

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions)	GN Docket No. 12-268
)	
)	
Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context)	MB Docket No. 15-137

COMMENTS OF VENTURE TECHNOLOGIES GROUP, LLC

I. INTRODUCTION

Venture Technologies Group, LLC (“VTG”) submits comments in the above captioned proceeding to encourage the adoption of flexible rules for post-auction channel sharing agreements.¹ VTG has ownership interests in full-power, Class A, and low power television (“LPTV”) stations.

Channel sharing provides a valuable opportunity for a station to maximize spectrum efficiency while continuing to serve the viewers that benefit from and rely on its programming. VTG agrees with the Commission’s proposal to allow stations to enter into channel sharing agreements (“CSA”) either prior to or after the completion of the spectrum incentive auction. It

¹ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12-268, MB Docket No. 15-137, *First Order on Reconsideration and Notice of Proposed Rulemaking*, 30 FCC Rcd. 6668 (June 12, 2015) (“*Channel Sharing NPRM*”).

encourages the Commission to adopt rules for post-auction CSAs that are consistent with the flexibility the Commission has shown in creating rules for auction-related CSAs.

II. POTENTIAL SHAREE STATIONS SHOULD BE ALLOWED TO RELOCATE TO TAKE ADVANTAGE OF CHANNEL SHARING BOTH DURING THE AUCTION AND OUTSIDE OF THE AUCTION CONTEXT.

The Commission's rules governing post-auction CSAs should be as flexible as the rules governing auction-related CSAs in order to encourage the efficient use of spectrum and to serve the public interest by making sharing opportunities available to interested stations. In the auction context, a sharee is permitted to change its community of license to take advantage of channel sharing if the sharee satisfies certain requirements.² However, the current proposal would not offer such flexibility to sharee stations after the auction.³ We urge the Commission to expand and extend community-of-license flexibility beyond the auction context; failure to do so would run counter to the Commission's efforts to efficiently manage spectrum, make channel sharing more difficult for many stations, and increase the regulatory burden on both stations and the FCC.

The Commission has rightfully given sharees in the auction context the flexibility to change their communities of license to take advantage of channel sharing. This flexibility was granted, in part, "to help meet the Nation's growing spectrum needs."⁴ While the incentive

² *Id.* ¶ 53 (explaining that the sharee can change its community of license if (1) the sharee cannot meet its community of license signal requirements from the sharer's transmission site; (2) the sharee's new community of license meets the same allotment priorities as its original community of license; and (3) the sharee remains within the same DMA).

³ *Id.* ("Outside the auction context, we propose to preclude sharee stations from changing their community of license, and to limit these stations to CSAs with a sharer from whose transmitter site the sharee will continue to meet the community of license signal requirement over its current community of license.").

⁴ *Id.* ¶¶ 5, 53 (explaining that this flexible rule will help "avoid[] any detrimental impact on the speed and certainty of the auction," which has an underlying goal of addressing the ever-increasing demand for spectrum).

auction is one tool that Congress has given the Commission to address the Nation’s ever-increasing spectrum needs, it certainly will not completely solve the underlying issue; demand for spectrum is growing exponentially, while the amount of spectrum itself remains relatively static.⁵ After the auction—just as before and during the auction—the Commission has a duty to encourage the efficient use of spectrum.⁶ The Commission has already agreed that channel sharing is a desirable way to efficiently use spectrum and simultaneously maintain broadcast television service for consumers.⁷ It should adopt rules that facilitate and encourage channel sharing even after the auction because its duty to manage spectrum efficiently will not end with the auction.

Similarly, the Commission has already determined that the Communications Act does not require the Commission “to restrict community of license changes in the channel sharing context.”⁸ And in fact, the Commission has stated that “on balance, the public interest benefits from allowing stations to submit channel sharing bids that would result in a change in

⁵ See Executive Office of the President, President’s Council of Advisors on Science and Technology, *Report to the President: Realizing the Full Potential of Government-Held Spectrum To Spur Economic Growth* 14 (2012), available at http://www.whitehouse.gov/sites/default/files/microsites/ostp/pcast_spectrum_report_final_july_20_2012.pdf (describing that there will be an “exponential increase in demand [for spectrum] that comes from the onslaught of . . . billions of connected intelligent devices, sensors and Internet systems and services”).

⁶ *Incentive Auctions: Unleashing Spectrum To Meet America’s Demand for Mobile Broadband*, <https://www.fcc.gov/incentiveauctions> (last visited Aug. 10, 2015); see also FCC, *Connecting America: The National Broadband Plan* xii (2010) (“More efficient allocation and assignment of spectrum will reduce deployment costs, drive investment and benefit consumers through better performance and lower prices.”).

⁷ See Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF, ET Docket No. 10-235, *Report and Order*, 27 FCC Rcd. 4616 ¶ 9 (Apr. 27, 2012).

⁸ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, *Report and Order*, 29 FCC Rcd. 6567 ¶ 375 (June 2, 2014).

community of license subject to [certain] conditions.”⁹ The public interest benefit of channel sharing does not change outside of the auction context. In fact, the broadcast landscape post-auction requires additional flexibility, without which a station’s “ability to find a channel sharing partner would be severely constrained.”¹⁰

VTG encourages the Commission to grant stations that desire to channel share additional flexibility to change their community of license because doing so will serve the public interest. The Commission’s current allotment criteria will be outdated and irrelevant in the post-auction environment. There will be fewer stations overall in each market resulting in fewer channel sharing partners. Post-auction, stations need additional—not less—flexibility to partner with another station. Granting stations additional maneuverability serves the public interest by freeing additional spectrum in a market while retaining a valuable programming source. VTG encourages the Commission to adopt rules that simplify the channel sharing process and the search for a channel sharing partner. To this end, VTG advocates the adoption of rules that would allow a station to change its community of license to a location (i) within its existing DMA and (ii) within an adjacent DMA, provided that the existing transmitter site of the station is licensed to a site within that adjacent DMA, in order to partner with a qualified station. Such flexibility eases the regulatory burden of the FCC as well by simplifying the review and implementation of a channel sharing agreement. It will also allow for greater spectral efficiency by allowing for stations with transmitter sites located at secondary transmitter farms in a market to easily move to the closest primary transmitter farm.

⁹ *Id.* n.1112.

¹⁰ *See id.* ¶ 375.

III. THE SHAREE’S CARRIAGE RIGHTS SHOULD BE DETERMINED BY THE NEW SHARED LOCATION.

VTG supports the Commission’s proposal that a sharee’s station’s carriage rights should be determined by its shared location.¹¹ Further, the Commission is correct in its analysis that the location of a sharee’s station’s programming on a multicast channel “does not alter the station’s must-carry right to carriage of a single ‘primary video’ programming stream.”¹²

VTG encourages the Commission to further expand the rights of a sharee station to deliver a quality signal to the headend of the MVPD. VTG proposes that if the sharee station provides a direct fiber feed to the MVPD with its primary video programming, the MVPD must accept that programming. The MVPD would not bear any responsibility for the cost of the direct fiber feed; rather, the licensee would bear the expense of providing the direct feed. This proposal will allow a station additional flexibility in locating a qualified channel sharing partner, by allowing multiple licensees to share one channel without material degradation in the signal provided for MVPD carriage.

¹¹ *Channel Sharing NPRM* ¶ 40 (“We tentatively conclude that . . . the sharee station’s carriage rights would be determined at the new shared location.”).

¹² *Id.* ¶ 41.

IV. CONCLUSION

VTG agrees that the rules for channel sharing outside of the Auction context should be “similar to those [the Commission] adopted in connection with tin incentive auction.”¹³ Where the current *NPRM* strays from that consistency—as is the case with the proposal concerning a station’s ability to change its community of license—VTG urges the Commission to amend its proposal. Additionally, VTG asks the Commission to further expand the rights of a sharee station to deliver a quality signal to an MVPD.

Respectfully submitted,

VENTURE TECHNOLOGIES GROUP,
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¹³ *Id.* ¶ 46.