

July 7, 2015

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 200554

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

Dear Ms. Dortch:

The undersigned parties (the “Parties”) urge the Commission not to relocate television stations in the duplex gap in the forthcoming broadcast television spectrum incentive auction. Placing television stations in the duplex gap will foreclose the use of the duplex gap for both unlicensed users and licensed wireless microphones in important markets. This would significantly undercut the public interest benefits associated with the auction the Commission identified in its May 2014 Framework Order by preventing both mobile news reporting and deployment of low-band unlicensed spectrum in the places where low-band spectrum is most needed to effectively provide these services.

In its incentive auction framework order, the Commission opted to strike a careful balance. The Commission determined that unlicensed users could operate in a 6 MHz portion of the duplex gap “nationwide,” expanding opportunities for unlicensed operations.<sup>1</sup> At the same time, the Commission recognized that eliminating reserved spectrum for wireless microphones could leave newsgathering operations without necessary spectrum to cover breaking news.<sup>2</sup> This balance would provide unlicensed users with a common channel that would be available in *every market* “nationwide,”<sup>3</sup> which is vital to facilitating promised private investment in the Wi-Fi chips and devices that require national markets. It would also provide wireless microphones with

---

<sup>1</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, ¶¶ 266, 271 (“Under the band plan we adopt in this Order, between 14 and 28 megahertz of spectrum in the 600 MHz Band guard bands will be available for unlicensed use nationwide, . . . including in major markets where today and post-auction few if any vacant television channels may be available. . . . Putting unlicensed operations in the 600 MHz Band guard bands will make additional spectrum available for unlicensed devices nationwide. The record provides significant support for this action.”)

<sup>2</sup> *Id.* at ¶ 314 (“Without access to some guard band spectrum for [the] purpose [of broadcasters and certain cable programming networks providing emergency information], there may be areas in the country where there would be little if any certain access to UHF band spectrum for wireless microphone operations on a protected basis. Accordingly, we conclude that the public interest will be served by allowing broadcasters and cable programming networks using wireless microphones on a licensed basis in a portion of the duplex gap to obtain interference protection from unlicensed devices at specified times and locations, on an as-needed basis.”)

<sup>3</sup> *Id.* at ¶ 271.

a small amount of exclusive use spectrum that could be used to cover breaking news and emergencies. Two of the three Commissioners voting to approve the item specifically highlighted this approach.<sup>4</sup>

We appreciate the hard work and effort made by staff to achieve the Chairman’s goal of designing a “balanced” set of rules for what everyone acknowledges is the single most complicated spectrum auction ever attempted.<sup>5</sup> We also appreciate that all parties must compromise to achieve the statutory goals of providing new low-band licensed spectrum for the mobile wireless industry, protecting the public’s right to free over-the-air broadcasting, preserving critical news reporting, and promoting innovative unlicensed spectrum access for both competitive wireless broadband and the emerging Internet of Things. We also appreciate the commitment of staff to attempt to limit relocation of broadcasters to the duplex gap to situations where it is necessary to significantly reduce impairment.

Nevertheless, we must ask the Commission not to walk away from the commitment made in last year’s *Framework Order* to preserve the duplex gap for sharing between wireless microphones and TV white space devices in every market nationwide. Relocating television stations in the duplex gap in certain markets will render the gap in those markets unusable by either unlicensed devices or wireless microphones in those areas where the penetration characteristics of low-band spectrum are most needed. The proposal would hamper reporting of breaking news in the most populous cities. Whether it is news reporters trying to cover civil rights protests in Baltimore, or protesters using Wi-Fi to livestream these protests in their own voices, the availability of the duplex gap to support the wireless microphones and Wi-Fi devices that enable these activities is at risk under the current proposal.

Fortunately, the Commission does not have to take this step. Instead, we ask the Commission to reconsider the earlier proposal to repack broadcasters that do not have a home in the reduced broadcast band in either the uplink or downlink section of the wireless portion of the 600 MHz band. This approach provides the Commission with the flexibility it needs to execute

---

<sup>4</sup> Statement of Commissioner Mignon L. Clyburn, 29 FCC Rcd at 7034 (“I also commend the staff, for working hard to find solutions, for wireless microphones. Broadcasters and other entities, which rely on wireless microphones for late breaking electronic news gathering or live events, need the assurances of reliable, high quality audio. In the Incentive Auction Order, we will permit wireless mics to operate in 4 megahertz of the duplex gap, and in the naturally occurring empty TV channel, in every market.”) See also Statement of Commissioner Jessica Rosenworcel, 29 FCC Rcd at 7036 (“I am particularly excited, however, that we have found creative ways to strike the right balance between licensed and unlicensed spectrum. This creativity started with ditching the tired notion that we face a choice between licensed and unlicensed spectrum. This is a simplistic relic from the past that we should have long since retired—because good spectrum policy requires both. Moreover, we recognized that other services striving for white space in the 600 MHz band—like wireless microphones, low-power television, and medical telemetry—matter. So by being creative we found ways to expand the duplex gap, find new locations for unlicensed microphones, and provide unlicensed opportunities in channel 37—while also protecting existing users. This approach can increase the value of licensed spectrum without diminishing the number of licenses we sell at auction. It is all-around good.”)

<sup>5</sup> Blog Post of Chairman Tom Wheeler, “Crafting Balanced Incentive Auction Rules In The Public Interest,” FCC Blog (June 17, 2015), available at: <https://www.fcc.gov/blog/crafting-balanced-incentive-auction-rules-public-interest>.

its variable band plan, and preserves the balance it originally achieved for the duplex gap by reserving it for unlicensed use and licensed wireless microphones.

Sincerely yours,

**National Association of Broadcasters  
Radio & Television Digital News Association  
Microsoft Corporation  
Utilities Telecom Council  
Wireless Internet Service Providers Association (WISPA)  
Engine Advocacy  
Spectrum Bridge  
Consumers Union  
Consumer Federation of America  
Open Technology Institute at New America  
Public Knowledge  
Free Press  
Common Cause  
Benton Foundation  
Rural Broadband Policy Group  
Institute for Local Self-Reliance  
Access Humboldt  
Akaku Maui Community Media**

cc: Chairman Wheeler  
Commissioner Clyburn  
Commissioner O’Rielly  
Commissioner Pai  
Commissioner Rosenworcel  
Jessica Almond  
Chanelle Hardy  
Louis Peraertz  
Robin Colwell  
Erin McGrath  
Matthew Berry  
Brendan Carr  
Valery Galasso