



November 7, 2003

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

Re: ET Docket No. 95-18, Reallocation of Spectrum at 2 GHz

Dear Mr. Chairman:

Yesterday, we were pleased to participate with you in the meeting of the Media Security and Reliability Council to hear reports from the Working Groups that have been developing plans and best practices to ensure that Americans continue to receive vital information in emergencies and disasters. We were struck by the recommendations that broadcasters plan to use their ENG facilities to replace studios and other vital equipment in case of an emergency. We are troubled that at the same time you were hearing recommendations that rely on broadcasters' ENG facilities, the Commission is considering a plan that would reduce stations' abilities to cover breaking news and emergencies using those same ENG facilities.

For almost a decade, broadcasters have agreed with the Commission that improvements in technology make it possible to shrink the spectrum at 2 GHz that we have used for ENG. Consistent with the FCC's *Emerging Technologies* doctrine, we have asked only that there be a workable transition plan and that the new users of the spectrum to be vacated undertake the costs of the transition. While broadcasters have been willing to move, the transition to a new band plan has been frustrated by the unwavering refusal of the applicants for the Mobile Satellite Service licenses that will use the vacated spectrum to agree to any plan that would require any significant financial commitment from them.

We understand that the Commission may be considering a plan that would allow the MSS licensees to minimize their costs by weakening ENG service. Under that plan, all broadcasters would have to vacate two of the seven existing ENG channels, but only stations in the 30 largest markets would have the opportunity to negotiate with MSS licensees for relocation compensation prior to vacating these channels. Broadcasters in the remaining 180 markets would either (1) lose two channels, or (2) bear the costs of relocation including the purchase of new narrow-band

ENG equipment until an uncertain date when the new spectrum users (who would already have access to the spectrum nation-wide) might be compelled to compensate them for converting to the new band plan.¹ Compensation for these stations would occur, if at all, years after the new equipment was acquired. Given the uncertain history of the MSS service, it is more than possible that stations may never be compensated. We oppose this plan because:

- Stations in markets as large as Nashville, Cincinnati, Milwaukee, Grand Rapids-Kalamazoo, Oklahoma City, Richmond and Columbia; and smaller markets like Rockford, Anchorage, Abilene-Sweetwater and Rapid City would be reduced to five channels for the entire market to use for ENG, as well as for the fixed links that supply signals to satellite and translator stations. There will simply be less news coverage of emergencies and breaking events in those communities.
- If an emergency or breaking news event involves stations in those markets and stations in the top-30 covering the same event, both the large and small market stations will suffer since stations will be operating on two different band plans. Not one channel in the two band plans lines up with a channel in the other. Thus, for the smaller market stations to use two channels, it would require the bigger market stations to give up four of their seven channels. Coordination among stations for emergencies is already a challenge; under this proposal, it would be almost impossible particularly in emergency situations where spectrum planning cannot be done in advance.
- The Commission acknowledged in the *Biennial Ownership* proceeding that stations in smaller markets face new financial pressures and are frequently losing money, and that these financial hardships make it more difficult for them to provide ever-more expensive news coverage. The proposal the Commission has under consideration inexplicably places the financial and operational burdens of the 2 GHz relocation on those stations least able to pay. There is no reason for such discriminatory treatment.
- At a time when the Commission is conducting nation-wide hearings about broadcasters' service to local communities, it is hard to understand why the Commission would even consider a plan that would so harm broadcasters' ability in most markets to provide the news and emergency information that is at the heart of localism. If, as we have been told, the reason is to reduce the costs of entry for MSS providers, we urge you to consider whether – if MSS service must be subsidized – that subsidy should come from broadcasters and the public they serve.

¹ FCC staff has told us that this will be the first time that the Commission has ever required incumbents to vacate spectrum in advance of being compensated for their relocation costs.

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We urge you to reject this proposal. Broadcasters continue to be willing to reduce the spectrum we use for ENG. The Commission should not, however, adopt a transition plan that hurts the very services it most values from local stations.

Respectfully submitted,



Edward O. Fritts



David L. Donovan

cc: The Honorable Kathleen Q. Abernathy
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