

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)
)
Request by State Broadcasters)
Associations for Declaratory Ruling)
Concerning Application of the) MB Docket No. 07-137
Commission's Political Programming)
Regulations to Three Internet)
"Airtime Sales Programs")

COMMENTS OF BID4SPOTS, INC.

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COMMENTS OF BID4SPOTS, INC.

Bid4Spots, Inc. (“Bid4Spots”) hereby submits its comments in response to the above-referenced Petition for Declaratory Ruling (“Petition”).¹ The Petition seeks clarification from the Commission regarding whether a broadcast station participating in any of three specific Internet advertising sales programs, including Bid4Spots, must take into consideration the “sale price” of the airtime sold to advertisers under these programs when computing the station’s Lowest Unit Charge (“LUC”). For the reasons provided herein, Bid4Spots submits that the answer to this question is “No”: advertising spots sold via Internet auction websites such as Bid4Spots should not count toward the LUC obligations of individual broadcast stations that use these auction services.

¹ *Comment Sought on the Request by State Broadcasters Associations for Declaratory Ruling Concerning Application of the Commission’s Political Programming Regulations to Three Internet “Airtime Sales Programs,”* Media Bureau Public Notice, MB Docket No. 07-137 (July 5, 2007).

I. INTRODUCTION AND SUMMARY

FCC precedent and policy instruct that Internet-based airtime sales services such as that operated by Bid4Spots should not impact the LUC calculations of individual broadcast stations that make use of these online resources. As explained herein, these services should be treated in the same way as network and other similar multi-station sales arrangements. In comparable situations, the FCC has recognized that arrangements between traditional networks and their affiliates are beyond the intended scope of the governing statute and regulations.² Similarly, the Commission has excluded other multi-outlet time sales arrangements and so-called “non-wired networks” from the reach of the limits on station rates. Accordingly, sales of airtime through such services traditionally have not been included in the LUC calculations of individual participating stations.

Bid4Spots submits that the groups of responding stations created in each of its auctions should be viewed in the same way—as unique multi-station sales groups or advertiser-defined non-wired networks. Importantly, individual stations that make use of the Bid4Spots service do not contract directly with advertisers and do not otherwise offer time for sale on this basis. Moreover, participating advertisers cannot request that specific stations participate in their auctions; rather, they must structure their requests based on general market and demographic criteria. Thus, the unique terms of participation by stations and advertisers in a Bid4Spots reverse auction distinguish these transactions from any other class of time offered by the stations and render application of the LUC provision inappropriate. Further, as it has in analogous situations, the FCC should refrain from applying LUC obligations to individual broadcasters that

² See 47 U.S.C. 315(b); 47 C.F.R. §73.1942.

make use of these services because they cannot predict, and in many respects cannot control, the ultimate outcome of the sales auctions.

More broadly, in situations involving nascent technologies, products, and services, the Commission has made an effort to avoid heavy-handed regulation that could stifle the development of innovative service offerings. This has been true with respect to online services as well as those that offer more cost-effective ways of making advertising time available to would be purchasers. Similar restraint is called for here. The online advertising sales services offered by Bid4Spots and others use a novel approach to address a specific marketplace need for advertisers and broadcasters. Moreover, the auctions are structured in such a way as to provide the lowest currently available spot rates on a “cost per thousand” (or “CPM”) basis and fair and equitable treatment to all advertisers, including any political candidates who may wish to participate. Thus, by their very nature, these services accomplish the underlying objectives of the agency’s political broadcasting policies. On the other hand, application of the LUC provision on an individual station basis in this context would severely chill station participation in the online auction process, drastically reduce the resulting competition for ad sale opportunities, and inevitably increase the prices advertisers, including participating political candidates, would have to pay to achieve the same coverage.

II. OVERVIEW OF THE BID4SPOTS AUCTION SERVICE

Bid4Spots offers a unique opportunity for advertisers—including political candidates—and radio stations throughout the country to buy and sell “remnant” advertising time that otherwise would remain unsold. Bid4Spots auctions consist of two fundamental elements: (1) an individualized online “reverse” auction, whereby stations bid to participate in a multi-station sale of spot time to advertisers; and (2) maintaining the confidentiality of the advertising rates of the individual stations that participate in the auctions.

In a conventional (forward) auction, advertisers would compete for radio station spots, and the advertiser with the highest bid for the spots available on any particular station would win. Such a format could be unattractive to some advertisers because a “winning” advertiser might pay more. Alternatively, radio stations might be reluctant to participate in a standard auction (or otherwise sell remnant inventory at bargain prices) if advertisers could obtain the individual radio station’s rates at the end of the auction, for fear that it would devalue the station’s inventory for future sale.

Bid4Spots has responded to these concerns by crafting a reverse auction that preserves the privacy of the stations’ individual rates and other proprietary information, but provides advertisers with the opportunity to obtain the lowest advertising rates possible on a CPM basis for a multi-station purchase. In exchange for giving advertisers this opportunity, Bid4Spots requires the advertiser to give up the right to invite specific stations to a particular auction and, instead, asks it to invite stations based on general criteria such as market, audience demographics, station format, and daypart. An advertiser participating in the auctions does not have certainty as to what stations its ads ultimately will appear on, or the per-ad rate that it ultimately will pay, until the outcome of the auction is determined.

A step-by-step review of the Bid4Spots auction process is attached hereto at Appendix A, but the key elements are as follows.³ Auctions occur on a weekly basis and only sell time for the following week. An advertiser begins the process by logging onto the Bid4Spots website (www.bid4spots.com) at the appointed time and indicating that it wishes to hold an auction for time during the following week. Each auction is a unique transaction shaped by the advertiser’s

³ As noted by the State Broadcasters Associations, Bid4Spots recently has teamed with EBay, Inc., to provide additional opportunities for advertisers seeking radio spot time. The process for stations bidding via EBay, however, is the same as that described in these Comments.

particular criteria. The advertiser provides a description of its actual advertisement, indicates its duration (10 seconds, 30 seconds, 60 seconds, etc.), and loads a .wav or .mp3 file of the advertisement onto the website for viewing by participating stations.

Next, the advertiser selects the minimum and maximum number of spots it would like to run on any winning station in a given daypart. As noted above, it also chooses the general criteria for those stations that will be invited to participate in the auction. Significantly, each advertiser provides a maximum budget that it is willing to spend on its total purchase. In order to accommodate the varying market sizes of each station, Bid4Spots also requires advertisers to set a maximum CPM that the advertiser is willing to pay for a given daypart.

With respect to each auction, an advertiser may invite multiple formats in multiple radio markets. Indeed, the Bid4Spots auction process is more typically used for national or regional buys rather than for single market purchases. Further, an advertiser may initiate as many auctions with varying criteria as it wishes and, thus, effectively may subdivide a larger buy by region and/or station format. In order to promote competition, however, the advertiser may *not* structure an auction that only invites one station to participate. Similarly, in order to preserve the confidentiality of individual station rates, the outcome of any auction must involve more than one station. Bid4Spots disqualifies any auction in which there is only one station winner.

Stations that qualify for one or more auctions are notified by email and can select the auctions in which they would like to participate. Stations opting to participate must relay their minimum rates to Bid4Spots, which translates this amount into CPM. Thereafter, stations can monitor the progress of an auction continuously via the Internet and can adjust their CPMs at any point during the auction in order to increase the number of spots they will win at any given point in time. Notably, using the “PowerBidder” function, stations must adjust their rates for all

auctions in a specific daypart in which they have opted to participate simultaneously and cannot adjust them on an auction-by-auction basis. Once the auction is concluded, Bid4Spots receives the payments from the advertisers and subsequently compensates participating stations for their share of the total time sold.⁴ Accordingly, the stations and advertisers contract directly with Bid4Spots and not with one another.

Political candidates, like any other advertisers, are encouraged to participate in the weekly auctions and may do so on the same terms and conditions as commercial advertisers. To date, however, relatively few candidates have opted to use the Bid4Spots service. This likely is because most candidates prefer to place ads on particular stations for which the ratings and audience demographics information is fully accessible—a degree of specificity that is not available via Bid4Spots.

Bid4Spots is prepared to assist candidates in structuring their proposals and budgets for participation in a weekly auction to achieve their desired geographic coverage and demographic reach or to replicate those of competing candidates who have previously utilized the Bid4Spots auction system to buy radio advertising time. The company routinely generates information on the disposition of requests for time comparable to that required in an individual station's political file and thus can readily provide a competing candidate the necessary information to construct a proposal for a responsive spot time package.

Bid4Spots' experience confirms that, in practice, a candidate can expect to replicate closely the results achieved in the preceding week's auction by his opponent, thus satisfying the underlying policy objectives of the Commission's equal opportunities provisions. (For example, a "test run" by Bid4Spots in 2006 comparing the results of two auctions conducted one week

⁴ The budget also includes a 15% placement fee for Bid4Spots.

apart utilizing identical parameters and identical \$10,000 budgets produced virtually the same number of spots (549 vs. 551), substantial overlap in the stations involved, and average CPMs of \$2.7971 versus \$2.7672—a net difference of only \$107 dollars.)

As Bid4Spots has observed, results in similarly structured auctions are generally quite consistent because stations typically participate in the auction process on the same basis from week to week. In the case of political candidates, although a second candidate auction may not produce an identical outcome as compared to a previous candidate's auction, there likely will be substantial overlap in the responding station groups and near-identity in overall response, demographic and geographic reach, and CPM.

Plainly, the public interest benefits from the availability of alternative advertising opportunities such as the Bid4Spots reverse auction model. From the perspective of the radio station, remnant time may be sold to advertisers that the station would never reach through conventional sales methods. Otherwise, this time likely would remain unsold, as individual stations would not wish to establish a price level that they could not sustain for a larger volume of business. From the perspective of advertisers, including political candidates who may be interested, the service offers the opportunity to make highly cost-effective, targeted buys of advertising time at rates that would not be available in direct single-station transactions.

III. THE FCC SHOULD NOT ATTRIBUTE RATES ARISING OUT OF A BID4SPOTS AUCTION TO INDIVIDUAL STATIONS FOR PURPOSES OF CALCULATING THE LOWEST UNIT CHARGE

The FCC has determined repeatedly that certain advertising sales are outside the scope of the LUC obligations of individual stations that air the advertisements. In particular, the Commission historically has not attributed the rates from traditional network or other multi-outlet advertising spots to the LUC of the network affiliates or other individual stations that run the spots. This is because, among other reasons, the discounted prices generated through such

sales would not be available to advertisers through traditional single-station transactions. The auctions conducted by Bid4Spots fit logically within this precedent.

Further, the FCC has determined that it is inappropriate to apply LUC obligations in situations, such as that involved in Bid4Spots and similar advertising auctions, in which the rates charged to advertisers are unpredictable and outside the direct control of the station. Finally, attributing rates arising from a Bid4Spots auction to a station's LUC would seriously undermine the Bid4Spots business model, unnecessarily depriving both advertisers and stations of the opportunity to engage in economically efficient transactions for the use of otherwise unsold remnant time. For all of these reasons, the agency should refrain from imposing LUC obligations based on auction selling levels on the individual stations that participate in Internet auctions of remnant advertising time.

A. Each Bid4Spots Auction Effectively Creates a Dynamic Advertiser-Defined Station Group or “Non-Wired Network” Generating Discounted Rates That Would Not Be Available in Direct Station-to-Advertiser Sales

The Commission consistently has held that rates charged for airtime on a traditional interconnected network, a so-called “non-wired network,” or a similar group of media outlets do not apply to the LUC of an individual station participating in that network or station group.⁵ In excluding such sales arrangements from its LUC obligations, the FCC has noted expressly that “Congress’ purpose in enacting the ‘lowest unit charge provision’ was to put a political candidate on a par with the ‘most favored advertiser’ when purchasing time on a station,” and “[t]he unique

⁵ *Michael H. Bader*, 56 FCC 2d 840 (1975) (where a “national time sales organization,” which does not sell time on individual stations, purchases time on a “defined group of stations” at rates not available to advertisers for the purchase of any participating station alone, such a transaction would not be considered in computing an individual station’s LUC); *Robert L. Olender*, 61 FCC 2d 694 (1978) (rates charged by a “non-wired network” for spots on participating affiliated stations need not be taken into account by individual stations for purposes of the LUC provision); *see also Charles M. Firestone*, 5 FCC Rcd 3255 (1990) (applying the principle articulated in *Bader* and *Olender* to “Ad Link,” a sales organization for a network of cable television systems in Southern California selling time on a marketwide basis); *Political Primer 1984*, 100 FCC 2d 1476, 1514 (¶ 66(f)) (1984).

relationship of a network and its affiliated stations is, we believe, beyond the scope of the statute.”⁶ This is appropriate because, as part of a traditional or a non-wired network, “each station charges a rate which would not be available to the station’s most favored commercial advertiser for the purchase of time on that station alone.”⁷ Therefore, such a transaction should “not be considered in computing an individual station’s lowest unit charge.”⁸

Advertisers who purchase airtime in this manner deal directly with the network, rather than any of its affiliated stations, and do not typically have the option to exclude or include particular stations. This means that the individual station’s most favored advertiser would not receive the most favored rate charged by the network (nor the rate effectively charged by the station to the network or similar sales organization for the use of the station’s time).⁹ As the network operates separately from the station, the rates charged to or by the network do not count against the individual station’s LUC.¹⁰ Thus, when an advertiser purchases time during a network program, a station affiliated with that network need not charge the same rate to a legally qualified candidate during the statutory LUC windows. In effect, an advertiser receives a

⁶ *Robert L. Olender*, 61 FCC 2d at 694.

⁷ *Michael H. Bader*, 56 FCC 2d at 840.

⁸ *Id.*; see also *Political Primer 1984*, 100 FCC Rcd at 1514 (¶ 66(f)) (“The compensation an affiliate receives from a network for carrying a sponsored network program will not be considered in computing the affiliate’s ‘lowest unit charge’ for direct sales to candidates. This principle applies to ‘non-wired networks’ like Keystone as well as to interconnected networks like ABC, CBS, NBC, and MBS.”)

⁹ See *Robert L. Olender*, 61 FCC 2d at 695 (noting that “no commercial advertiser, even the ‘most favored,’ would be able to go directly to the station and receive a rate comparable to that which is offered to the network”).

¹⁰ See *Political Primer 1984*, 100 FCC 2d at 1509 (¶ 59(g)) (“The Commission has stated that the rate charged an opposing candidate by an individual [network] affiliated station need not be related to the rate charged by the network.”).

frequency or volume discount rate when purchasing from a network—a discount that would not be applicable to an advertiser who purchases less time on a single participating station.¹¹

Likewise, an advertiser who participates in a Bid4Spots auction cannot construct the auction to target one particular station and, in fact, cannot request that any specific station participate in the auction. Rather, it commits to spending a certain amount of money and to accepting a certain degree of uncertainty in exchange for obtaining a lower rate. Consequently, *each auction* effectively assembles a distinct multi-station group or “network” consisting of the stations that fit the advertiser’s criteria for that week.

Participating stations could not and would not offer time directly to individual advertisers on the same basis. Rather, they use Bid4Spots as stations often use a network or similar arrangement to reach advertisers on a regional or national basis. The advertisers contract with Bid4Spots, and not directly with the stations. Accordingly, fees generated from the arrangement should not count towards an individual station’s LUC calculation.

Moreover, the Bid4Spots auction system, by its very nature, will result in rates that are lower than those available directly from the stations and, in fact, represent the lowest CPM for a particular transaction that is currently available based on the advertiser’s parameters. Further, experience with Bid4Spots suggests that multi-market auctions involving smaller budgets actually tend to produce *lower* CPMs than those with very high budgets. Thus, political

¹¹ See *Mullins Broadcasting Co.*, 24 FCC 2d 264 (1970); *Political Primer 1984*, 100 FCC 2d at 1509 (¶ 59(g)). Similarly, the Commission has noted that combination rate cards that offer advertisers a discount for agreeing to appear on both (or all) of the stations on the card are treated as a separate class of time for lowest unit charge purposes. See *Combination Advertising Rates and Other Joint Sales Practices*, 51 FCC 2d 679, 686 (¶ 16) (1975) (“Time on the affiliated stations is sold pursuant to a combination rate card at a figure which is not the sum of the affiliates’ individual rates.”).

candidates electing to utilize Bid4Spots can expect to achieve the benefits intended by the LUC provision of Section 315.¹²

B. The Nature of Bid4Spots Auctions Makes It Impossible for Broadcasters to Predict or Directly Control the Rates Charged to Advertisers—in Contrast to Traditional Station-to-Advertiser Sales

The FCC has excluded a number of transactions from the LUC calculation where the results of such transactions are “impossible to predict and in many respects [are] outside the control of the broadcaster.”¹³ In applying this rationale in the context of Noncommercial Sustaining Announcement Plans (“NCSAs”), for example, the Commission used language that applies just as strongly to the buyers and sellers who participate in a Bid4Spots model. NCSAs involve contributions to state broadcaster associations, in return for which the association coordinates the airing of public-service oriented announcements on behalf of the contributing entity on member stations. In this context, the FCC has held that the contributions given to state associations do not affect the LUC of stations that air the announcements because “NCSAs accord no certainty of how many announcements will be aired by a particular station, or if NCSA announcements are aired, how much the participating station will receive.”¹⁴ Thus, “the cost of

¹² Cf. *Robert L. Olender*, 61 FCC 2d at 694 (“Congress’ purpose in enacting the ‘lowest unit charge’ provision was to put a political candidate on a par with the ‘most favored advertiser’ when purchasing time on a station. The unique relationship of a network and its affiliated stations is, we believe, beyond the intended scope of the statute.”) (citing S. Rep. No. 96, 92nd Cong., 1st Sess., p. 27 (1971)).

¹³ *Robert B. McKenna*, 87 FCC 2d 1016 (1981) (discussing per inquiry advertising); see also *Complaint of Lawton Chiles*, 9 FCC Rcd 1593, 1595 (1994) (“[T]he Commission will permit stations to exclude from their bonus spot calculations any bonus spots or make goods furnished to meet contracted-for promises of certain audience numbers, demographics, ratings, etc.”).

¹⁴ *Richard R. Zaragoza*, 4 FCC Rcd 518 (1988).

each announcement is beyond calculation at the time [and]. . . the ultimate benefit to the station is unknown to the station and appears to be essentially beyond its control.”¹⁵

The FCC has made the same determination regarding so-called “per-inquiry” advertising, which compensates stations based on the number of sales inquiries generated by an ad campaign. With respect to this genre of advertising, the agency again has noted that “[t]he amount received for per inquiry announcements is impossible to predict and in many respects is outside the control of the broadcaster.”¹⁶ Accordingly, per inquiry ads also are not subject to a broadcaster’s LUC.¹⁷

With respect to the Bid4Spots service, stations bidding in an auction know whether their bids meet the advertiser’s specifications, but do not know or control the outcome of an auction transaction until it is concluded. As with NCSAs and per inquiry announcements, “the cost of each announcement is beyond calculation at the time” an advertiser sends its budget to Bid4Spots, “and the ultimate benefit to the station is unknown to the station and appears to be essentially beyond its control” until the auction has concluded.¹⁸ Further, the spots ultimately sold by stations through Bid4Spots typically represent only a tiny fraction (less than one percent) of total inventory and, like per inquiry spots, are priced for the advertiser on the basis of actual reach—CPM in this case—rather than standard spot rates.¹⁹

¹⁵ *Id.*

¹⁶ *Robert B. McKenna*, 87 FCC 2d at 1016.

¹⁷ *Id.*

¹⁸ *Richard R. Zaragoza*, 4 FCC Rcd at 518.

¹⁹ Of course, the remainder of a participating station’s inventory remains available for sale on a direct advertiser-to-station basis, subject to the station’s LUC and other political advertising obligations.

C. **Attributing Rates Arising From a Bid4Spots Auction to a Station's LUC Seriously Would Undermine the Bid4Spots Service to the Detriment of the Public Interest**

As discussed above, Bid4Spots has created a unique business model that differs from more traditional advertising placement services. Through its innovative approach, Bid4Spots has developed a format that allows both stations and advertisers to benefit mutually in the ever-changing and pressured marketplace for remnant spot airtime.

Advertisers opt to participate in the auctions because Bid4Spots offers a convenient, cost-effective, and targeted way for them to reach individual markets and achieve a specified audience reach. Political candidates and their campaign committees or supporters are free to participate in Bid4Spots auctions and enjoy its benefits, just as any other Bid4Spots advertiser is able to do. Stations participate on a regular basis because of the opportunity the auctions present for them to sell otherwise unused ad time as well as their familiarity and comfort with the Bid4Spots system. Individual stations also benefit from Bid4Spots and similar programs because of their ability to attract local, regional, and national advertisers that otherwise might not be interested in purchasing time on a single station.

Overlaying individual station LUC requirements on what is essentially a multi-station or “network” sales arrangement would discourage station participation and frustrate Bid4Spots’ ability to deliver spot availabilities to advertisers at the lowest possible CPM. Because stations typically sell time on Bid4Spots at a much lower rate than they would via traditional one-on-one transactions, many stations will not want to dramatically lower their LUC during the busy political campaign seasons in exchange for the opportunity to sell a small amount of remnant time at discounted rates on Bid4Spots. The risk of lost revenue simply may be too great for many stations. Moreover, superimposing LUC requirements on stations that choose to participate in Internet auctions would further complicate the already burdensome and complex

task of calculating an appropriate LUC for each candidate request for time. And, as fewer stations participate in Bid4Spots auctions, the rates that all advertisers, including legally qualified candidates, will pay when using the service inevitably will increase.

Just as the Commission has refrained from imposing its legacy political broadcasting rules on other innovative advertising practices, including non-wired broadcast and cable networks,²⁰ it similarly should act with restraint to avoid unnecessary interference with Bid4Spots' online reverse auction model or other Internet-based sales tools. Such an approach would be consistent, moreover, with the agency's hands-off stance with respect to other emerging technologies and businesses, including a variety of other Internet-based services.²¹ Failure to act with such moderation, on the other hand, could seriously undermine the business model of this nascent and cost-effective online service and deny advertisers, including political candidates, the benefits of a highly cost-effective mechanism for reaching their desired audiences. Finally, because candidates that opt to use Bid4Spots already effectively obtain the lowest available rate for advertising time, imposing LUC charge obligations on stations that participate in this service would not advance any legitimate public interest purpose.

²⁰ See *Michael H. Bader*, 56 FCC 2d at 840; see also *Charles M. Firestone*, 5 FCC Rcd at 3255.

²¹ See, e.g., *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, Declaratory Ruling, 22 FCC Rcd 5901, 5903 (¶ 4) (2007) ("In proceedings involving cable, wireline, and [broadband power lines], the Commission has examined the regulatory classification applicable to certain broadband services and determined to adopt a pro-competitive, deregulatory regime for these services," thus "reducing regulatory requirements and uncertainties that could have slowed development of these broadband services."); *Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range*, Joint Statement of Chairman Michael Powell and Commissioner Kathleen Q. Abernathy, 17 FCC Rcd 9614, 9803 (2002) (noting that it is "premature" to impose traditional regulations on emerging MVDDS services and that the Commission is "not troubled that a nascent service may initially not be constrained by legacy regulatory strictures"); *Local Competition and Broadband Reporting*, 15 FCC Rcd 7717, 7764 (¶ 105) (2000) (noting that "analysis of the data . . . may form the basis for the Commission to refrain from regulating nascent markets and to rely, instead, on market forces"); *Implementation of Section 304 of the Telecommunications Act of 1996*, 18 FCC Rcd 20885, 20918 (2004) (declining to classify "nascent" SVOD services as "a defined business model" in order to allow "SVOD to more fully develop as a program offering in the marketplace" and afford "MVPDs more flexibility in the encoding of different forms of this service").

IV. CONCLUSION

For all of the above reasons, the FCC should refrain from imposing additional LUC obligations on stations that opt to participate in Bid4Spots or other online advertising auctions. Such requirements would undermine the development of these innovative and extremely cost-effective online services. In addition, such regulation is unnecessary here, given that Bid4Spots and analogous services inherently achieve the objectives underlying the statutory and regulatory political advertising requirements.

Respectfully submitted,

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Appendix A
THE BID4SPOTS AUCTION PROCESS

[Tutorial available at www.bid4spots.com. Click “view demo” for radio stations, then “partial demo” for PowerBidder]

Initiating an Auction:

- Auctions for radio broadcast advertising time occur every Thursday (8am-12pm Pacific time) and only sell time for the following week.¹
- An advertiser begins the process by logging onto the Bid4Spots website (www.bid4spots.com) and indicating that it wishes to hold an auction for time during the following week. Each auction is a unique transaction shaped by the advertiser’s particular criteria.
- The advertiser provides a description of its actual advertisement, indicates its duration (10 seconds, 30 seconds, 60 seconds, etc.), and loads a .wav or .mp3 of the advertisement onto the website.
- The advertiser selects the minimum and maximum number of spots it would like to run on any winning station in a given daypart.
- It also selects the general criteria for those stations that will be invited to participate in the auction. These criteria include market (defined by state and/or city), format (as defined by Arbitron), and daypart. An advertiser may invite multiple formats in multiple radio markets. Indeed, the Bid4Spots auction process is more typically used for national or regional buys rather than for single market buys. In order to promote competition, however, the advertiser may *not* structure an auction that only invites one station to participate.
- Most importantly, the advertiser provides a maximum budget² that it is willing to spend on this total advertisement purchase. In order to accommodate the varying market sizes of each station, Bid4Spots also requires advertisers to set a maximum CPM (cost per thousand) that the advertiser is willing to pay for a given daypart.
- The advertiser must transfer that maximum budget to Bid4Spots before the auction will proceed. Thus, Bid4Spots receives the payments from the advertisers and later compensates participating stations for their share of the total time sold. The stations do not contract directly with the advertisers.

¹ Similar auctions for Internet radio spot time are conducted every Friday.

² The budget also includes a 15% placement fee for Bid4Spots.

- An advertiser may initiate as many auctions with varying criteria as it wishes. Thus, it may effectively subdivide a larger buy by region and/or station format.

Conducting an Auction:

- On Wednesday afternoon, all of the stations who are registered with Bid4Spots³ and who satisfy the criteria set by a particular advertiser receive an e-mail invitation from Bid4Spots to participate in the upcoming weekly auction (which occurs the following day). If a station satisfies the criteria for multiple auctions, it receives multiple invitations.
- If a station is interested in participating, it logs onto the Bid4Spots website at some point during the four-hour auction and selects the auctions in which it wishes to bid. The auction web screen lists each advertiser, the name of the advertisement, and the length of the advertisement. Stations review the advertisements in order to familiarize themselves with the spots' content.
- Through the Bid4Spots "PowerBidder" function, stations can bid on multiple auctions at the same time.⁴ The station bids by selecting how many spots it would be willing to air in a given daypart and how much per spot it would be willing to accept to participate in multi-station transactions. Bid4Spots translates that price per spot into a CPM number based on the station's Arbitron listenership. At no time does Bid4Spots disclose an advertiser's maximum CPM to the seller. The computer then matches station bids with advertiser requirements and the bids of competing stations, to provide the advertiser with the lowest CPM available and place the maximum number of station spots possible for each auction.
- Before formally placing a bid, the station may "preview" whether that bid will "win" at that point and cause it to sell any number of spots in a particular daypart. As with any auction, however, a "winning" bid in a particular auction may be undercut by another station's bid. Stations may respond and change their bids throughout the auction. Station bids are placed by daypart rather than in response to individual auction parameters, however, and the Bid4Spots computer program matches stations and advertisers.
- The station with the lowest CPM at the conclusion of an auction receives the maximum number of spots allowable under the advertiser's conditions. The remaining spots then go to the station with the next lowest CPM. This process continues for each auction until all of the radio stations who made eligible bids are addressed, until the advertiser's desired number of aired spots are allocated, or

³ Bid4Spots currently has almost 2,400 stations who have agreed to participate in its auctions.

⁴ Virtually all participating stations make use of the PowerBidder function to take part in multiple auctions.

until the advertiser's budget is effectively exhausted. (Thus, two or more stations in the same geographic market or format segment may end up selling spots in the same auction. Bid4Spots has modified its procedures to preclude single station transactions; stations participate in transactions only as part of a group, or non-wired network, assembled to meet the advertiser's requirements. Notably, however, multi-market auctions with smaller total budgets tend to produce *lower* CPMs.)

After an Auction Concludes:

- Both the advertisers and the stations who participate in the auctions are emailed the results. The advertiser is told how many advertisements were sold by a given station and in what daypart the advertisements will run. The advertiser *is not informed of the station's rates* or of the station's actual audience size.
- The station has the obligation to air the advertisement during the daypart to which it agreed. (Thus, in order to participate in the reverse auction, the station must provide the agreed time on a nonpreemptible basis, regardless of the terms on which its time is sold in other situations.) After the station provides Bid4Spots with proof that it has satisfied its obligations, Bid4Spots sends the station the amount agreed to as a result of the week's auctions, minus a 15 percent placement fee. Bid4Spots then returns any remaining (unused) funds to the appropriate advertiser.

CERTIFICATE OF SERVICE

I hereby certify that copies of Bid4spots, Inc. Comments were served on August 6, 2007,
via first-class mail, postage pre-paid on the following parties:

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