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United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025

JUL - 9 1998

June 17, 1998

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Ms. Magalie Roman Salas
Secretary, Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

EX PARTE OR LATE FILED

RE: MM DOCKET No. 97-234
GC DOCKET 92-52
GEN DOCKET 90-264

Dear Secretary Salas:

I am writing about an issue that greatly concerns me and the public broadcasting stations in my state.

As a conferee to the Balanced Budget Act (BBA) of 1997's commerce provisions, my colleagues and I crafted legislative language authorizing the FCC to auction broadcast licenses. During that process we were mindful of the interests of public broadcasters and their inability to compete at auction for licenses. I am concerned by the FCC's interpretation of the BBA provisions. The NPRM adopted November 25, 1997 disregards, perhaps unintentionally, the potentially significant impact this proposal will have on public radio and television stations alike.

Specifically, the Commission has proposed the use of auctions to decide among mutually-exclusive applications for non-reserved broadcast frequencies — whether or not one or more of the applicants is a public broadcaster. Section 3002(a)(2)(C) of the BBA prohibits the use of auctions when a public broadcaster files an application for a license to construct and operate a new or modified noncommercial educational broadcast station, regardless of whether the station is on a reserved or non-reserved frequency.

Obviously, most non-reserved frequencies will be closed to public broadcasters if they must compete in auctions, since public broadcasters lack the substantial resources necessary to compete in auctions. Many communities that we represent have the potential to be affected by this proposal. In the case of public radio in Alaska there are 12 stations located on the non-reserved FM band or the AM band, where there are few reserved FM frequencies because of military or common carrier use of the frequencies at the lower end of the spectrum.

Applying for frequencies outside the reserved band is often essential to extend and maintain noncommercial, educational broadcast services (especially FM translator services). Public radio stations that are forced to relocate current FM translators to a frequency outside of the reserved band because of interference to a new full-service station would be subject to auctions merely to maintain existing service. In the case of public television, there are no reserved channels for TV translators. Therefore, any application by a public television station for a TV translator to extend service to a rural area or to maintain service lost when a translator is forced to relocate would be subject to auctions. This will most immediately apply to the public television translators located on channels 60 to 69 that will be required to relocate under the Commission's recently adopted digital television order. In addition, many public television stations hold ITFS licenses; these entities would be subject to auctions in order to expand these important educational services.

In addition, the rationale underlying auctions — those who value the spectrum most will bid the most — does not apply to public broadcasters, who are charged with the public interest mission of serving unserved and underserved audiences through programming that, in most cases, the marketplace would not readily support.

Finally, because the FCC has not yet considered comparative hearings or other criteria to license the reserved spectrum, which the FCC recognizes to be exempt from the auction requirement, public broadcasters are effectively denied access to any spectrum for the foreseeable future.

I urge the FCC to reconsider its proposals to reflect the intent of Congress that spectrum policy should not disenfranchise public broadcasting.

Thank you for your consideration.

Sincerely,



TED STEVENS