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May 15, 2002

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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David L. Donovan
President

RE: Written *ExParte* Communication in WT Docket No. 99-168
And GN Docket No. 01-74 (Auctions 31 & 44)

Dear Chairman Powell:

On behalf of local over-the-air television stations across the United States, I am writing to express MSTV's support for delaying the auctions for Channels 60-69 (upper 700 MHz band) and 52-59 (lower 700 MHz band) that are now scheduled for June 19, 2002.¹ As representatives from the wireless and public safety industries observed previously, proceeding with these auctions does not serve the public interest. Moreover, we do not believe it is in the public interest to delay the upper 700 MHz auction and move forward with the lower 700 MHz auction. Both auctions should be postponed.

The advent of digital broadcast transmission has made it possible for the government to reclaim nearly one third of the spectrum now used for television broadcasting. As a result, it is vitally important that television broadcasters use their remaining spectrum (Channels 2-51) in the most efficient manner possible. Moreover, there is little doubt that the government wants to clear "non-core" spectrum in a timely fashion. Unfortunately, proceeding with the upper and lower 700 MHz auctions at this time will be counter productive to these objectives.

The auction will create increased pressure for some stations to vacate the upper and lower 700 MHz bands. There are more than 200 analog stations and approximately 180 DTV stations assigned in the 700 MHz band. Many of these station may try to squeeze their operations into an

¹The Association for Maximum Service Television, Inc., represents over 450 local, over-the-air television broadcast stations. Since 1956, television broadcasting has relied on MSTV to protect and promote the technical quality of the over-the-air television service. Also, MSTV has been a leader in the creation of the DTV table of allotments and fostering policies that facilitate the deployment of local, over-the-air digital television.

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already crowded “core” television band. Moreover, because there are few digital receivers in the marketplace at this point in time, there is an added incentive for many stations to move their analog facilities on to “in-core” digital channel assignments. Operating analog facilities on digital channels is problematic from an interference and spectrum planning standpoint. As we have noted elsewhere, these digital channel allotments were not designed to be used by analog facilities. Such uses will cause significant interference to the surrounding stations, and result in a haphazard and inefficient approach to spectrum management.

Because we are in the middle of the DTV transition, the core television band (Channels 2-51) is overcrowded with stations operating both analog and digital facilities. In many markets, there is simply no more room to squeeze in any *additional* stations, either DTV or analog. The government’s transition plan always assumed that stations would vacate one of their “in-core” channels *after* DTV receivers penetrated the market. Vacating a channel was a necessary precondition in order to find sufficient spectrum to permit “out-of-core” DTV stations to move down onto “core” channels. The DTV transition plan did not contemplate the premature squeezing of additional stations resulting from “early” band clearing arrangements.

Efficient use of broadcast spectrum will require a final repacking of “in-core” broadcast channels to make room for these “out-of-core” stations. Proceeding with the auctions on June 19, 2002, makes it extremely difficult to devise a comprehensive, efficient spectrum plan. Repacking involves a myriad of complex engineering issues. MSTV is commencing work on a detailed plan for the efficient use of the remaining “core” broadcast spectrum. The difficulties of this task are enormous, as approximately 180 DTV stations now located in the 700 MHz band must be squeezed into the “core” broadcast band. With an orderly and timely transition to digital, these stations can be accommodated in the core.

Adding to the complexity is the ability to accommodate the needs of the public safety community. At the present time, the FCC has allocated 24 MHz of spectrum in the upper 700 MHz band for public safety. Early band clearing agreements, which naturally follow commercial auctions, may make it more difficult to devise a rational clearing plan to accommodate these needs. Moreover, proceeding with auctions at this point in time may make it more difficult to meet the long term spectrum demands of the public safety community.

Moving forward with the lower 700 MHz auction will not resolve the fundamental engineering problems. There are approximately 166 DTV and 116 NTSC assignments in the lower 700 MHz band. As the FCC observed:

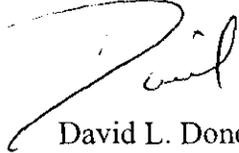
On average there are slightly more than ten times the number of digital stations per channel on Channels 52-59 as compared to Channels 60-69. While the planning for the DTV Table of Allotments sought to minimize use of out-of-core channels, the Commission was unable to accommodate a second digital channel for all broadcasters within the “core” broadcast spectrum. The degree of incumbency in the Lower 700 MHz Band - consisting of both digital and analog

broadcasters - is likely to make it far more difficult for new services to operate in this band, particularly in major metropolitan markets, prior to the end of the transition.²

The need to postpone these auctions is based on the very real interference problems associated with "early" band clearing. Many of these issues would be attenuated if the clearing of the 700 MHz band coincided with the transition to digital television. Once local television stations shift to digital transmission, then additional channels can be made available to accommodate stations that are moving into the core. Policies designed to accelerate the over-the-air digital transition would help alleviate these problems.

The overwhelming majority of television stations in this country are not spectrum speculators. Most stations want to clear the band in an orderly and economically viable fashion. Moving forward with the 700 MHz auctions at this time will make this orderly transition problematic. Accordingly, we urge you to delay these auctions. The enactment of a rational band plan for "core" broadcast spectrum will help the digital transition, making it possible for the government to clear spectrum in a timely fashion.

Sincerely,



David L. Donovan
President

cc: The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin
Thomas Sugrue, Chief Wireless Telecommunications Bureau
Marlene Dortch, Secretary

²*In re Reallocation and Service Rules for the 698-746 MHz Spectrum Band*, Report and Order in GN Docket No. 01-74, FCC 01-364 (released January 18, 2002) at 17-18.