

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

In the Matter of:)	
)	
International Comparison and Consumer)	GN Docket No. 09-47
Survey Requirements in the)	
Broadband Data Improvement Act)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Deployment of Advanced Telecommunications)	GN Docket No. 09-137
Capability to All Americans in a Reasonable and)	
Timely Fashion, and Possible Steps to Accelerate)	
Such Deployment Pursuant to Section 706)	
of the Telecommunications Act of 1996)	
)	
To: Office of the Secretary		

REPLY COMMENTS – NBP PUBLIC NOTICE # 30

Lima Communications Corporation, Independence Television Company, Idaho Independent Television, Inc., WAND(TV) Partnership, and West Central Ohio Broadcasting, Inc. (collectively, the “Licensees”) hereby submit these Reply Comments in response to the *NBP Public Notice* of January 13, 2010.¹ Specifically, these Reply Comments address the White Paper filed by CTIA and the Consumer Electronics Association (“CEA”) in response to *NBP Public Notice #26*.²

The White Paper’s proposal of a “low-power” single frequency network (“SFN”) for broadcast television stations demonstrates that CTIA and CEA now have recognized that the

¹ See Reply Comments Sought in Support of National Broadband Plan (NBP Public Notice # 30), *Public Notice*, DA 10-61 (rel. Jan. 13, 2010).

² See Comments of CTIA – The Wireless Association® and the Consumer Electronics Association On NBP Public Notice #26, Uses Of Spectrum; White Paper Proposal: Exploring A

aggressive nationwide spectrum reallocation proposals outlined in *NBP Public Notice #26* are technically and politically unworkable and likely violate the constitutional and statutory rights of broadcasters. CTIA and CEA fortunately have abandoned the earlier proposals to strip broadcasters of their spectrum and American television viewers of the full benefits of free, over-the-air DTV service. In place of those proposals CTIA and CEA enunciate four principles that must govern any Commission decision to reconfigure the American over-the-air television broadcast spectrum:

- (1) allow consumers to continue to enjoy over-the-air television including broadcast high-definition TV without disturbing consumer television sets;
- (2) allow television licensees to continue to have the full use of 6 MHz of spectrum and the associated 19.4 Mbps data stream;
- (3) allow costs of the transition not to be borne by broadcasters; and
- (4) allow resulting spectrum gains that should be sufficiently significant to outweigh any disruptions caused.³

Licensees commend these proposed principles and believe they may help frame the Commission's objectives in future policymaking. These principles represent the minimum benchmark against which proposals to reallocate the American over-the-air broadcast spectrum should be measured. Of course, even a proposal that meets these minimum criteria must assure that broadcasters' free speech and property rights under the Constitution and their rights as licensees under the Communications Act are fully respected.

To satisfy these four principles, CTIA and CEA propose that the Commission reduce the amount of spectrum dedicated to the American over-the-air television broadcasting system by changing the transmission model from the current single-antenna, high power system, to a multi-

Path For Next Gen Television And Next Gen Wireless Broadband Spectrum, GN Docket Nos. 09-47, 09-51, 09-137, filed Dec. 22, 2009 (the "White Paper").

³ *Id.* at 2.

antenna, low-power SFN. By adopting a low-power model, CTIA and CEA argue that the Commission could reduce the need for co-channel and adjacent channel protection for individual broadcast stations, thereby theoretically freeing spectrum for wireless broadband use. This could be accomplished, they claim, while preserving broadcasters' ability to offer full-service DTV.

Licensees applaud the desire of CTIA and CEA for trying to explore and develop new ideas for addressing asserted broadband problems. That being said, based on Licensees' knowledge and experience with current technology, Licensees are skeptical of the potential for a low-power SFN to provide viewers with the high-quality, robust service they expect. The low-power broadcast operations with which the Licensees are familiar can have difficulty penetrating homes and providing a quality signal to indoor antennas, so while an SFN may prove viable for booster or "fill-in" type operation, Licensees are skeptical that a low-power SFN could adequately and fully replace a "single-stick" broadcast model or fulfill the four principles that CTIA and CEA have laid out.

Licensees believe better proposals will emerge in the future, and the Commission should dedicate its administrative resources accordingly. If the Commission elects to investigate the proposed low-power SFN model, it must do so thoroughly, rigorously, methodically, and transparently to build a sufficient factual basis. The Commission must be faithful to the American public so their viewing experiences and expectations are not compromised. The existing over-the-air broadcasting system is well-established and extremely reliable; it cannot and should not be replaced by any new model unless it performs at least as well. The current over-the-air television system is a free, always-on conduit for emergency and other essential mass communications. On the other hand, Block believes a good portion of the alleged increase in wireless demand is attributable to communication regarded as frivolous. It would be

supremely unreasonable to destroy the free, over-the-air broadcast system simply to accommodate burgeoning wireless communications in Internet gaming, pornography, and spam.⁴

Licensees commend CTIA and CEA for abandoning reckless proposals for seizing broadcasters' spectrum and depriving viewers of high-value free, over-the-air DTV services. Licensees are encouraged that staunch spectrum reallocation advocates like CTIA and CEA recognize the appropriate framework that must accompany any effort to reconfigure the American over-the-air television broadcasting system. Licensees look forward to reviewing proposals that can satisfy the four principles that CEA and CTIA have enumerated.

**LIMA COMMUNICATIONS CORPORATION
INDEPENDENCE TELEVISION COMPANY
IDAHO INDEPENDENT TELEVISION, INC.
WAND(TV) PARTNERSHIP
WEST CENTRAL OHIO BROADCASTING, INC.**

/s/

John R. Feore, Jr.
Jason E. Rademacher

DOW LOHNES PLLC
1200 New Hampshire Avenue, NW, Suite 800
Washington, DC 20036
(202) 776-2000

Its Attorneys

January 27, 2009

⁴ E.g., 90% of all e-mail communication is regarded as spam. See MessageLabs Intelligence Special Report, *Spam Rates in the U.S.* (Sept. 2009), available at http://www.messagelabs.com/mlireport/MLI_2009Sep_Spam_US_FINAL.pdfhttp://www.messagelabs.com/mlireport/MLI_2009Sep_Spam_US_FINAL.pdf.