



Competitive Carriers Association
Rural • Regional • Nationwide®

April 14, 2016

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: NOTICE OF EX PARTE
GN Docket No. 12-268: *Expanding the Economic and Innovation Opportunities of
Spectrum through Incentive Auctions*

Dear Ms. Dortch:

Competitive Carriers Association (CCA) writes in response to the *ex parte* letter filed by the National Association of Broadcasters (NAB) regarding the “repacking” of TV broadcasters following the incentive auction.¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA applauds the Commission for moving efficiently and effectively to the launch the incentive auction on schedule so that all carriers can provide better, faster, more robust mobile services. For the benefit of all Americans, CCA is committed to assisting the Commission in designing a repacking plan which protects the interests of broadcasters while balancing the needs of urban and rural consumers, as well as quickly and efficiently clearing spectrum so that it may be utilized for its intended purpose as soon as possible.

To that end, CCA agrees with NAB that the correct regional prioritization plan will inevitably require the clearing of less populated markets simultaneously with more populated markets.² As NAB recognizes, markets with large populations are not islands and therefore cannot be fully repacked without transitioning the less-populated areas around them at the same time. The

¹ *Ex Parte* Letter from Rick Kaplan, General Counsel and Executive Vice President, Legal and Regulatory Affairs, National Association of Broadcasters, to Marlene H. Dortch, Secretary, FCC, GN Docket 12-268 at 3 (filed Mar. 21, 2016) (“NAB Letter”)

² *Id.*

focus of the transition plan should be on each region as a whole, aiming to disentangle interconnected “daisy-chained” broadcast operations to clear an entire region together and more quickly, in addition to considering population centers.

CCA and NAB agree that too heavy a focus on highly-populated markets would lead to inefficient repacking. Indeed, as CCA members have determined, through extensive modeling and analysis, the most efficient repacking process must not focus solely on the population centers first. CCA agrees with NAB that “there will inevitably be instances where work must be performed in less populated markets to allow more crowded markets to transition.”³

Regional planning, along with consideration of larger population-based markets, is essential to maximizing repacking efficiency and ensuring the success of the Commission’s phased transition plan. For example, CCA carrier member T-Mobile has proposed a regional “corners” approach⁴ which does *not* concentrate the transition from the major population centers outward. Rather, the T-Mobile approach largely hinges on prioritizing the clearing of *less* populated markets around a heavily populated market first, since larger cities often involve more complex planning and longer timelines. T-Mobile’s proposal will allow tower crews to perform needed work on less-complex transitions while pre-construction planning continues for the more complex and interconnected markets, ensuring a practical and more successful repacking. CCA also agrees with NAB that T-Mobile’s approach is “flexible and capable of rapid recalibration”⁵ in the face of complexity and uncertainty, including weather, zoning, permits, and other resources. A proposal that’s flexible and efficient like T-Mobile’s proposal allows for the clearing of complex, interconnected markets in the shortest timeframes and for the lowest cost.

While CCA agrees that broadcasters should receive waivers in unique circumstances when necessary, these waivers should *not* be granted on a region-wide or market-wide basis. Because TV markets are so interconnected,⁶ delaying the repacking in some significant portion of geography will cause a “domino effect” of delays in others markets, as daisy chains connect even geographically distant stations. Particularly on the densely-populated East Coast where several major markets exist within only a few hundred miles of one another, even one region-wide or market-wide waiver could disrupt the repacking schedule for stations serving tens of millions of Americans; this would delay the availability of much needed wireless spectrum and consumer-desired mobile services.

³ *Id.*

⁴ See T-Mobile USA, Inc., *Broadcaster Repacking Proposal*, attached to *Ex Parte* Letter from Trey Hanbury, Counsel to T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Mar. 4, 2016); see also, *Ex Parte* Letter from Trey Hanbury, Counsel to T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Mar. 3, 2016) (attaching *Broadcaster Repacking Proposal*) (“T-Mobile Repacking Proposal”).

⁵ NAB Letter at 3.

⁶ *Id.* at 2 (noting that “...individual stations in a given market cannot be repacked in isolation. In some cases, every station in a market may not be able to move to its new channel until all stations in the market are prepared to move. And, in some regions, these effects will spill over into adjacent markets”).

With regard to dispute resolution mechanisms, the Commission has already provided the Media Bureau the authority to grant waivers, as noted above, to stations experiencing delays, and further extensions that meet the Commission's requirements for tolling.⁷ This approach balances broadcasters' need for flexibility with the public interest in diligently transitioning the spectrum for wireless use. While waivers have the potential to cause disruptions, keeping the number and scope of waivers to a minimum will allow greater predictability in, and more efficient application of, the repacking process.

CCA is encouraged that NAB appears to be receptive to the need for a flexible, regional repacking approach that does not focus on heavily populated areas at the expense of efficiency. To that end, CCA reiterates that a regional approach would balance the needs of urban and rural markets and quickly achieve the Commission's goal of a smooth repack. CCA also urges the Commission to adhere to its well-established 39-month repacking plan but grant waivers, as needed, to address unique challenges.

An electronic copy of this letter has been filed in the above-referenced docket pursuant to section 1.1206(b)(2) of the FCC's rules. Please contact me regarding questions or comments.

Respectfully submitted,

/s/ Rebecca Murphy Thompson

Rebecca Murphy Thompson
EVP & General Counsel
Competitive Carriers Association

cc (via email): Gary Epstein
Howard Symons

⁷ *Incentive Auction Report and Order*, ¶¶ 569 and 580-83. "Tolling" is typically only available in cases of "acts of God," judicial review, or zoning matters.