

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

In The Matter of	)	
	)	
Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules For Digital Low Power Television and Television Translator Stations	)	MB Docket No. 03-185
	)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
	)	
Amendment of Part 15 of the Commission’s Rules to Eliminate the Analog Tuner Requirement	)	ET Docket No. 14-175
	)	

**COMMENTS OF ROY WILLIAM MAYHUGH**

Roy William Mayhugh (MAYHUGH) is the licensee of two LPTV stations in the Los Angeles Television market and has previously filed comments in this matter.

On 16 December 2015 the Commission adopted its THIRD REPORT AND ORDER AND FOURTH NOTICE OF PROPOSED RULEMAKING in the above referenced proceedings.

In its Third Report and Order, the Commission tentatively concluded to allow channel sharing between primary (full service stations) and secondary (LPTV) stations. To this end, the Commission seeks comments on whether it would be appropriate for a secondary station to be permitted to obtain “de facto” interference protection by sharing with a primary station; whether it would be appropriate to allow a secondary station to obtain the coverage area of a primary station through channel sharing and whether the benefits of channel sharing between

a primary station and a secondary station could be obtained alternatively by the primary station entering into a commercial agreement to air the secondary station's programming as a multicast stream.

In his previously filed comments, MAYHUGH, presented a case study pointing out the numerous benefits that would flow to all parties from primary/secondary channel sharing agreements.

Primary stations would benefit because such channel sharing agreements allow the primary station to sell back its spectrum and keep most of the proceeds while maintaining its ongoing operations on a channel shared with a secondary station. In the alternative, a primary station wanting to continue operations would likely have to use about half of the proceeds to "buy" half a channel from another primary station or take a significantly smaller payout for its spectrum and move to a lesser desirable channel.

The Commission would benefit because some primary stations would be inclined to take a smaller payout to sell back their spectrum if they were able to continue operations, at a much lower cost, by sharing a channel with a secondary station. Moreover, allowing this sort of sharing creates options otherwise not available. The inducements that would flow from these additional options might be the ONLY way to clear adequate spectrum in some of the more complicated markets.

MAYHUGH uses the Los Angeles Market in his example. This market has 32 stations with protected status - 26 primary and 6 secondary (class A) stations. Channels 14, 15, 16, 17, 19, 20 and 21 are not available in Los Angeles because of Land Mobile restrictions. There are three adjacent and mutually exclusive markets that must be protected - San Diego, Palm Springs and Santa Barbara. And Los Angeles is located in the US Mexico border zone and Mexican stations in Tijuana and Mexicali must also be "protected".

MAYHUGH points out that there will likely be at least two secondary stations that survive the incentive auction in Los Angeles. VHF channels 8 and 10 are being used in Los Angeles by LPTV stations but probably will not be available for assignment to a primary station because these channels are currently being used in San Diego by the CBS and ABC affiliates there.

It is unlikely either San Diego station will sell back its spectrum or migrate to a low band VHF channel and, if this turns out to be the case, neither channel can be assigned to a Los Angeles full service station because any full service station using one of these channels would have to protect the respective San Diego station and the coverage lost in affording this protection would be much greater than the .5% loss in coverage the FCC has committed to protect in its 30 September 2014 DECLARATORY RULING on the subject.

Should one, or both, of these LPTV channels survive and if channel sharing, as proposed by the Commission, is allowed and properly incentivized, it would be technically possible for EACH of these secondary stations to accommodate four, or possibly more, primary stations. This could be a HUGE benefit in this market.

It is indeed possible that this channel sharing mechanism makes the incentive auction even possible in some markets. If sharing between primary and secondary is not allowed it is possible the incentive auction could not succeed.

It is important to point out that, in order for channel sharing between primary and secondary channels to work, the FCC must incentivize primary stations, considering such sharing arrangements, with mechanisms and relief to insure their business operations will be impacted as little as possible. The Commission should:

- 1) Insure that all must carry rights currently enjoyed by primary stations will continue in full force and effect.

- 2) Allow primary stations sharing on a secondary station's channel the ability to replicate their prior signal and coverage to the extent it is technically feasible.
- 3) Allow primary stations to retain interference protection if sharing a secondary station's channel. While this does afford a secondary station "de facto" interference protection, stripping a primary station of this protected status, as a condition of sharing with a secondary channel could undermine this channel sharing solution from the outset.

If the Commission feels it is more important for the public's needs, necessity and convenience that a few secondary stations NOT obtain protected status in this manner consider two alternatives. Alternative one – allow primary stations to retain interference protection in the event there are no longer any secondary stations on the channel – i.e. the secondary station "sells out" to one or a number of primary stations. Alternative two – allow a secondary to obtain "de facto" interference protection but, in this event, change the secondary station to class A status with the additional regulations and responsibilities that go with class A.

The Commission also seeks comment if the benefits of channel sharing between a primary station and a secondary station could be obtained alternatively by the primary station entering into a commercial agreement to air the secondary station's programming as a multicast stream.

This would have the effect of scrapping channel sharing between primary and secondary altogether. This would nullify the potential gains and options that would result from this proposal. The benefit of allowing primary and secondary stations to share a channel flows mostly to the primary station and the Commission, not the secondary station. Channel sharing, as tentatively proposed would net primary stations wanting to continue serving the public more auction dollars in their pocket at a lower cost to the public. And it gives the Commission, and broadcasters, more options in some critical markets where options and solutions are in very short supply. This is a win for everyone.

To conclude, the overall benefits that would result from primary/secondary sharing, if properly incentivized, far outweigh any “untoward” benefit that might flow to the secondary station.

The Commission should:

- 1) Adopt its primary and secondary channel sharing proposal as proposed.
- 2) Allow primary stations sharing on a secondary stations channel to retain their must carry status.
- 3) Allow primary stations sharing on a secondary channel to increase power and otherwise modify the surviving facility, to the extent possible, to replicate its previous coverage.
- 4) Allow the primary station sharing on a secondary channel to retain its interference protection.