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May 26, 2016

Please reply to COLIN BLACK ANDREWS
candrews@gsblaw.com TEL EXT 1736

VIA ECFS

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

Re: **Notice of Ex Parte Presentation**

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 Spaces 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

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

Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auction 1001 and 1002, AU Docket No. 14-252

Dear Ms. Dortch:

In accordance with Section 1.1206(b)(2) of the Commission's rules, this letter is submitted on behalf of Free Access & Broadcast Telemedia, LLC ("FAB") to document the public record regarding the above-captioned MB dockets and related Freedom of Information Act ("FOIA") requests filed by FAB.

As is shown in the attached chronology and relevant documents, FAB and various Members of Congress have been diligently pursuing certain analysis from the Commission regarding the



impact of the Incentive Auction on Low Power Television Stations (“LPTV”). Representatives of Congress initially requested any studies or impact analyses, and directed the Government Accountability Office to study the impacts of the incentive auction to LPTV. Although Chairman Tom Wheeler has responded to Congress, the Commission to this date has not released any analysis covering the impact of the Incentive Auction on LPTV stations.

FAB then met with a representative of the Chairman’s office and, based on conversation in that meeting, filed a FOIA request with the Commission that did not result in the release of any documents.

Although FAB has sought this analysis via numerous meetings with FCC staff and FOIA requests, the attached record documents the Commission’s refusal to produce any responsive analysis. Consistent with the continued requests from Congress and FAB, this letter requests the release of any analysis the Commission has on hand or readily available concerning the impact of the now long-planned Incentive Auction on LPTV.

If you have any questions about this submission, please contact the undersigned. Thank you.

Sincerely,

Colin Black Andrews
*Counsel to Free Access & Broadcast
Telemedia, LLC*

CBA:cll
Enclosures

cc: Hon. Joe Barton, Member of Congress
Hon. Anna G. Eshoo, Member of Congress
Hon. Renee Ellmers, Member of Congress
Hon. Billy Long, Member of Congress
Hon. Gus M. Bilirakis, Member of Congress
Hon. Kevin Cramer, Member of Congress
Hon. Gene Dodaro, Comptroller General of the United States
Jonathan Sallet, FCC General Counsel (Jonathan.Sallet@fcc.gov)
William Scher, Associate General Counsel (William.Scher@fcc.gov)
Elizabeth Lyle, Assistant General Counsel (Elizabeth.Lyle@fcc.gov)
Edward Smith, Office of Chairman Thomas Wheeler (Edward.Smith@fcc.gov)
Ryan Yates, Attorney Advisor, OGC (Ryan.Yates@fcc.gov)

The following is a chronological listing of the efforts of FAB and Congress to retrieve LPTV impact analysis from the FCC.

1. Letter from House Representatives Hon. Joe Barton and Hon. Anna Eshoo to the Government Accountability Office requesting a study of LPTV impacts, dated October 1, 2014.
2. Letter from House Representatives Hon. Renee Ellmers, Hon. Kevin Cramer, Hon. Gus Bilirakis and Hon. Billy Long to FCC Chairman Wheeler, requesting analysis of LPTV impacts, dated October 22, 2015.
3. Letters from Chairman Wheeler in response to item number 2 above, dated November 16, 2015.
4. FAB Notice of Ex Parte Presentation for meeting with Ryan Yates and Elizabeth Lyle, of the FCC's Office of the General Counsel, discussing FAB's intention to file a FOIA request for LPTV analysis that was mentioned in a December 16, 2015 meeting with Edward Smith of the Chairman's Office, dated February 5, 2016.
5. FAB FOIA Request Number FCC-2016-000357 requesting LPTV analysis that was mentioned by Mr. Smith in the December 16, 2015 meeting, dated February 16, 2016.
6. The FCC's response to item number 5 above, stating that no responsive records were found and an email from Mr. Yates stating that Mr. Smith never made reference to any LPTV analysis, dated March 1, 2016.
7. Letter from Colin Andrews to Mr. Smith requesting clarification regarding comments made in December 16, 2015 meeting, dated March 24, 2016.
8. Email from Colin Andrews to Mr. Smith requesting a response to item 7 above, dated May 4, 2016.

Exhibit 1

Congress of the United States

Washington, DC 20515

October 1, 2014

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro,

The Middle Class Tax Relief and Job Creation Act of 2012 became law in February 2012. This law directs the Federal Communications Commission (FCC) to conduct an incentive auction allowing a broadcaster to voluntarily relinquish some or all of their spectrum usage rights in return for compensation (better known as the “reverse auction”).¹ The law also requires the FCC to hold a “forward auction” allowing wireless carriers to bid on the available cleared spectrum.² Only full-power broadcasters and low-power broadcasters with a Class A license are able to participate in the reverse auction.

In May 2014, the FCC adopted an Incentive Auction Report and Order addressing important issues related to the incentive auction.³ The FCC also announced that the agency is planning to initiate a future Low-Power Television station (LPTV) and TV Translator station proceeding to consider measures that help alleviate the impact of LPTV and TV Translators during the incentive auction.

While we are thankful for the ongoing efforts of the FCC, we ask the Government Accountability Office (GAO) to study the impacts of the incentive auction on LPTV stations and TV Translator stations, as well as their viewers. Consistent with the FCC’s Report and Order, we ask that the GAO evaluate the impact of the incentive auction for each of the two potential scenarios for repurposing broadcast spectrum: (a) 84 megahertz and (b) 126 megahertz. Within each of the two categories, please provide the following information:

1. The total number of LPTV stations that provide original programming or broadcast local news and information, especially those serving racial and ethnic minority communities;
2. The total number of TV translator stations that rebroadcast local news and information programming of a full-power TV broadcast station;
3. A projection of the number of LPTV stations and TV translator stations listed under (1) and (2) that may lose either their current input or output channel as a result of the forward auction;

¹ Middle Class Tax Relief and Job Creation Act of 2012, 26 U.S.C. §6403 (2012).

² *Id.*

³ Federal Communications Commission. (2014). FCC adopts rules for first ever incentive auction; will make available additional airwaves, increase competition for mobile broadband [Press Release]. Retrieved from https://apps.fcc.gov/edocs_public/attachmatch/DOC-327100A1.pdf

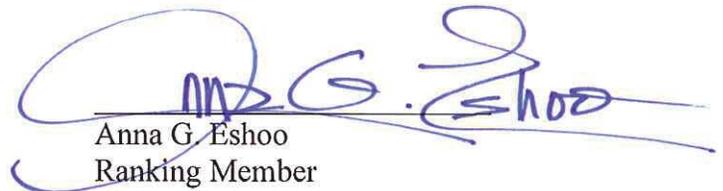
4. A projection of the number of such LPTV stations and TV translator stations that will subsequently be able to locate and operate on replacement channels after the auction, together with an aggregate estimate of the costs of relocation, including new equipment, legal and engineering services, and facility construction;
5. A projection of the number of such LPTV stations and TV translator stations that will be unable to locate to or operate on replacement channels after the auction;
6. A projection of the number of viewers that will lose over-the-air access to at least one such local LPTV station that provide local news and information, especially to underserved communities of interest;
7. A projection of the number of viewers that will lose over-the-air access via such TV translator stations to at least one of the signals of the regional affiliates of the major commercial or noncommercial educational television broadcast networks; and
8. Recommendations to the FCC and Congress on ways to remedy adverse impacts of the auction on LPTV stations and TV translator stations, and, most importantly, their viewers.

Thank you for your timely attention to this request. If you have any questions, please contact Emmanuel Guillory (Rep. Joe Barton) at 202-225-2002 or David Grossman (Rep. Anna Eshoo) at 202-225-8104.

Sincerely,



Joe Barton
Chairman Emeritus
House Committee on Energy and Commerce



Anna G. Eshoo
Ranking Member
Subcommittee on Communications
& Technology

Exhibit 2

Congress of the United States
House of Representatives
Washington, DC 20515-3302

October 22, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions, Docket No. 12-268, and

Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power TV and Translator Stations, Docket No. 03-185

Dear Mr. Chairman:

We write to applaud your efforts to achieve a successful Spectrum Incentive Auction. As supporters of the Middle Class Tax Relief and Job Creation Act ("Spectrum Act"), it is our view that a successful auction must make an effort to accommodate Low-Power Television ("LPTV") stations and translators so they may continue to serve their communities, whether urban, suburban, or rural.

As our colleagues Representatives Greg Walden and Joe Barton reminded you in a letter on August 4th, Congress and the FCC agree on the importance of community-based LPTV and translators. LPTV and translators provide the public with a diverse selection of programming and content representing many different cultures, denominations, and worldviews.

Following our July 28, 2015 oversight hearing, we are concerned that following the FCC's broadcast incentive auction there may not be sufficient spectrum to accommodate LPTV stations and translators, potentially forcing them to cease operation.

In order to retain as many of these valuable voices in our communities, it is essential that the FCC limit the incentive auction's impact on LPTV service as much as possible without harming the goals of the incentive auction or delaying its progress.

By November 18, 2015, I would like you to provide us with the following:

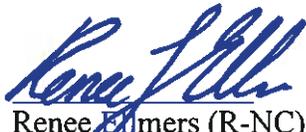
1. A detailed status of the Commission's open rulemaking on considering additional means to mitigate the potential impact of the incentive auction and the repacking process on

LPTV and TV translator stations to help preserve the important services they provide (Docket No. 03-185 and No. 12-268), specifically addressing whether this rulemaking will be completed well before auction.

2. In addition, we would also appreciate if you provided whatever analyses and studies that have been conducted by your staff and consultants on the impacts on possible stranding or effective extinguishment of LPTV stations in an auction that clears 126 MHz in the reverse stage and sells 100MHz in the tandem forward event nationwide in all markets, as your staff and investment banking agents have been marketing. Please provide these forecasted LPTV clearing effects by TV market.
3. Lastly, we would also like you to release any alternate scenarios already in-hand that provide ranges of impacts upon LPTV for clearing down to 84 MHz and up also up to 132 MHz of spectrum, as have appeared in various FCC public statements as possible auction goals and outcomes.

We look forward to your response.

Sincerely,


Renee Elmers (R-NC)
Member of Congress


Kevin Cramer (R-ND)
Member of Congress


Gus M. Bilirakis (R-FL)
Member of Congress


Billy Long (R-MO)
Member of Congress

cc: Hon. Mignon Clyburn, FCC Commissioner
Hon. Michael O'Rielly, FCC Commissioner
Hon. Ajit Pai, FCC Commissioner
Hon. Jessica Rosenworcel, FCC Commissioner

Exhibit 3



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Billy Long
U.S. House of Representatives
1541 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Long:

Thank you for your letter concerning the impact of the upcoming auction on low power TV stations and translators. I agree that LPTV stations and TV translators provide important services upon which many consumers and businesses in rural communities rely. Although the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") does not explicitly protect LPTV and TV translator stations in the repacking process, the Commission is taking an array of steps to help mitigate the impact of the auction and repacking process on LPTV and TV translator stations so that the important programming content they provide continues to reach viewers.

As an initial matter, the Commission last year announced that it will open a special filing window for operating LPTV and TV translator stations that are displaced by the repacking and reallocation of the television bands, in order to offer such stations an opportunity to select a new channel.¹ We also modified our rules to allow stations with mutually exclusive displacement applications to reach a settlement or an engineering solution, rather than require competing stations to resolve all mutual exclusivity through an auction as the Communications Act generally requires.² In cases where a settlement is not possible, in order to ensure the continued availability of full power television service, we afforded priority to displacement applications filed by digital replacement translators used to fill in the service areas of full power stations that could not otherwise be replicated when those stations transitioned from analog to digital facilities.³

Additionally, to help accommodate some of the needs of LPTV and translator stations following the auction, the Commission adopted rules that will permit these stations to remain on their existing channels during the post-auction transition period until they are notified that a forward auction winner is within 120 days of commencing operations on the repurposed 600 MHz spectrum.⁴ For many LPTV and translator stations that are located in the new 600 MHz Band, this could mean continued operations for many years until wireless licensees commence operations.

¹ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GH Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6834-35, para. 657 (2014) ("*Incentive Auction Report & Order*").

² *Id.*, para. 661.

³ *Id.*

⁴ *Id.*, para. 661.

Recognizing the importance of LPTV and TV translator stations, the Commission also opened a dedicated proceeding to consider additional means to mitigate the potential impact of the incentive auction and the repacking process on LPTV and TV translator stations to help preserve the important services they provide.⁵ Today, I circulated proposed rules to my fellow commissioners and I expect that the Commission will act on the proposals put forward in this proceeding later this fall. Those proposals include a range of options to help enable LPTV and TV translator stations remain on the air. First, we have proposed extending the digital transition date for LPTV and TV translator stations until 12 months following the completion of the 39-month post-incentive auction transition period. This extension would prevent stations from having to upgrade facilities to meet the digital transition deadline before knowing whether the station would be displaced by the auction repacking process. Second, we have proposed allowing channel sharing by and between LPTV and TV translator stations.

Channel sharing arrangements could mitigate the effects of repacking displacement by allowing stations to share the remaining television channels and will facilitate the continued viability of LPTV through new programming and business arrangements that promote spectral efficiency.⁶ Third, in response to concerns that finding a new channel for displaced LPTV and TV translator stations will be challenging, we have also proposed to use our auction optimization and repacking software to assist LPTV and TV translator stations identify available channels and potentially maximize the number of such stations in the TV band post-auction.⁷ Of course, a station's decision to seek channel assignments recommended by the optimization software would be completely voluntary, but I believe that the use of our software will expedite and ease the post-auction transition process for many LPTV and TV translator stations.

The auction will by definition result in a smaller TV band and, therefore, fewer channels for all television stations – full power as well as LPTV and TV translator stations. The Commission has recognized that the auction will potentially displace a significant number of LPTV stations.⁸ However, in light of Congress's determination not to include LPTV or TV translator stations in the auction or protect them in repacking, we have not systematically analyzed the potential displacement impact on those stations. Similarly, because LPTV and TV translator stations are not entitled to protection in the repacking process, no assumptions regarding them are necessary to conduct auction simulations or repacking analyses; LPTV and TV translator stations do not factor into such analyses.

Since Congress enacted the Spectrum Act, the FCC has sought to faithfully implement its mandate, while mitigating the potential impact on broadcaster and other services that currently use the broadcast band, including LPTV and TV translator stations. I am confident that the steps

⁵ *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, Third Notice of Proposed Rulemaking, FCC 14-151 (rel. Oct. 10, 2014) ("*LPTV NPRM*").

⁶ *LPTV NPRM*, para. 14.

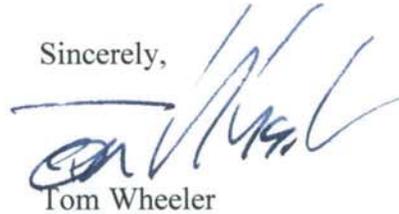
⁷ *Id.*, para. 44 et seq.

⁸ Incentive Auction Report and Order, 29 FCC Rcd at 6834-35, paras. 656-57.

Page 3—The Honorable Billy Long

I have described above will help ensure the continued availability of LPTV and TV translator services post-auction.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a horizontal line above it.

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Gus Bilirakis
U.S. House of Representatives
2112 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bilirakis:

Thank you for your letter concerning the impact of the upcoming auction on low power TV stations and translators. I agree that LPTV stations and TV translators provide important services upon which many consumers and businesses in rural communities rely. Although the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") does not explicitly protect LPTV and TV translator stations in the repacking process, the Commission is taking an array of steps to help mitigate the impact of the auction and repacking process on LPTV and TV translator stations so that the important programming content they provide continues to reach viewers.

As an initial matter, the Commission last year announced that it will open a special filing window for operating LPTV and TV translator stations that are displaced by the repacking and reallocation of the television bands, in order to offer such stations an opportunity to select a new channel.¹ We also modified our rules to allow stations with mutually exclusive displacement applications to reach a settlement or an engineering solution, rather than require competing stations to resolve all mutual exclusivity through an auction as the Communications Act generally requires.² In cases where a settlement is not possible, in order to ensure the continued availability of full power television service, we afforded priority to displacement applications filed by digital replacement translators used to fill in the service areas of full power stations that could not otherwise be replicated when those stations transitioned from analog to digital facilities.³

Additionally, to help accommodate some of the needs of LPTV and translator stations following the auction, the Commission adopted rules that will permit these stations to remain on their existing channels during the post-auction transition period until they are notified that a forward auction winner is within 120 days of commencing operations on the repurposed 600 MHz spectrum.⁴ For many LPTV and translator stations that are located in the new 600 MHz Band, this could mean continued operations for many years until wireless licensees commence operations.

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Recognizing the importance of LPTV and TV translator stations, the Commission also opened a dedicated proceeding to consider additional means to mitigate the potential impact of the incentive auction and the repacking process on LPTV and TV translator stations to help preserve the important services they provide.⁵ Today, I circulated proposed rules to my fellow commissioners and I expect that the Commission will act on the proposals put forward in this proceeding later this fall. Those proposals include a range of options to help enable LPTV and TV translator stations remain on the air. First, we have proposed extending the digital transition date for LPTV and TV translator stations until 12 months following the completion of the 39-month post-incentive auction transition period. This extension would prevent stations from having to upgrade facilities to meet the digital transition deadline before knowing whether the station would be displaced by the auction repacking process. Second, we have proposed allowing channel sharing by and between LPTV and TV translator stations.

Channel sharing arrangements could mitigate the effects of repacking displacement by allowing stations to share the remaining television channels and will facilitate the continued viability of LPTV through new programming and business arrangements that promote spectral efficiency.⁶ Third, in response to concerns that finding a new channel for displaced LPTV and TV translator stations will be challenging, we have also proposed to use our auction optimization and repacking software to assist LPTV and TV translator stations identify available channels and potentially maximize the number of such stations in the TV band post-auction.⁷ Of course, a station's decision to seek channel assignments recommended by the optimization software would be completely voluntary, but I believe that the use of our software will expedite and ease the post-auction transition process for many LPTV and TV translator stations.

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Since Congress enacted the Spectrum Act, the FCC has sought to faithfully implement its mandate, while mitigating the potential impact on broadcaster and other services that currently use the broadcast band, including LPTV and TV translator stations. I am confident that the steps

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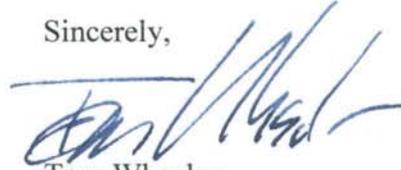
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Page 3—The Honorable Gus Bilirakis

I have described above will help ensure the continued availability of LPTV and TV translator services post-auction.

Sincerely,

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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Kevin Cramer
U.S. House of Representatives
1032 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Cramer:

Thank you for your letter concerning the impact of the upcoming auction on low power TV stations and translators. I agree that LPTV stations and TV translators provide important services upon which many consumers and businesses in rural communities rely. Although the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") does not explicitly protect LPTV and TV translator stations in the repacking process, the Commission is taking an array of steps to help mitigate the impact of the auction and repacking process on LPTV and TV translator stations so that the important programming content they provide continues to reach viewers.

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Additionally, to help accommodate some of the needs of LPTV and translator stations following the auction, the Commission adopted rules that will permit these stations to remain on their existing channels during the post-auction transition period until they are notified that a forward auction winner is within 120 days of commencing operations on the repurposed 600 MHz spectrum.⁴ For many LPTV and translator stations that are located in the new 600 MHz Band, this could mean continued operations for many years until wireless licensees commence operations.

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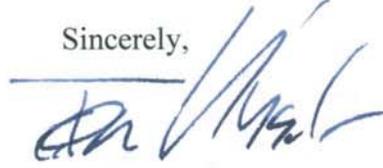
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Page 3—The Honorable Kevin Cramer

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Sincerely,

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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Renee Ellmers
U.S. House of Representatives
1210 Longworth House Office Building
Washington, D.C. 20515

Dear Congresswoman Ellmers:

Thank you for your letter concerning the impact of the upcoming auction on low power TV stations and translators. I agree that LPTV stations and TV translators provide important services upon which many consumers and businesses in rural communities rely. Although the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") does not explicitly protect LPTV and TV translator stations in the repacking process, the Commission is taking an array of steps to help mitigate the impact of the auction and repacking process on LPTV and TV translator stations so that the important programming content they provide continues to reach viewers.

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³ *Id.*

⁴ *Id.*, para. 661.

Recognizing the importance of LPTV and TV translator stations, the Commission also opened a dedicated proceeding to consider additional means to mitigate the potential impact of the incentive auction and the repacking process on LPTV and TV translator stations to help preserve the important services they provide.⁵ Today, I circulated proposed rules to my fellow commissioners and I expect that the Commission will act on the proposals put forward in this proceeding later this fall. Those proposals include a range of options to help enable LPTV and TV translator stations remain on the air. First, we have proposed extending the digital transition date for LPTV and TV translator stations until 12 months following the completion of the 39-month post-incentive auction transition period. This extension would prevent stations from having to upgrade facilities to meet the digital transition deadline before knowing whether the station would be displaced by the auction repacking process. Second, we have proposed allowing channel sharing by and between LPTV and TV translator stations.

Channel sharing arrangements could mitigate the effects of repacking displacement by allowing stations to share the remaining television channels and will facilitate the continued viability of LPTV through new programming and business arrangements that promote spectral efficiency.⁶ Third, in response to concerns that finding a new channel for displaced LPTV and TV translator stations will be challenging, we have also proposed to use our auction optimization and repacking software to assist LPTV and TV translator stations identify available channels and potentially maximize the number of such stations in the TV band post-auction.⁷ Of course, a station's decision to seek channel assignments recommended by the optimization software would be completely voluntary, but I believe that the use of our software will expedite and ease the post-auction transition process for many LPTV and TV translator stations.

The auction will by definition result in a smaller TV band and, therefore, fewer channels for all television stations – full power as well as LPTV and TV translator stations. The Commission has recognized that the auction will potentially displace a significant number of LPTV stations.⁸ However, in light of Congress's determination not to include LPTV or TV translator stations in the auction or protect them in repacking, we have not systematically analyzed the potential displacement impact on those stations. Similarly, because LPTV and TV translator stations are not entitled to protection in the repacking process, no assumptions regarding them are necessary to conduct auction simulations or repacking analyses; LPTV and TV translator stations do not factor into such analyses.

Since Congress enacted the Spectrum Act, the FCC has sought to faithfully implement its mandate, while mitigating the potential impact on broadcaster and other services that currently use the broadcast band, including LPTV and TV translator stations. I am confident that the steps

⁵ *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, Third Notice of Proposed Rulemaking, FCC 14-151 (rel. Oct. 10, 2014) ("*LPTV NPRM*").

⁶ *LPTV NPRM*, para. 14.

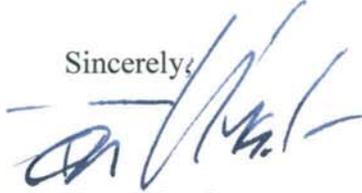
⁷ *Id.*, para. 44 et seq.

⁸ Incentive Auction Report and Order, 29 FCC Rcd at 6834-35, paras. 656-57.

Page 3—The Honorable Renee Ellmers

I have described above will help ensure the continued availability of LPTV and TV translator services post-auction.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish extending to the right.

Tom Wheeler

Exhibit 4



WASHINGTON, D.C. OFFICE
flour mill building
1000 potomac street nw
suite 200
washington, d.c. 20007-3501
TEL 202 965 7880 FAX 202 965 1729

anchorage, alaska
beijing, china
new york, new york
portland, oregon
seattle, washington
GSBLAW.COM

G A R V E Y S C H U B E R T B A R E R

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

Please reply to COLIN B. ANDREWS
candrews@gsblaw.com
TEL EXT 1736

February 5, 2016

VIA ECFS

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

Re: **Notice of Ex Parte Presentation**

Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions, GN Docket No. 12-268

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

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 Spaces Devices and Wireless Microphones, MB Docket No. 15-146

Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auction 1001 and 1002, AU Docket No. 14-252

Dear Ms. Dortch:

In accordance with Section 1.1206(b)(2) of the Commission's rules and in the spirit of full disclosure, this letter is submitted on behalf of Free Access & Broadcast Telemedia, LLC ("FAB") to provide documentation for the public record regarding a meeting held to discuss open and new Freedom of Information Act ("FOIA") requests directly related to the above mentioned dockets.

The meeting was held February 3, 2016 with Mr. Ryan Yates, Attorney Advisor in the Office of General Counsel, and Ms. Elizabeth Lyle, Assistant General Counsel, by phone, regarding an ongoing



FOIA request, which FAB included in an Ex Parte on November 13, 2015. FAB was represented by David J. Mallof, Managing Director, and myself as counsel to FAB.

In addition to discussion on administrative FOIA processing and release preferences related to the requests, FAB noted the following relevant to the dockets above:

1. FAB requested additional FCC employees be added to the ongoing next “batch” of its existing FOIA request.¹
2. In the FCC’s Response to FAB’s initial FOIA request, dated September 21, 2015, the FCC determined that there were no “scenarios that analyzed channel clearing for each designated market [and] that cast light on possible impacts on LPTV clearing and new LPTV assignments.” In a meeting on December 16, 2015, Mr. Edward Smith, the Chairman’s personal top staff member for the auction, stated that he had indeed recently reviewed analysis of expected LPTV impacts that confirmed “...LPTV could survive in many markets.” Given this statement, FAB disclosed its intention to file a FOIA request regarding the analysis Mr. Smith discussed in the December meeting.
3. FAB also discussed the criteria the FCC has been using to determine if responsive documents were “predecisional” under FOIA exemption b(5) and how that should apply to auction simulations and analysis, which are factual by nature as argued in the appeal of FAB’s initial FOIA request (Attachment “B”).
4. FAB requested a status update on its currently pending administrative appeal, dated October 21, 2015 and agreed to reserve the portions of the appeal concerning the adequacy of the search performed until after the ongoing FOIA has been completed.
5. FAB discussed the joint request to Congress’ Government Accountability Office (GAO) dated October 1, 2014 (Attachment “C”) from Members Hon. Anna Eshoo and Hon. Joe Barton. FAB understands GAO began the requested study on LPTV impacts and other requested considerations therein, which are similar documents to those requested in FAB’s FOIA. FAB urged the FCC to use great care in replying to the specific requests to disclose anticipated impacts on LPTV if 84MHz or 126MHz are cleared. Even if this information is not released to FAB via FOIA, FAB noted for the record that the GAO and the Comptroller General have significant authority to seek out and obtain all agency facts, trends, and analyses available from any agency on behalf of Congress under the Congress’ Constitutional and the GAO’s added

¹ FAB requested the following employees be included in the current batch: Roger Sherman, WTB; Mark Colombo, WTB, OET, IATF (Including private emails from his “Trip Ericson” pseudonym that involve official FCC matters. See an example as Attachment “A”); Chris Helzer, WTB; Alan Stillwell, OET; Matthew Hussey, OET; Martin Doczkat, OET; and Barbara Pavon, OET. Additionally, similar to former FCC employee Lawrence Chu, FAB requests that John Leibovitz and Robert Weller’s names are included as individual search terms associated with LPTV impacts, since they are no longer with the Commission.



statutory authority "...to exercise continuous watchfulness..." over programs and agencies under Congress' jurisdiction.

6. FAB also indicated its intention to ask the House Commerce Committee, including its Oversight and Investigations Subcommittee, to request the FCC Chairman now direct FCC staff to comply with the requests stated in Representative Ellmers' letter, dated October 22, 2015, regardless of the Chairman's response to Congress on November 16, 2015 that stated "...we have not systematically analyzed the potential displacement impact on those [LPTV] stations."

If you have any questions about this submission, please contact the undersigned.

Sincerely,

Colin B. Andrews

Counsel to Free Access & Broadcast Telemedia, LLC

cc: Ryan Yates, Attorney Advisor, OGC (ryan.yates@fcc.gov)
Elizabeth Lyle, Assistant General Counsel (elizabeth.lyle@fcc.gov)
William Scher, Associate General Counsel, OGC (william.scher@fcc.gov)
Edward Smith, Office of Chairman Thomas Wheeler (edward.smith@fcc.gov)

Enclosures: Attachments A, B and C.

Attachment A

ATTACHMENT A

From: Trip Ericson [<mailto:webmaster@rabbitears.info>]
Sent: Monday, October 19, 2015 10:05 AM
To: Julius Knapp <Julius.Knapp@fcc.gov>; Gary Epstein <Gary.Epstein@fcc.gov>
Cc: Alan Stillwell <Alan.Stillwell@fcc.gov>; Howard Symons <Howard.Symons@fcc.gov>
Subject: Fwd: Error in NYC TV Data in latest TV Study impacting population / IA ?

All,

Below is the e-mail I got from Doug.

Mark

----- Forwarded message -----

From: Doug Lung <dlung@transmitter.com>
Date: Sun, Oct 18, 2015 at 7:57 PM
Subject: Error in NYC TV Data in latest TV Study impacting population / IA ?
To: Trip Ericson <webmaster@rabbitears.info>

Hi Mark/Trip --

I wanted to give you a heads-up on this via your private email as you may hear about it tomorrow.

One of our FCC attorneys discovered the October 15 Final Baseline of Eligible Stations (Appendix I) used the licensed facilities for WNJU (File # 0000001043) instead of the CP for the WTC facilities approved in the R&O (File # 0000001402). This moved WNJU to a lower opening bid price compared to WCBS. I don't mind having less of a target on our station, but am concerned that post auction we won't be protected to the WTC contour in the repacking.

The problem appears to be in the CDBS files, as the June 2015 CDBS files show the correct facility (0000001402) while I can't get that file to show up in the patched October 2015 TV Study even doing a radius search on CP's. Doing a text search on the application.dat file in the October CDBS, only the 0000001043 file # is shown.

If I've missed something, please let me know!

Thanks for all your hard work on this!

...Doug

Attachment B



WASHINGTON, D.C. OFFICE
flour mill building
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suite 200
washington, d.c. 20007-3501
TEL 202 965 7880 FAX 202 965 1729

anchorage, alaska
beijing, china
new york, new york
portland, oregon
seattle, washington
GSBLAW.COM

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Please reply to COLIN BLACK ANDREWS
candrews@gsblaw.com TEL EXT 1736

October 21, 2015

VIA E-MAIL

Office of General Counsel
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Review of Freedom of Information Action – FOIA Control No. 2015-729

Dear Sir or Madam:

Our firm represents Free Access & Broadcast Telemedia, LLC (“FAB”) with regard to its August 20, 2015, Freedom of Information Act (“FOIA”) request to the Federal Communications Commission (“FCC”) (the “Request”). This letter is FAB’s appeal to the FCC’s September 21, 2015, Response Letter denying FAB’s Request (the “Denial”). A copy of FAB’s Request and the FCC’s Denial are attached hereto for your reference.

The Request as submitted sought responsive documents and communications relating to the Incentive Auction and the FCC’s Greenhill 1 Report. The Request’s scope was narrowed via email on August 28, 2015, to focus on the following items: 1) “any and all comments, underlying assumptions, and/or output analysis conducted by staff and consultants in preparation for the FCC’s Greenhill 1 Report (the “Report”)” and 2) “extensive auction simulations referred to in fn. 2 on p. 35 of the Report.” With regard to the first set of documents sought by the Request, the Denial determined there was no reasonable expectation of finding responsive documents. As for the auction simulations referred to by the Report, the Denial refused to release the documents under FOIA exemption 5. Accordingly, FAB files this timely appeal.

The basis for this appeal is twofold: 1) the FCC has violated FOIA by failing to conduct an adequate search for the records that are responsive to item one of the Request and 2) the FCC employed an overly broad application of FOIA exemption 5 for withholding records that were responsive to item two.



The FCC has a duty to demonstrate beyond a reasonable doubt that a search was “reasonably calculated to uncover all relevant documents.” *Valencia-Lucena v. United States Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999) (quoting *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990); see also *Defenders of Wildlife v. U.S. Border Patrol*, 623 F.Supp. 2d 83, 92 (D.D.C. 2009). FOIA is designed to empower the public to “pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny.” See, e.g., *Dept. of the Air Force v. Rose*, 425 U.S. 352, 361 (1976). As the Supreme Court has observed, “virtually every document generated by an agency is available in one form or another, unless it falls within one of the Act’s nine exemptions.” *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 136 (1975).

In order to withhold a document under FOIA exemption 5, the FCC must prove that the responsive document is both predecisional and deliberative, as opposed to factual material which would be generally available to discovery. See *Montrose Chem. Corp. v. Train*, 491 F.2d 63, 66 (D.C. Cir. 1974). Even in a situation where a document would fall under FOIA’s exemption 5, that document’s privilege can be waived where a final decisionmaker chooses expressly to adopt or incorporate it by reference. See *Sears*, 421 U.S. at 151.

With respect to the first set of documents identified in the Request, the Denial determined that the FCC did not model any scenarios or channel clearing impacts in connection with the Greenhill Report that “cast light on possible impacts on LPTV clearing and new LPTV assignments.” Therefore, the Denial concluded that there is no reasonable expectation of finding responsive documents. The Request, however, was broader in scope than the characterization in the Denial. The Request sought “any and all” comments or other records concerning the report, including but not limited to comments that pertain to underlying assumptions and/or output analysis conducted by the FCC.

The Denial also withheld the auction simulations referred in footnote 2 of the Report under FOIA exemption 5, claiming that the responsive documents were privileged intra-agency documents that were both predecisional and deliberative. The Denial’s broad application of the FOIA exemption 5 to withhold even redacted versions of these documents fails to meet the requisite statutory mandate under FOIA. The auction simulations identified by the Report are factual by nature and do not reveal the agency’s pre-deliberative decision making, and are therefore not subject to FOIA exemption 5 because they are not deliberative as to any FCC final decision. Further, even if the withheld documents were subject to FOIA exemption 5, the FCC had waived this privilege by expressly incorporating the auction simulations into the Report.

Disclosure of the responsive documents identified in the Request would promote transparency and better inform the public of the possible impact of the FCC’s Incentive Auction. Such government transparency directly reflects the Obama administration’s policy to support our nation’s fundamental commitment to open government and a presumption of disclosure, as expressly proclaimed in both Attorney General Holder’s March 29, 2009 FOIA Memorandum to



all Executive Departments and Agencies, and the FOIA policies announced by President Obama's January 21, 2009 Freedom of Information Act Memorandum to all federal agencies.

Please inform my office of any "unusual circumstances" that will cause a delay in timely responding to this FOIA appeal and also provide me the approximate date by which you expect to issue a final response to this FOIA appeal.

If you have any questions concerning this appeal or need any further clarification, please call me at (202) 298-1736, or email me at candrews@gsblaw.com.

Sincerely,

Colin Black Andrews

CBA:cll
Enclosures

GSB:7347865.1

Attachment C

Congress of the United States

Washington, DC 20515

October 1, 2014

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro,

The Middle Class Tax Relief and Job Creation Act of 2012 became law in February 2012. This law directs the Federal Communications Commission (FCC) to conduct an incentive auction allowing a broadcaster to voluntarily relinquish some or all of their spectrum usage rights in return for compensation (better known as the “reverse auction”).¹ The law also requires the FCC to hold a “forward auction” allowing wireless carriers to bid on the available cleared spectrum.² Only full-power broadcasters and low-power broadcasters with a Class A license are able to participate in the reverse auction.

In May 2014, the FCC adopted an Incentive Auction Report and Order addressing important issues related to the incentive auction.³ The FCC also announced that the agency is planning to initiate a future Low-Power Television station (LPTV) and TV Translator station proceeding to consider measures that help alleviate the impact of LPTV and TV Translators during the incentive auction.

While we are thankful for the ongoing efforts of the FCC, we ask the Government Accountability Office (GAO) to study the impacts of the incentive auction on LPTV stations and TV Translator stations, as well as their viewers. Consistent with the FCC’s Report and Order, we ask that the GAO evaluate the impact of the incentive auction for each of the two potential scenarios for repurposing broadcast spectrum: (a) 84 megahertz and (b) 126 megahertz. Within each of the two categories, please provide the following information:

1. The total number of LPTV stations that provide original programming or broadcast local news and information, especially those serving racial and ethnic minority communities;
2. The total number of TV translator stations that rebroadcast local news and information programming of a full-power TV broadcast station;
3. A projection of the number of LPTV stations and TV translator stations listed under (1) and (2) that may lose either their current input or output channel as a result of the forward auction;

¹ Middle Class Tax Relief and Job Creation Act of 2012, 26 U.S.C. §6403 (2012).

² *Id.*

³ Federal Communications Commission. (2014). FCC adopts rules for first ever incentive auction; will make available additional airwaves, increase competition for mobile broadband [Press Release]. Retrieved from https://apps.fcc.gov/edocs_public/attachmatch/DOC-327100A1.pdf

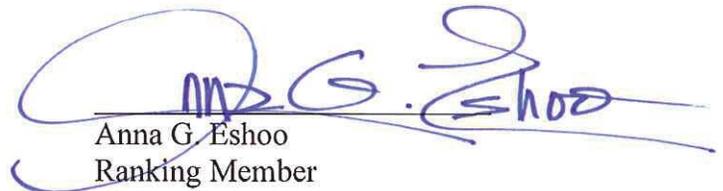
4. A projection of the number of such LPTV stations and TV translator stations that will subsequently be able to locate and operate on replacement channels after the auction, together with an aggregate estimate of the costs of relocation, including new equipment, legal and engineering services, and facility construction;
5. A projection of the number of such LPTV stations and TV translator stations that will be unable to locate to or operate on replacement channels after the auction;
6. A projection of the number of viewers that will lose over-the-air access to at least one such local LPTV station that provide local news and information, especially to underserved communities of interest;
7. A projection of the number of viewers that will lose over-the-air access via such TV translator stations to at least one of the signals of the regional affiliates of the major commercial or noncommercial educational television broadcast networks; and
8. Recommendations to the FCC and Congress on ways to remedy adverse impacts of the auction on LPTV stations and TV translator stations, and, most importantly, their viewers.

Thank you for your timely attention to this request. If you have any questions, please contact Emmanuel Guillory (Rep. Joe Barton) at 202-225-2002 or David Grossman (Rep. Anna Eshoo) at 202-225-8104.

Sincerely,



Joe Barton
Chairman Emeritus
House Committee on Energy and Commerce



Anna G. Eshoo
Ranking Member
Subcommittee on Communications
& Technology

Exhibit 5

Request Confirmation

Request Information

Tracking Number : *FCC-2016-000357*

Requester Name : Mr. Colin B. Andrews

Date Submitted : 02/16/2016

Request Status : Submitted

Description :

On behalf of Free Access & Broadcast Telemedia, LLC, (“FAB”) I hereby submit this Freedom of Information Act (“FOIA”) request concerning the following: FAB is currently working with the FCC via an ongoing FOIA request (FCC FOIA No. 2016-124) in order to produce any and all analysis that might reveal information on the impact of the Incentive Auction to LPTV stations in various market areas. On December 16, 2015, David J. Mallof, Managing Director of FAB, and I met with Mr. Edward Smith, the top staff member in the Chairman’s Office for the Incentive Auction, to discuss various outstanding LPTV issues. During the meeting, Mr. Smith specifically indicated that he personally and recently had reviewed analysis on the potential impacts to LPTV stations in various markets and he could confirm that “... LPTV could survive in many markets.” Any analysis that would lead to this conclusion would be extremely useful to LPTV stations that are currently concerned with their survival after the Incentive Auction has been completed. Given the importance of this information to LPTV stations, FAB hereby requests any and all analysis which Mr. Smith reviewed that could lead him and/or the FCC to informally or officially determine LPTV could survive in many markets, as referenced by Mr. Smith in the December 16th meeting. Pursuant to 47 C.F.R. § 0.461, we expect a response within 20 days. We also are willing to discuss this request with Mr. Smith directly if that is helpful in order to expedite processing.

Exhibit 6

From: Ryan Yates [<mailto:Ryan.Yates@fcc.gov>]
Sent: Tuesday, March 1, 2016 3:16 PM
To: Colin Andrews <CAndrews@gsblaw.com>
Subject: FOIA Request 2016-357

Mr. Andrews,

Attached please find a response to your Freedom of Information Act (FOIA) request, FOIA Control No. 2016-357.

As stated in the attached letter, we were unable to locate the report you state was referenced in the December 16, 2015 ex parte meeting with Mr. Edward Smith. We checked with Mr. Smith and he has relayed to us that he did not make reference to such a report, and thus the requested report does not exist.

Ryan Yates
Attorney Advisor
Federal Communications Commission
Office of General Counsel
202-418-0886
ryan.yates@fcc.gov



Federal Communications Commission
Washington, D.C. 20554

March 1, 2016

Colin B. Andrews
Garvey Schubert Barer
1000 Potomac St. NW
Fifth Floor
Washington, DC 20007
Via e-mail to candrews@gsblaw.com

Re: FOIA Control No. 2016-357

Mr. Andrews:

This letter responds to your Freedom of Information Act (FOIA) request for “analysis on the potential impacts to LPTV stations in various markets” that you state Mr. Edward Smith referenced during a December 16, 2015, ex parte meeting. Your request has been assigned FOIA Control No. 2016-357. We are responding to your request within 20 business days as required by the FOIA.

Mr. Smith searched for responsive records. The search produced no records responsive to your request.

We are required by both the FOIA and the Commission’s own rules to charge requesters certain fees associated with the costs of searching for, reviewing, and duplicating the sought after information.¹ To calculate the appropriate fee, requesters are classified as: (1) commercial use requesters; (2) educational requesters, non-commercial scientific organizations, or representatives of the news media; or (3) all other requesters.²

Pursuant to section 0.466(a)(4) of the Commission’s rules, you have been classified as category (1), “commercial use requesters.”³ As a “commercial use requester,” the Commission assesses charges to recover the full direct cost of searching for, reviewing, and duplicating the records sought.⁴ The search did not require an appreciable amount of Commission resources. Therefore, you will not be billed for this request.

If you consider this to be a denial of your FOIA request, you may seek review by filing an application for review with the Office of General Counsel. An application for review must be *received* by the Commission within 30 calendar days of the date of this letter.⁵ You may file an application for review by mailing the application to Federal Communications Commission, Office of General Counsel, 445 12th St SW, Washington, DC 20554, or you may file your application for review electronically by e-mailing it to FOIA-Appeal@fcc.gov.

¹ See 5 U.S.C. § 552(a)(4)(A), 47 C.F.R. § 0.470.

² 47 C.F.R. § 0.470.

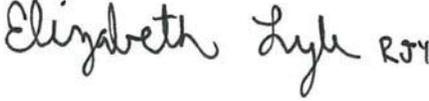
³ 47 C.F.R. § 0.466(a)(4).

⁴ 47 C.F.R. § 0.470(a)(1).

⁵ 47 C.F.R. §§ 0.461(j), 1.115; 47 C.F.R. § 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission).

Please caption the envelope (or subject line, if via e-mail) and the application itself as
“Review of Freedom of Information Action.”

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Lyle R.01". The signature is written in a cursive style with a small "R.01" at the end.

Elizabeth Lyle
Assistant General Counsel

Enclosures
cc: FCC FOIA Office

Exhibit 7



WASHINGTON, D.C. OFFICE

flour mill building

1000 potomac street nw

suite 200

washington, d.c. 20007-3501

TEL 202 965 7880 FAX 202 965 1729

anchorage, alaska

beijing, china

new york, new york

portland, oregon

seattle, washington

GSBLAW.COM

GARVEY SCHUBERT BARER

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Please reply to COLIN B. ANDREWS
candrews@gsblaw.com
TEL EXT 1736

March 24, 2016

Mr. Edward Smith
Legal Advisor, Incentive Auction
Office of Chairman Thomas Wheeler
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Meeting of December 16, 2015 and FCC FOIA Control No. 2016-357

Dear Mr. Smith,

At the instruction of my client, Free Access & Broadcast Telemedia, LLC ("FAB"), I am writing explain the reasoning behind the Freedom of Information Act ("FOIA") filed on behalf of FAB on February 16, 2016, and ask for further clarification.

On December 16, 2015, David J. Mallof, the Managing Director of FAB, and I, acting as counsel, met with you to discuss the impact of the Incentive Auction on LPTV stations. During this meeting it is our joint recollection you said that you personally had reviewed information that lead you to be confident that "LPTV could survive in many markets."

As you may know, FAB has been working with the FCC on an ongoing series of FOIA requests seeking any analysis the Commission might have that would reveal any range(s) of possible cleating impacts of the Incentive Auction on LPTV stations in various market areas.

We concluded, based on this comment, that the FCC might have prepared one or more recent analyses of the auctions effects on LPTV since Chairman Wheeler's November 16, 2015 letter to Congress, which was in response October 22, 2015 letter from Representatives Ellmers, Cramer, Bilirakis and Long. In that letter, Chairman Wheeler stated:

"...we have not systematically analyzed the potential displacement impact on those stations. Similarly, because LPTV and TV translator stations are not entitled to protection in the repacking process, no assumptions regarding them are



Mr. Edward Smith
March 24, 2016
Page 2

necessary to conduct auction simulations or repacking analyses; LPTV and TV translator stations do not factor into such analyses.”

Accordingly, after much deliberation with Mr. Mallof, FAB’s other advisors, and staff on the Hill, we filed another FOIA request with Ryan Yates on February 16, 2016, seeking any analysis that may have helped you to conclude that “LPTV could survive in many markets.”

On March 1, 2016, the FCC’s Office of the General Counsel responded to our February FOIA request, stating that no documents responsive to our request could be found. We were advised by Ryan that no search was conducted because the requested analysis does not exist. Please see his attached e-mail to which you were not copied.

We now understand after speaking with FCC staff that your statement in our December meeting was not based on any specific study that the Commission, or its consultants, had conducted. Yet we are uncomfortable receiving this clarification second hand, especially if we are mistaken and owe you an apology. Please confirm with us that no search was made for these records, and that you advised Mr. Yates there is no presentation, report, or analysis that you have personally seen depicting the post-auction impact of the Auction on LPTV.

Thank you for your personal and professional patience and stewardship in this matter. Please let me know if you have any questions concerning this matter. At FAB’s respectful request, we look forward to a reply by letter or e-mail from you on the three points above.

Sincerely,

Colin Black Andrews
*Counsel for Free Access &
Broadcast Telemedia, LLC*

CC: David J. Mallof, Managing Director, FAB Telemedia
Elizabeth Lyle, FCC Assistant General Counsel
Ryan Yates, FCC Attorney Advisor, Office of General Counsel
Mr. William Scher, FCC Associate General Counsel

Encl: FCC FOIA reply dated March 1, 2016
Cover e-mail from Ryan Yates also dated March 1, 2016
Original FAB submission -- FCC FOIA Control No. 2016-357

Exhibit 8

From: Colin Andrews [mailto:CAndrews@gsblaw.com]
Sent: Wednesday, May 04, 2016 2:34 PM
To: edward.smith@fcc.gov
Cc: Dave Mallof; Ryan Yates; Erwin Krasnow
Subject: March 24 Correspondence

Dear Mr. Smith,

Attached is a copy of the letter I sent you on March 24, 2016 on behalf of Free Access Broadcast Media, discussing our December 16, 2015 meeting. Could you please email Dave and myself your response to the letter so we can let Ryan Yates know that we have no outstanding issues regarding our February FOIA request?

Additionally, the letter I have attached has one revision. I've corrected the date of Chairman Wheeler's November 16th letter to Congress, a copy of which is attached.

Best,

Colin

COLIN BLACK ANDREWS

Associate Attorney | 202.298.1736 Tel | 202.965.1729 Fax | candrews@gsblaw.com

GARVEY SCHUBERT BARER | 5th Floor | 1000 Potomac Street NW | Washington, DC
20007 | ► GSBLaw.com

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