



July 23, 2015

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

Re: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268; Policies Regarding Mobile Spectrum Holdings, WT Docket No. 12-269; 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 July 21 and 22, 2015, the undersigned had separate telephone conferences with David Strickland of Commissioner Clyburn's office, Matthew Berry of Commissioner Pai's Office, Robin Colwell and Erin McGrath of Commissioner O'Rielly's office, and Howard Symons of the Incentive Auction Task Force. The undersigned also forwarded the attached blog to the aforementioned Commissioners' offices as well as to Valery Galasso of Commissioner Rosenworcel's office. During the telephone conferences, NAB reiterated the importance of exclusive UHF spectrum for wireless microphones and noted the dearth of information supporting the need to put TV stations in the duplex gap.

NAB also discussed its proposed compromise with respect to putting stations in the duplex gap. This compromise is far from ideal for broadcasters, as it potentially leaves certain markets without an immediate solution for reliably operating wireless microphones. Indeed, should the FCC accept the compromise, it must work quickly to find an adequate solution in those markets. Moreover, NAB does not support any proposal that goes beyond six markets, as NAB proffered its proposal in attempt to meet the Chairman's public plea to impair the duplex gap in that specific number of markets.

In its conversations, NAB also made clear its objection to removing a second (let alone first) channel from the reduced TV band for exclusive use by unlicensed services. The incentive auction was not designed to be a catalyst to pillage the TV band and such a proposal elevates unlicensed services above licensed ones. This approach would ultimately serve to undermine innovation, as it would freeze the broadcast TV industry in time, restricting its

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ability to innovate within an increasingly crowded neighborhood. Offering a new channel in a handful of markets to the unlicensed community also does little for them; apart from the fact the availability of second channels is extremely limited, the best chance for unlicensed innovation is the nationwide, common channel offered in the duplex gap. For example, in the five-plus years since it was launched, TV white space operation has been underwhelming, in part (according to the unlicensed industry) because unlicensed device developers do not have access to a dedicated, nationwide channel.

At the very least, if the FCC seeks to ask questions about the use of any “vacant” channels within the TV band, it should ask equally and without preference whether channels in the six markets where the duplex gap is impaired should be reserved for licensed Part 74 (including wireless microphone) use *or* unlicensed operations. There is simply no public policy reason why the FCC should favor – especially at this stage – yet another unlicensed allocation over one for wireless microphones in markets where the duplex gap is impaired.

Respectfully Submitted,

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

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

cc: David Strickland
Matthew Berry
Robin Colwell
Erin McGrath
Valery Galasso
Howard Symons



Rick Kaplan 11:52 am on July 22, 2015

Permalink (<https://nabroadcasters.wordpress.com/2015/07/22/you-want-breaking-news-coverage-then-mind-the-gap/>)

Tags: [Spectrum \(16 \)](#)

You Want Breaking News Coverage? Then Mind the Gap

When was the last time you turned to TV to follow details of breaking news as it unfolded – the real, on-the-ground coverage from reporters in the field? In the first half of this year alone, we learned firsthand about the civil unrest in Baltimore following the death of Freddie Gray, followed with bated breath the manhunt throughout local communities in upstate New York for two convicted murders who had escaped from prison, watched crowds of Americans gather on the South Carolina State House grounds to see a flag come down and heard from those rallying on the Supreme Court steps from local TV reporters at the scene.

If you care about live, on-the-ground coverage of events that are shaping our world – then you care about something called the [duplex gap](#).

Last year, the FCC announced it would no longer reserve two channels in each market within the TV band for critical wireless microphone use, which is essential for broadcaster coverage of breaking news and emergencies. Instead, the FCC decided to set aside space for wireless microphones in the duplex gap, a vacant lot of spectrum located within the wireless band. Wireless mics' new home in the duplex gap was by no means a perfect solution, but it was all the FCC said it could manage, and broadcasters have done their best over the past year to start figuring out exactly how to make these new digs work.

But just as mics were getting ready to settle into their new home, the FCC just last month said there was one more catch: this real estate would not be available everywhere, as the FCC will place TV stations themselves in the duplex gap in certain markets after the spectrum auction. When a TV station sets up shop in the gap, no other service can use it, including the mics used by reporters rushing to cover tragedy, weather emergencies and other critical events on the ground.

This was quite a change from the FCC's initial promise, so many parties, including FCC commissioners, asked Commission staff to explain why this about-face was necessary. In producing its information, the staff revealed that it had only done an analysis of one possible scenario for each of three spectrum recovery targets, but staff argued that data showed that in certain markets the FCC needed to put stations in the duplex gap. Chairman Wheeler has said that the number of affected markets would be no more than six. This proposed change is very bad news for newsgatherers who rely on wireless mics to report the news, for viewers who depend upon local and national reporters to get in the middle of a story and public safety officials, who work hand-in-hand with local broadcasters to keep the public and first responders safe.

But the FCC staff is insistent on undoing the original compromise and broadcasters are now in a pickle. We support the auction and want to see it succeed. But we also know we need wireless microphone technology to ably cover the news and keep our communities safe.

So yesterday NAB proposed a new [compromise](#) (or "recompromise") – one that is far from ideal for us – but one that at least holds the Commission to its (new) word, and asks that no more than one station in each of six markets (if necessary) are put in the duplex gap to avoid widespread elimination of wireless microphone use to cover local news. Six markets is damage enough, especially if one of them is the second-largest. But if that's the number, then let's agree to it, figure out alternative solutions in those markets for wireless mics and go forward.

If the answer, however, is that it's potentially more than six markets, the FCC has a major credibility problem. If the goalposts move again, we should all be wary of what's in store for this auction. For it to be successful, we all need to be able to trust the FCC.

Broadcasters have met the FCC far more than halfway. Now let's put it in ink and move on to the auction and better solutions for broadcasters, their viewers and public safety.

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