



NABOB

National Association of
Black Owned Broadcasters

March 7, 2016

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554
Attention: Office of the Secretary

Re: In the Matter of Amendment of Parts 15, 73 and 74 of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band For Use By White Space Devices and Wireless Microphones, WT Docket No. 15-146, and Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268

Dear Chairman Wheeler:

The National Association of Black Owned Broadcasters, Inc. ("NABOB") requests that the Commission not adopt its proposal to reserve one or two television channels in each market for use by unlicensed devices at this time. Instead, NABOB requests that the Commission hold this matter in abeyance until the Commission has conducted the incentive spectrum auction and repacked the full power television stations.

Before explaining its position on this matter, however, NABOB would like to begin by commending the Commission for a number of recent actions. First, we commend the Commission for adopting NABOB's proposal to allow Class C and D AM radio stations the first opportunity to apply to move existing FM translators. Several NABOB members have already filed in the current filing window, and we anticipate many more will do so before the window closes.

NABOB also commends the Commission for the recent Enforcement Bureau advisory in which the Commission advised the public that operation of illegal pirate radio stations could subject both the operators and those who support their operation to substantial penalties. Many NABOB members experience ongoing harm to their lawful operations from illegal pirate operations. The advisory and letters, signed by all five Commissioners, addressed to real estate, advertising, public safety, and law enforcement organizations, send a strong message that the Commission is serious about enforcement of its statute and rules prohibiting pirate operation.

NABOB also commends the Commission for the "Roundtable Discussion on Diversity and Government Advertising" being hosted by the Office of Communications Business Opportunity ("OCBO") which will be held at the Commission's offices on March 23, 2016. For

several years, NABOB has been seeking to get the leadership of the federal agencies that collectively purchase \$400 to \$500 million in commercial advertising annually to investigate their advertising purchases to determine if their advertising is being placed in a fair and efficient manner. By inviting persons from other federal agencies to participate in this roundtable discussion, OCBO is assisting in this effort.

The three initiatives mentioned above have the potential to be very helpful to NABOB's members and, more importantly, to the Commission's goal of promoting diverse ownership of the licensees utilizing the nation's airwaves. Unfortunately, the proposal to reserve at least one channel in every television market for use by unlicensed services has the potential to severely harm African American and other minority television station ownership, especially in the largest markets where minorities tend to live.

As the Commission is aware, African American ownership of broadcast facilities has dwindled substantially in recent years. According to the Commission's 2014 Report on Commercial Broadcast Stations, in 2013 African Americans owned:

9 Full Power TV stations	0.6% of total U.S. TV stations
73 FM Radio stations	1.3% of total U.S. FM stations
93 AM Radio stations	2.5% of total U.S. AM stations
8 Class A TV stations	2.0% of total U.S. Class A TV stations
16 Low Power TV stations	1.3% of total U.S. Low Power TV stations ¹

According to the U.S. Census, African Americans comprise 13% of the American population. Our lack of ownership of broadcast stations is a national tragedy. As noted above, the Commission has taken steps to rectify this situation, but any steps the Commission takes that harm minority ownership opportunities will undercut the benefits of its other initiatives.

The vacant channel proposal has the potential to harm minority television station ownership by turning over a channel to unlicensed services that might be needed to provide replacement television channels for low power television stations. In its September 30, 2015 Comments in this proceeding, the National Association of Broadcasters ("NAB") demonstrated the effect of the Commission's proposals on LPTV licensees. According to NAB's study, if the Commission clears 120 MHz spectrum in the spectrum incentive auction, more than 688 low power stations and translators will be forced off the air.² The study showed that, if the Commission adopts its proposal and reserves one or two vacant channels for unlicensed services,

¹ *In the Matter of 2014 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 14-50, *2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 09-182, *Promoting Diversification of Ownership in the Broadcast Services*, MB Docket No. 07-294, 29 FCC Rcd 7835, Tables A(1c), B(1c), C(1c), D(1c) and E(1c).

² Comments of the National Association of Broadcasters, Inc., September 30, 2015, 11-13.

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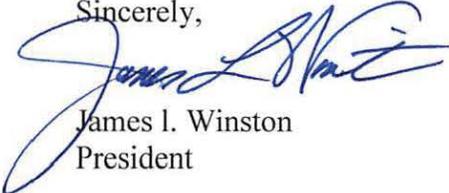
another 433 LPTV and translators will also potentially go dark.³

It is reasonable to expect that, after the incentive auction, the number of African American owned full power television stations will decline further. Thus, the Commission should do everything it can to keep the small number of African American owned LPTV stations on the air after the auction. Giving away channels that may be needed by those stations goes completely against that objective.

The Commission apparently foresees little impact of the unlicensed channel reservation on LPTV. The Commission states that at least two vacant channels will remain in most markets after the incentive auction repack of full power stations.⁴ However, given that the Commission has yet to conduct the incentive auction and repack, this is only speculation on the Commission's part. LPTV is a licensed service and should be given clear preference over any unlicensed service. Therefore, the only appropriate action for the Commission to take at this time is to hold off any reassignment of television channels to unlicensed services until it knows the needs of its licensed services.

Only when the Commission has actual information can it predict the purported lack of impact on LPTV licensees. NABOB requests that the Commission hold in abeyance any decision on reserving a channel for unlicensed services in every television market until it has conducted the incentive spectrum auction and can see the impact the full service station repack has on LPTV stations.

Sincerely,

A handwritten signature in blue ink, appearing to read "James I. Winston".

James I. Winston
President

cc: Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O'Rielly

³ *Id.*

⁴ *In the Matter of Amendment of Parts 15, 73 and 74 of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band For Use By White Space Devices and Wireless Microphones*, MB Docket No. 15-146, *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions* GN Docket No. 12-268, FCC 15-68, 30 FCC Rcd, 6711 (2015), ¶ 11.