

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

In the Matter of:	)	
	)	
International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act	)	GN Docket No. 09-47
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Deployment of Advanced Telecommunications 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	)	GN Docket No. 09-137
	)	
	)	

**REPLY COMMENTS OF LOCAL TELEVISION BROADCASTERS  
NBP PUBLIC NOTICE # 30**

**Allbritton Communications Company  
Bahakel Communications, Ltd.  
Evening Post Publishing Company  
Gray Television, Inc.  
Local TV, LLC  
McGraw-Hill Broadcasting Company  
Media General, Inc.  
Meredith Corporation  
Tribune Company  
WNAC, LLC**

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## SUMMARY

The Commission in this proceeding is exploring various reallocation schemes to address a presumed “looming spectrum crisis” for wireless broadband services. Senator Olympia Snowe has cautioned, however, that the Commission first must “develop a solid foundation on which a proper spectrum policy framework can be constructed.” Before meaningfully considering a reallocation of *broadcast* spectrum, the Commission should take the following six steps to build this “solid foundation:”

1. Complete a spectrum inventory and identify available spectrum;
2. Investigate spectrum shortage claims, and the nexus between spectrum and consumer broadband demand;
3. Investigate alternatives to reallocating spectrum to the wireless industry;
4. Investigate increasing reliance on over-the-air television;
5. Investigate adverse consequences of coercive reallocation schemes; and
6. Complete the DTV Transition for rural America.

The Local Television Broadcasters are confident that the Commission, after taking these data-driven steps, will conclude it has no reasonable basis for reallocating broadcast spectrum to wireless broadband. Congressman Rick Boucher may have reached this conclusion already. When asked if the Commission should take broadcasters’ spectrum, Congressman Boucher replied, “I think that is not the proper path to take,” explaining that “many people [in my district] rely on over-the-air television for their primary access to television service.”

The Local Television Broadcasters also are pleased that the Commission publicly has disavowed coercive reallocation measures for broadcast spectrum. As a former FCC Commissioner explained in this proceeding, “the highest-valued use for spectrum will not come from government assessments or government interventions.” Only competition and regulatory

flexibility will advance the adoption of wireless broadband and the offering of fairly-priced wireless services.

Also in this proceeding, CTIA and CEA have proposed that broadcast spectrum might be reallocated if television stations replaced their high-power, single-antenna transmission model with a low-power, multiple-antenna model. The Local Television Broadcasters commend CTIA and CEA for trying to explore and develop new ideas for addressing their asserted broadband problems. More significantly, CTIA and CEA now recognize the importance of television stations retaining their full 6 MHz bandwidth and their full 19.4 Mbps data stream. The Local Television Broadcasters applaud this development, and reiterate their expectation that a complementary broadcast/broadband model will emerge to address consumer demand for wireless services.

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Such Deployment Pursuant to Section 706	)	
of the Telecommunications Act of 1996	)	

To: Office of the Secretary

**REPLY COMMENTS OF THE LOCAL TELEVISION BROADCASTERS  
NBP PUBLIC NOTICE # 30**

The Local Television Broadcasters hereby submit the following Reply Comments in response to the Commission’s *Public Notice* of January 13, 2010, in the National Broadband Plan proceeding.<sup>1</sup> The Local Television Broadcasters are comprised of ten television broadcast groups that collectively own 146 television stations operating in a cross-section of dozens of diverse television markets throughout the country, as identified in Attachment A.

**I. A NUMBER OF THINGS MUST BE DONE BEFORE THE COMMISSION CAN EVEN BEGIN TO CONSIDER SPECTRUM REALLOCATION.**

By all appearances, the presumption of a “looming spectrum crisis” underlies numerous spectrum questions the Commission has raised in this proceeding. The Local Television

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<sup>1</sup> The Commission solicited these particular Reply Comments in Reply Comments Sought in Support of National Broadband Plan (NBP Public Notice # 30), *Public Notice*, DA 10-61 (rel. Jan. 13, 2010) (“*Public Notice*”).

Broadcasters agree with Google, NAB, and others, however, that the National Broadband Plan and its implementation must not be based upon presumptions but instead be “data-driven.”<sup>2</sup> Mere pronouncements by the wireless industry that more spectrum is needed to meet consumer demand must be scrutinized.<sup>3</sup> There are a number of steps the Commission must take to obtain such data before it meaningfully can even begin to consider spectrum reallocations of any sort. The Local Television Broadcasters are confident that the Commission, after collecting such data, will have no reasonable basis for taking spectrum from television broadcasters and reallocating it to wireless broadband.

***(1) Spectrum Inventory and Availability.*** The Local Television Broadcasters agree with Senator Olympia Snowe’s assertion in a January 5, 2010 letter to Chairman Genachowski that “executing a spectrum inventory of both commercial and government users, as called for by [the Radio Spectrum Inventory Act],<sup>4</sup> is the necessary first step to develop a solid foundation on which a proper spectrum policy framework can be constructed.”<sup>5</sup> Furthermore, Senator Snowe noted with concern that the Commission has several open proceedings which could enable quick roll-out of some 100 MHz of spectrum, cautioning that for the Commission “[t]o pursue what seems to be a predetermined path while [spectrum] proceedings such as these remain unresolved is somewhat concerning and possibly premature.”<sup>6</sup> Senator Snowe’s views are consistent with the comments in this proceeding submitted by Sprint Nextel, a major wireless provider. Sprint

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<sup>2</sup> See, e.g., Google, Inc. Dec. 22, 2009 Comments, GN Docket No. 09-47, at 2.

<sup>3</sup> See Association for Maximum Service Television, Inc. & The National Association of Broadcasters Dec. 22, 2009 Comments, GN Docket No. 09-47, at 34 (“NAB Comments”).

<sup>4</sup> Radio Spectrum Inventory Act, S. 649, 111th Cong. (2009).

<sup>5</sup> Letter from Sen. Olympia J. Snowe to Julius Genachowski, Chairman, FCC, at 3 (Jan. 5, 2010) (“*Snowe Letter*”).

<sup>6</sup> *Id.* at 2.

Nextel similarly noted that some 50 MHz of spectrum was in the “spectrum warehouse,” and asserted that further spectrum reallocation currently is unnecessary.<sup>7</sup> There is ample dispute about the need for additional spectrum for wireless broadband, and it therefore is incumbent upon the Commission first to collect spectrum inventory and availability data in order to develop a solid policy foundation.

***(2) Investigate Spectrum Shortage Claims and the Nexus Between Spectrum and Consumer Broadband Demand.*** NAB, with ample justification, urged that the Commission to “scrutinize claims that more spectrum must be allocated for...wireless broadband services.”<sup>8</sup> LIN Television Corporation charged that there was “no foundation in the record” for presuming the existence of a spectrum shortfall, and that the Commission at a minimum should acknowledge the disputation.<sup>9</sup> Others have raised similar questions about the presumed “looming spectrum crisis.”<sup>10</sup> NAB pointed out that a principal support for the alleged “crisis” was a 2006 study by the International Telecommunications Union showing that the U.S. by 2010 (in other words, now) should be experiencing a shortfall of hundreds of megahertz.<sup>11</sup> In questioning the validity of one of the wireless industry’s primary bases of forecasting a spectrum

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<sup>7</sup> Sprint Nextel Corporation Oct. 23, 2009 Comments, GN Docket Nos. 09-47, at 3 (“Sprint Comments”).

<sup>8</sup> NAB Comments at 34.

<sup>9</sup> LIN Television Corporation Dec. 21, 2009 Comments, GN Docket No. 09-47, at 3-4 (“LIN Comments”).

<sup>10</sup> *See, e.g.,* The Named State Broadcasters Associations Dec. 22, 2009 Comments, GN Docket No. 09-47, at 3; Sinclair Broadcast Group Dec. 22, 2009 Comments, GN Docket No. 09-47, at 1; Sprint Comments at 2-3.

<sup>11</sup> Letter from Christopher Guttman-McCabe, Vice President, Regulatory Affairs, CTIA, to Julius Genachowski, Chairman, FCC, *et al*, GN Docket Nos. 09-47, 09-51, 09-137, at 19 (filed Sept. 29, 2009) (“CTIA Letter”), *citing* International Telecommunication Union, *Estimated Spectrum Bandwidth Requirements for the Future Development of IMT-2000 and IMT-Advanced, Report ITU-R M.2078* (2006).

“crisis,” NAB explained that, “[t]here is clearly not a [spectrum] shortfall today, let alone of this magnitude.”<sup>12</sup> NAB further noted that claims of a spectrum “crisis” routinely ignore that broadcasting can and will meet large portions of demand for mobile video – which will constitute the bulk of wireless broadband content – so these forecasts vastly overestimate wireless demand.<sup>13</sup>

Moreover, there is a disconnect between the wireless industry’s projections for broadband demand and the amount of spectrum supposedly needed to address it. While the wireless industry has wildly varying predictions for enormous increases in consumer demand,<sup>14</sup> accepting just low-end estimates would mean that even tripling the amount of allocated spectrum would solve barely 1% of the alleged demand problem. No wonder Senator Snowe warned, “reallocation of spectrum alone will not solve the problem of a looming spectrum crisis.”<sup>15</sup> Given that the Commission went to great lengths to obtain tremendous granularity about television broadcast spectrum use,<sup>16</sup> the Commission similarly must obtain data about wireless spectrum use so that it can meaningfully investigate spectrum shortage claims and the nexus between spectrum and consumer broadband demand.

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<sup>12</sup> NAB Comments at 35. NAB investigated further and concluded that if the ITU study methodology is modified to reflect more reasonable assumptions for the U.S., no additional spectrum is needed for commercial wireless services. *Id.*, Attachment A, *Technical Review: The Ongoing Need for Over-The-Air Broadcasting*, at 30.

<sup>13</sup> NAB Comments at 35-36. *See also* Sezmi Corporation Dec. 22, 2009 Comments, GN Docket No. 09-47, at 2-3 (“Sezmi Comments”).

<sup>14</sup> AT&T, for example, estimates that data traffic will grow 250-600 times by 2018. *See CTIA Letter*, Attachment - Rysavy Research, *Mobile Broadband Spectrum Demand* at 11. Meanwhile, Cisco says mobile traffic will increase 66 times by 2013. *See CTIA Letter* at 13.

<sup>15</sup> *Snowe Letter* at 2.

<sup>16</sup> *See Data Sought on Uses of Spectrum* (NBP Public Notice # 26), *Public Notice*, DA 09-2518 (rel. Dec. 2, 2009).

**(3) Investigate Alternatives to Reallocating Spectrum.** The Local Television

Broadcasters agree with NAB that the Commission “should thoroughly investigate how wireless providers can use existing spectrum resources more efficiently,” and that consideration “should not stop at current technologies.”<sup>17</sup> Sprint Nextel explained that “[c]ommercial wireless systems have a history of achieving significant increases in spectrum efficiency over time as new technologies...are deployed,” and argued that the Commission should be mindful of new technologies such as multiple-input multiple-output (“MIMO”) wireless systems and femtocells, as well as recognize that congestion problems are local in nature, not nationwide.<sup>18</sup> The Commission also should investigate other alternatives such as increasing wireless cell densities,<sup>19</sup> and should acknowledge that use of higher and higher frequencies is becoming feasible over time.<sup>20</sup> As Sprint concluded, “[e]stimates based only on the growth in demand for wireless services – and based on calculations using today’s technologies – are likely overestimating the amount of new spectrum that should be allocated.”<sup>21</sup>

In addition, another operational model is extremely promising. As NAB and Sezmi argued, broadcast television and wireless broadband are not mutually exclusive, but rather *complementary* wireless services.<sup>22</sup> Broadcast television is the most efficient means of delivering popular video programming. Whether transmitting simultaneously to ten thousand or ten million viewers, broadcasting delivers programming without any marginal burden on the

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<sup>17</sup> NAB Comments at 36.

<sup>18</sup> Sprint Comments at 23-26.

<sup>19</sup> Sezmi Comments at 4.

<sup>20</sup> NAB Comments at 37.

<sup>21</sup> Sprint Comments at 25.

<sup>22</sup> NAB Comments at 34; Sezmi Comments at 5.

transport system. Using broadcast and broadband as complementary – and potentially integrated – systems will greatly reduce load on the broadband network. Introducing high-capacity storage devices into this mix will reduce broadband load even further. Conversely, as seen earlier this month at CES in Las Vegas, broadband networks are not equipped to handle simultaneous unicast transmissions of any consequential magnitude.<sup>23</sup> The Commission should investigate thoroughly all of these alternatives to spectrum reallocation.

**(4) Investigate Increasing Reliance on Over-the-Air Television.** Several commenters in this proceeding have urged the Commission to reallocate broadcast spectrum because they claim too few viewers rely on free, over-the-air television service.<sup>24</sup> The Local Television Broadcasters disagree vigorously for a number of reasons, and an important one is that reliance on over-the-air service is growing – and will continue to grow. A recent study found that the number of U.S. households relying exclusively on over-the-air service – now that full power television stations have terminated analog service – is expected to increase by 36% between now and 2014, at which time 59% of all homes will have at least one receiver relying on over-the-air service.<sup>25</sup> This is consistent with global trends. In Western Europe, the number of viewers relying on over-the-air digital broadcast television grew 35% in three years, and is expected to grow by 40% between now and 2013.<sup>26</sup> Given the programming options multicasting

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<sup>23</sup> Carolyn Schuk, *Thousands of iPhones Simultaneously Discover the Limits of Unicast at CES*, BROADCAST ENGINEERING (Jan. 19, 2010) <<http://broadcastengineering.com/RF/thousands-iphones-simultaneously-discover-limits-unicast-ces-0119/>>.

<sup>24</sup> See, e.g., CTIA Dec. 22, 2009 Comments, GN Docket No. 09-47, at 3.

<sup>25</sup> Harry A. Jessell, *Why TV Needs to Keep Its Spectrum*, TV NEWS CHECK (Jan. 19, 2010) <<http://www.tvnewscheck.com/articles/2010/01/19/daily.2/>>, citing INFORMA TELECOMS & MEDIA, *Global Digital TV* (9th ed. 2009).

<sup>26</sup> Holman Jenkins, *The Future on TV*, WALL ST. J. (Jan. 5, 2010) <<http://online.wsj.com/article/SB10001424052748703436504574640181596802504.html>>, citing statistics from International Television Expert Group.

broadcasters now offer and the impact of a sluggish economy, these forecasts may prove to underestimate reliance on over-the-air service.<sup>27</sup> Reliance on over-the-air service is not limited to direct viewership. Most cable headends and virtually all direct broadcast satellite local receive facilities obtain broadcast signals from over-the-air. The Local Television Broadcasters urge the Commission to investigate these trends for themselves and focus on reasonable forecasts instead of self-serving snapshots promoted by the wireless industry.

**(5) Investigate Adverse Consequences of Coercive Reallocation.** NAB explains that service losses resulting from various reallocation proposals would harm consumers.<sup>28</sup> The Local Television Broadcasters completely agree and believe that even more service losses are likely under the contemplated reallocation schemes, which necessarily will place more television stations in the VHF band where post-transition interference difficulties have been well documented.<sup>29</sup> VHF signals are susceptible to ever increasing amounts of impulse noise coming, for example, from in-home video games and appliances, business equipment, and industrial machinery. Furthermore, government subsidized DTV converter boxes never were designed to handle the vagaries of repacked broadcast operations. The Local Television Broadcasters are convinced that viewers relying on over-the-air service – the same viewers for whom the current Administration recently spent over \$2 billion to ensure merely temporary disruptions were minimized<sup>30</sup> – will be

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<sup>27</sup> David Sarno, *Rabbit Ears Make Comeback in Digital TV Era*, L.A. TIMES (Dec. 25, 2009) <[http://www.latimes.com/business/la-fi-rabbit-ears25-2009dec25.0,3882718.story?track=rss&utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+MostEmailed+%28L.A.+Times+-+Most+E-mailed+Stories%29](http://www.latimes.com/business/la-fi-rabbit-ears25-2009dec25.0,3882718.story?track=rss&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+MostEmailed+%28L.A.+Times+-+Most+E-mailed+Stories%29)>.

<sup>28</sup> NAB Comments at 29-34.

<sup>29</sup> Michael Grotticelli, *With DTV Transition History, FCC Focuses On Reception Problem Areas*, BROADCAST ENGINEERING (Aug. 3, 2009) <<http://broadcastengineering.com/news/dtv-transition-history-fcc-reception-problem-areas-080309/>>.

<sup>30</sup> See Digital Television and Public Safety Act of 2005 (“DTV Act”), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat 4 (2006), codified at 47 USC

*extremely* vocal in their anger if their free and reliable broadcast television service is disrupted. They will demand political action.

**(6) Complete the DTV Transition.** Significant parts of rural America still have not completed the DTV transition. For a variety of reasons, a number of LPTV and translator stations either have not or cannot yet convert to digital. One is that it remains difficult for some LPTV and translator stations to find available channels for converting. The Commission must take methodical steps to ensure that all consumers no matter where they live have access to digital television for their relied-upon broadcast programming.

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After the Commission has taken these critical steps to collect data and, as Senator Snowe says, “develop[s] a solid foundation on which a proper spectrum policy framework can be constructed,”<sup>31</sup> the Local Television Broadcasters are confident that the Commission will conclude it has no reasonable basis for taking broadcast spectrum and reallocating it to wireless broadband. Congressman Rick Boucher may already have reached this conclusion. When asked if the Commission should take some of broadcasters’ spectrum, Congressman Boucher replied, “I think that is not the proper path to take,” explaining that “many people [in my district] rely on over-the-air television for their primary access to television service.”<sup>32</sup> The Local Television

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§§309(j)(14) and 337(e), as amended by DTV Delay Act, Pub. L. No. 111-4, 123 Stat 112 (2009) (authorizing \$1.5 billion for the DTV converter box program and related activities); American Recovery and Reinvestment Act of 2008, Pub. L. No. 111-5, 123 Stat. 115 (2009) (authorizing an additional \$650 million for DTV transition activities).

<sup>31</sup> *Snowe Letter* at 3.

<sup>32</sup> David Hatch, *Boucher Slams TV Spectrum Reallocation*, CONGRESSDAILYPM, (Jan. 7, 2010).

Broadcasters completely agree that reallocating broadcast spectrum “is not the proper path to take.”

## **II. THE COMMISSION SHOULD FOSTER COMPETITION AND REGULATORY FLEXIBILITY TO BEST ENSURE UBIQUITOUS, FAIRLY PRICED WIRELESS SERVICES.**

To achieve widespread broadband adoption and fairly-priced, problem-free wireless services, the Commission should rely on what is proven to work: competition and regulatory flexibility. The Department of Justice (“DOJ”) in this proceeding argued that wireless broadband held “promising prospect[s] for [bringing] additional competition” to wireline broadband providers,<sup>33</sup> explaining that consumers can be harmed when there is an insufficient level of competition.<sup>34</sup> The National Telecommunications and Information Administration (“NTIA”) similarly praised the benefits of competition, asserting that “[t]he surest way to deter undesirable conduct by incumbent broadband service providers is to increase...competition.”<sup>35</sup> The Local Television Broadcasters entirely agree with these important sentiments. Competition will best help advance broadband adoption by lowering prices, improving services, and spurring innovation.<sup>36</sup>

Unfortunately, DOJ’s analysis of broadband competition is incomplete. Although DOJ wisely cautions “that the evaluation of competition be forward-looking rather than based on

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<sup>33</sup> U.S. Department of Justice, *Ex Parte Submission*, GN Docket No. 09-51, at 8 (Jan. 4, 2010.) (“DOJ Comments”).

<sup>34</sup> *Id.* at 15.

<sup>35</sup> Letter from Lawrence E. Strickling, Assistant Secretary for Communications and Information and Administrator, NTIA, to Julius Genachowski, Chairman, FCC, GN Docket No. 09-51, at 4 (Jan. 4, 2010).

<sup>36</sup> *See id.* at 5.

static definitions of products and services,”<sup>37</sup> DOJ fails to heed its own advice. In calling for reallocation of spectrum to wireless broadband services, DOJ’s market analysis completely disregards Mobile DTV and its competitive impact. Mobile DTV stands as the most serious competitive threat to the wireless industry and its subscription services. Broadband consumers want video programming, and Mobile DTV is the most efficient and effective way to deliver it. Almost certainly one of the primary motives behind the wireless industry’s effort to grab broadcast television spectrum is the anti-competitive elimination of Mobile DTV. *Broadcasters are wireless video providers.* Any market analysis the Commission conducts must be forward-looking and account for Mobile DTV’s innovative and competitive contributions to wireless services. As NAB explained, Mobile DTV “provide[s] an important competitive balance to the competitiveness of the overall wireless marketplace.”<sup>38</sup>

Mobile DTV was well received earlier this month at CES,<sup>39</sup> and some 70 stations in 28 markets (covering 39% of the country) are committed to launch soon.<sup>40</sup> NAB cited studies unsurprisingly showing that consumers have a high interest in receiving local news and information via live Mobile DTV.<sup>41</sup> News Corporation believes that Mobile DTV not only will offer popular wireless services, but it could breathe new life into newspaper, book, and magazine

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<sup>37</sup> DOJ Comments at 6.

<sup>38</sup> NAB Comments, Attachment A, *Technical Review: The Ongoing Need for Over-The-Air Broadcasting*, at 3.

<sup>39</sup> See, e.g., Alex Pham, *Networks Serving Up Digital TV To Go: Stations Nationwide Will Begin Broadcasting a New Signal This Year Meant for Mobile Devices*, L.A. TIMES (Jan. 5, 2010), available at <<http://articles.latimes.com/2010/jan/05/business/la-fi-mobiletv6-2010jan06>>.

<sup>40</sup> NAB Comments at 7.

<sup>41</sup> See *id.* at 7 n.16.

publishers.<sup>42</sup> Coercively reallocating broadcasters' spectrum as some in the wireless industry urge, however, would eliminate local television stations' ability to offer Mobile DTV and would put the Commission in the position of picking industry "winners and losers" – contrary to the Commission's long-standing policies of allowing the marketplace to determine success.<sup>43</sup>

Last week, the press reported that the Commission was not pursuing a coercive broadcast spectrum reallocation but instead was attempting to establish "marketplace mechanisms" to give local television stations "a choice in how they want to use their spectrum."<sup>44</sup> The Local Television Broadcasters are pleased that the Commission appears to have disavowed coercive spectrum reclamation and reallocation measures. As former Commissioner Harold Furchtgott-Roth explained in this proceeding, "the highest-valued use for spectrum will not come from government assessments or government interventions;... [o]nly spectrum flexibility stands between current usage and highest-valued usage."<sup>45</sup> The Local Television Broadcasters urge the Commission in its consideration and possible construction of these "marketplace mechanisms" to provide ample regulatory flexibility to FCC licensees so that they may craft real marketplace

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<sup>42</sup> News Corporation Dec. 22, 2009 Comments, GN Docket No. 09-47, at 6.

<sup>43</sup> See, e.g., Deployment of Wireline Services Offering Advanced Telecommunications Capability, *Memorandum Opinion and Order, and Notice of Proposed Rulemaking*, 13 FCC Rcd 24011, 24014 (1998); Policies and Rules for the Direct Broadcast Satellite Service, *Report and Order*, 17 FCC Rcd 11331, 11376 (2002). See also Dissenting Statement of Commissioner Michael J. Copps, High Cost Universal Support, *Order*, 23 FCC Rcd 8834, 8946 (2008) (maintaining that Commission action amounted to "picking winners and losers").

<sup>44</sup> John Eggerton, *FCC's Bellaria Says Broadcasters Lobbying Against Scenario That's No Longer On Table*, BROADCASTING & CABLE (Jan. 18, 2010) <[http://www.broadcastingcable.com/article/444575-FCC\\_s\\_Bellaria\\_Says\\_Broadcasters\\_Lobbying\\_Against\\_Scenario\\_That\\_s\\_No\\_Longer\\_On\\_Table.php?rssid=20103](http://www.broadcastingcable.com/article/444575-FCC_s_Bellaria_Says_Broadcasters_Lobbying_Against_Scenario_That_s_No_Longer_On_Table.php?rssid=20103)>.

<sup>45</sup> Local Television Broadcasters Dec. 22, 2009 Comments, GN Docket No. 09-47, Attachment C at 1.

solutions in response to consumer demand and technological innovation.<sup>46</sup> As LIN explained, rigid broadcast technical rules (and, to a great extent, ownership restrictions) reduce flexibility, create “spectrum caps,” restrict control, and impede broadcasters’ ability to launch new innovative services.<sup>47</sup>

Marketplace competition and regulatory flexibility are the best means for fostering ubiquitous and fairly priced wireless services – and they will generate technological innovation and innovative new services as well. For example, with analog television service terminated and the public more fully invested in DTV equipment, broadcasters are enormously expanding wireless programming choice *via* multicasting. McGraw-Hill television stations provide some 672 hours/week of free multicast programming in addition to the traditional primary stream. Mobile DTV similarly offers numerous potential programming choices and public interest benefits as a wireless service. As OMVC explained, Mobile DTV offers greater opportunities for public interest programming, nondiscriminatory access to programming, locally-produced programming, niche, foreign language, and live, real-time programming.<sup>48</sup> The Local Television Broadcasters urge the Commission to permit genuine regulatory flexibility and genuine marketplace competition in any “marketplace mechanisms” it considers.

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<sup>46</sup> The Commission’s “Secondary Markets” policies are one example of such regulatory flexibility. *See* Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Third Report & Order*, 22 FCC Rcd 7209 (2007) *affirmed Second Order on Recon.* 23 FCC Rcd 15081 (2008); Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Second Report & Order, Order on Reconsideration, & Second Further Notice of Proposed Rulemaking*, 19 FCC Rcd 17503 (2004); Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Report & Order & Further Notice of Proposed Rulemaking*, 18 FCC Rcd 20604 (2003).

<sup>47</sup> LIN Comments at 21.

<sup>48</sup> Open Mobile Video Coalition Dec. 22, 2009 Comments, GN Docket No. 09-47, at 13.

### **III. CTIA/CEA’S NEW SPECTRUM PRINCIPLES ARE HELPFUL, BUT THEIR “LOW-POWER” PROPOSAL IS IMPRACTICAL.**

CTIA and the Consumer Electronics Association (“CEA”), in response to *NBP Public Notice #26*, submitted a White Paper proposing a “low-power” single frequency network (“SFN”) model for broadcast television stations.<sup>49</sup> Such a model might reduce the amount of co- and adjacent channel protection zones, thereby theoretically freeing up spectrum for reallocation purposes. In this proposal, CTIA and CEA appear to have abandoned their earlier proposals to strip broadcasters of their spectrum and American television viewers of the full benefits of free, over-the-air DTV service. Instead, CTIA and CEA now propose four principles to govern any Commission decision to reconfigure 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.<sup>50</sup>

The Local Television Broadcasters appreciate these proposed principles and believe they may help frame the Commission’s objectives in future policymaking. These proposed principles demonstrate the recognition by CTIA and CEA that a radical nationwide spectrum reallocation to resolve localized broadband congestion problems is technically and politically unworkable.

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<sup>49</sup> See CTIA – The Wireless Association® & the Consumer Electronics Association, *Comments of CTIA – The Wireless Association® and the Consumer Electronics Association On NBP Public Notice #26, Uses Of Spectrum; White Paper Proposal: Exploring A 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”).

<sup>50</sup> *White Paper* at 2.

To satisfy these four principles, CTIA and CEA propose that television stations change the transmission model to a multi-antenna, low-power SFN. The Local Television Broadcasters commend the desire of CTIA and CEA for trying to explore and develop new ideas for addressing their asserted broadband problems. However, as explained below, the low-power SFN proposal is impractical for a number of reasons. Reasoned, deliberate decision-making on a sufficient factual basis is a necessary predicate to considering specific proposals such as the low-power SFN, and, to that end, the Local Television Broadcasters urge the Commission first to complete the steps set forth in Section I of these Reply Comments. The Local Television Broadcasters believe that feasible proposals using a complementary broadcast/broadband model will emerge in the future, and the Commission in the meantime should dedicate its administrative resources accordingly.

As noted, there are several reasons why the low-power SFN model proposed by CTIA and CEA is impractical. While an SFN may prove viable for booster or “fill-in” type operation, the Local Television Broadcasters are extremely doubtful 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. For full signal replacement, the Local Television Broadcasters believe that the low-power SFN model would require 25-100 antenna sites – and probably much more in markets where terrain is an issue. Not only do cost and siting issues make this model highly impractical, but the self-interference from such a high number of sites would be significant. Moreover, even if such a model was not impractical, the Local Television Broadcasters expect that spectrum recovery would be so minimal in highly populated areas along both coasts and the Great Lakes that the whole exercise would be unjustified.

## **Conclusion**

The Commission must take the steps specified herein to develop a solid policy foundation before meaningfully considering the reallocation of spectrum to wireless broadband. The Local Television Broadcasters are confident that after the Commission establishes such a foundation the agency will have no reasonable basis for taking broadcast spectrum. If the Commission truly seeks to promote the adoption of wireless broadband and the availability of fairly-priced wireless services, then it will rely on competition and regulatory flexibility and will reject coercive reallocation schemes. The Local Television Broadcasters expect that a complementary broadcast/broadband model eventually will emerge to address wireless consumer demand, and the Commission should plan accordingly.

Respectfully submitted,

### **LOCAL TELEVISION BROADCASTERS**

**Allbritton Communications Company  
Bahakel Communications, Ltd.  
Evening Post Publishing Company  
Gray Television, Inc.  
Local TV, LLC  
McGraw-Hill Broadcasting Company  
Media General, Inc.  
Meredith Corporation  
Tribune Company  
WNAC, LLC**

/s/

By: \_\_\_\_\_  
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January 27, 2010

**ATTACHMENT A**

**LOCAL TELEVISION BROADCASTERS  
GROUPS AND THEIR TELEVISION STATIONS**

<b>Owner</b>	<b>DMA</b>	<b>Station</b>
<b>Allbritton Communications Company</b>	Birmingham	WCFT-TV, Tuscaloosa, AL
	Birmingham	WJSU-TV, Anniston, AL
	Charleston	WCIV(TV), Charleston, SC
	Harrisburg-Lancaster	WHTM-TV, Harrisburg, PA
	Little Rock-Pine Bluff	KATV(TV), Little Rock, AR
	Roanoke-Lynchburg	WSET-TV, Lynchburg, VA
	Tulsa	KTUL(TV), Tulsa, OK
	Washington, DC	WJLA-TV, Washington, DC
<b>Bahakel Communications Ltd.</b>	Charlotte	WCCB(TV), Charlotte, NC
	Columbia, SC	WOLO-TV, Columbia, SC
	Jackson, TN	WBBJ-TV, Jackson, TN
	Montgomery-Selma	WAKA(TV), Selma, AL
	Myrtle Beach-Florence	WFXB(TV), Myrtle Beach, SC
<b>Evening Post Publishing Company</b>	Billings	KTVQ(TV), Billings, MT
	Butte-Bozeman	KBZK-TV, Bozeman, MT
	Butte-Bozeman	KXLF-TV, Butte, MT
	Colorado Springs-Pueblo	KOAA-TV, Pueblo, CO
	Corpus Christi	K47DF-CA (KDF), Kingsville-Alice, TX
	Corpus Christi	K68DJ (KAJA), Corpus Christi, TX
	Corpus Christi	KRIS-TV, Corpus Christi, TX
	Great Falls	KRTV(TV), Great Falls, MT
	Helena	KXLH-LP, Helena, MT
	Lafayette	KATC(TV), Lafayette, LA
	Lexington	WLEX-TV, Lexington, KY
	Missoula	K18AJ-CA (KAJ), Kalispell, MT
	Missoula	KPAX-TV, Missoula, MT
	Santa Barbara-Santa Maria	KSBY(TV), San Luis Obispo, CA
	Tucson	KVOA(TV), Tucson, AZ
<b>Gray Television, Inc.</b>	Albany, GA	WSWG(TV), Valdosta, GA
	Augusta	WRDW-TV, Augusta, GA
	Bowling Green	WBKO(TV), Bowling Green, KY
	Charleston-Huntington	WSAZ-TV, Huntington, WV
	Charlottesville	WAHU-CA, Charlottesville, VA
	Charlottesville	WCAV(TV), Charlottesville, VA
	Charlottesville	WVAW-LP, Charlottesville, VA
	Colorado Springs-Pueblo	KKTV(TV), Colorado Springs, CO
	Dothan	WTVY(TV), Dothan, AL
	Grand Junction-Montrose	KKCO(TV), Grand Junction, CO
	Greenville	WITN-TV, Washington, NC
	Harrisonburg	WHSV-TV, Harrisonburg, VA
	Knoxville	WVLT-TV, Knoxville, TN

<b>Owner</b>	<b>DMA</b>	<b>Station</b>
	La Crosse-Eau Claire	WEAU-TV, Eau Claire, WI
	Lansing	WILX-TV, Onandaga, MI
	Lexington	WKYT-TV, Lexington, KY
	Lexington	WYMT-TV, Hazard, KY
	Lincoln & Hastings	KGIN(TV), Grand Island, NE (KOLN sat)
	Lincoln & Hastings	KOLN(TV), Lincoln, NE
	Madison	WMTV(TV), Madison, WI
	Meridian	WTOK-TV, Meridian, MS
	Omaha	WOWT-TV, Omaha, NE
	Panama City	WJHG-TV, Panama City, FL
	Parkersburg	WTAP-TV, Parkersburg, WV
	Reno	KOLO-TV, Reno, NV
	Rockford	WIFR(TV), Freeport, IL
	Sherman, TX-Ada, OK	KXII(TV), Sherman, TX
	South Bend-Elkhart	WNDU-TV, South Bend, IN
	Tallahassee-Thomasville, FL/GA	WCTV(TV), Thomasville, GA
	Topeka	WIBW-TV, Topeka, KS
	Waco-Temple	KBTX-TV, Bryan, TX
	Waco-Temple	KWTX-TV, Waco, TX
	Wausau-Rhineland	WSAW-TV, Wausau, WI
	Wichita-Hutchinson	KAKE-TV, Wichita, KS
	Wichita-Hutchinson	KLBY(TV), Colby, KS (KAKE sat)
	Wichita-Hutchinson	KUPK-TV, Garden City, KS (KAKE sat)
<b>Local TV, LLC</b>	Cleveland-Akron	WJW(TV), Cleveland, OH
	Davenport-Rock Island, IA/IL	WQAD-TV, Moline, IL
	Denver	KDVR(TV), Denver, CO
	Denver	KFCT(TV), Ft Collins, CO (KDVR sat)
	Des Moines	WHO-DT, Des Moines, IA
	Ft. Smith-Fayetteville	KFSM-TV, Fort Smith, AR
	Greensboro-High Point	WGHP(TV), High Point, NC
	Huntsville-Decatur	WHNT-TV, Huntsville, AL
	Kansas City	WDAF-TV, Kansas City, MO
	Memphis	WREG-TV, Memphis, TN
	Milwaukee	WITI(TV), Milwaukee, WI
	Norfolk-Portsmouth	WTKR-TV, Norfolk, VA
	Oklahoma City	KAUT-TV, Oklahoma City, OK
	Oklahoma City	KFOR-TV, Oklahoma City, OK
	Richmond-Petersburg	WTVR-TV, Richmond, VA
	Salt Lake City	KSTU(TV), Salt Lake City, UT
	St. Louis	KTVI(TV), St. Louis, MO
	Wilkes Barre-Scranton	WNEP-TV, Scranton, PA
<b>McGraw-Hill Broadcasting Company</b>	Bakersfield	KERO-TV, Bakersfield, CA
	Bakersfield	KZKC-LP, Bakersfield, CA
	Colorado Springs-Pueblo	KZCS-LP, Colorado Springs, CO
	Denver	KMGH-TV, Denver, CO
	Denver	KZCO-LP, Denver, CO
	Denver	KZFC-LP, Windsor, CO

<b>Owner</b>	<b>DMA</b>	<b>Station</b>
	Indianapolis	WRTV(TV), Indianapolis, IN
	San Diego	KGTV(TV), San Diego, CA
	San Diego	KZSD-LP, San Diego, CA
<b>Media General, Inc.</b>	Augusta	WJBF(TV), Augusta, GA
	Birmingham	WVTM-TV, Birmingham, AL
	Charleston	WCBD-TV, Charleston, SC
	Columbus, GA	WRBL(TV), Columbus, GA
	Columbus, OH	WCMH-TV, Columbus, OH
	Greenville	WNCT-TV, Greenville, NC
	Greenville-Spartanburg, NC/SC	WSPA-TV, Spartanburg, SC
	Greenville-Spartanburg, NC/SC	WYCW(TV), Asheville, NC
	Hattiesburg-Laurel	WHLT(TV), Hattiesburg, MS (WJTV sat)
	Jackson, MS	WJTV(TV), Jackson, MS
	Mobile, AL-Pensacola, FL	WKRK-TV, Mobile, AL
	Myrtle Beach-Florence	WBTW(TV), Florence, SC
	Providence-New Bedford, RI/MA	WJAR(TV), Providence, RI
	Raleigh-Durham	WNCN(TV), Goldsboro, NC
	Roanoke-Lynchburg	WSLS-TV, Roanoke, VA
	Savannah	WSAV-TV, Savannah, GA
	Tampa-St. Petersburg	WFLA-TV, Tampa, FL
	Tri-Cities, TN-VA	WJHL-TV, Johnson City, TN
<b>Meredith Corporation</b>	Atlanta	WGCL-TV, Atlanta, GA
	Flint-Saginaw	WNEM-TV, Bay City, MI
	Greenville-Spartanburg, NC/SC	WHNS(TV), Greenville, SC
	Hartford & New Haven	WFSB(TV), Hartford, CT
	Kansas City	KCTV(TV), Kansas City, MO
	Kansas City	KSMO-TV, Kansas City, MO
	Las Vegas	KVVU-TV, Henderson, NV
	Nashville	WSMV-TV, Nashville, TN
	Phoenix	KPHO-TV, Phoenix, AZ
	Portland	KPDX(TV), Vancouver, WA
	Portland	KPTV(TV), Portland, OR
	Springfield, MA	WSHM-LP, Springfield, MA
<b>Tribune Company</b>	Chicago	WGN-TV, Chicago
	Dallas-Ft. Worth	KDAF(TV), Dallas, TX
	Denver	KWGN-TV, Denver, CO
	Grand Rapids-Kalamazoo	WXMI(TV), Grand Rapids, MI
	Harrisburg-Lancaster	WPMT(TV), York, PA
	Hartford-New Haven	WTIC-TV, Hartford, CT
	Hartford-New Haven	WTXX(TV), Waterbury, CT
	Houston	KIAH(TV), Houston, TX
	Indianapolis	WXIN(TV), Indianapolis, IN
	Indianapolis	WTTV(TV), Bloomington, IN
	Indianapolis	WTTK(TV), Kokomo, IN (WTTV sat.)
	Los Angeles	KTLA-TV, Los Angeles, CA
	Miami-Ft. Lauderdale	WSFL-TV, Miami, FL
	New Orleans	WGNO(TV), New Orleans, LA

<b>Owner</b>	<b>DMA</b>	<b>Station</b>
	New Orleans	WNOL-TV, New Orleans, LA
	New York, NY	WPIX(TV), New York, NY
	Philadelphia	WPHL-TV, Philadelphia, PA
	Portland	KRCW-TV, Salem, OR
	Sacramento-Stockton	KTXL(TV), Sacramento, CA
	San Diego	KSWB-TV, San Diego, CA
	Seattle-Tacoma	KMYQ(TV), Seattle, WA
	Seattle-Tacoma	KCPQ(TV), Tacoma, WA
	St. Louis, MO	KPLR-TV, St. Louis, MO
	Washington, DC	WDCW(TV), Washington, DC
<b>WNAC, LLC</b>	Providence-New Bedford, RI/MA	WNAC-TV, Providence, RI