

Further, the participants noted that many other parties, not representing broadcasters, are calling into question the viability of the Commission's proposed variable band plan. AT&T has filed comments arguing that the proposed 20 percent threshold is "fundamentally flawed," is arbitrary, and could actually reduce the amount of spectrum the FCC is able to offer in the forward auction.³ Verizon also urges the FCC to limit variability, arguing that the proposed 20 percent standard is "far too high" and could lead to substantial uncertainty and suppressed bidding among forward auction bidders.⁴ CTIA, too, suggests the FCC may need to adopt a lower cap to cause minimal disruption to the wireless portion of the band.⁵ Indeed, the proposed 20 percent threshold finds virtually no support among the initial comments submitted to the Commission in response to the Comment PN.

Given these concerns, and given the very real harm that the proposed variable band plan will create by displacing translators, the participants urged the Commission to embrace the blueprint for a successful auction established by the recent AWS-3 experience. That auction was a triumph of simplicity, offering a nationwide plan with clean, unimpaired licenses. In the event, however, the Commission is concerned that treaty obligations or other problems may artificially limit spectrum recovery in some markets, it should tailor its variability proposal to address those limited scenarios. Thus, the Commission should adopt at most a three percent variability cap, which will constrain variability to the "least common denominator" or edge cases about which the Commission may be concerned, while establishing a band plan that can fairly be called "near-nationwide."

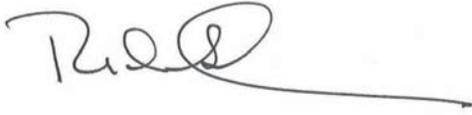
² A map illustrating this is attached hereto.

³ Comments of AT&T at 21-23, GN Docket No. 12-268, AU Docket No. 14-252 (filed February 20, 2015).

⁴ Comments of Verizon at 4, GN Docket No. 12-268, AU Docket No. 14-252 (filed February 20, 2015).

⁵ Comments of CTIA – The Wireless Association at 4-8, GN Docket No. 12-268, AU Docket No. 14-252 (filed February 20, 2015).

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: Commissioner Mignon Clyburn
Adonis Hoffman
Louis Peraertz
Robin Colwell

Broadcast Representatives

Michele Zabriskie (Utah Broadcasters Association)
Dewey Bruce (Montana Broadcasters Association)
Tim Keating (Cordillera Broadcasting)
Jon Saunders (Cordillera Broadcasting)
Ron Davis (Butte Broadcasting Inc.)
Richard Reingold (NBC Montana)
Oscar Rodriguez (Texas Association of Broadcasters)
Mike Lee (Drewry Broadcasting)
DJ Wilson (KGW-TV)
Bob Singer (NPG of Oregon, Inc.)
Bill Johnstone (Oregon Association of Broadcasters)
Matt McCormick (Fletcher, Heald & Hildreth, counsel to Oregon Association of Broadcasters)
Art Brooks (Arizona Broadcasters Association)
Michael Mallace (Sierra H Broadcasting)
Rich Howe (KAZT-TV)
Bill Shaw (KVOA-TV)
Jon Rand (Northwest Broadcasting)
Randy McKone (Elkhorn Media Group)
Keith Shipman (Horizon Broadcasting Group)
Paula Maes (New Mexico Broadcasters Association)
Bill Anderson (KRQE-TV, KASA, KWBQ, KASY)
Rick Kaplan (NAB)
Patrick McFadden (NAB)