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

In the Matter of	)	
	)	
Request for Licensing Freezes and Petition for Rulemaking To Amend the Commission's DTV Table of Allocations To Prohibit the Future Licensing of Channel 51 Broadcast Stations and To Promote Voluntary Agreements To Relocate Broadcast Stations from Channel 51	)	RM-11626

To: Chief, Media Bureau

OPPOSITION OF MEDIA GENERAL, INC. TO PETITION FOR RULEMAKING AND REQUEST FOR LICENSING FREEZES

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SUMMARY

Media General, Inc., which owns and operates WJAR(TV), Channel 51, Providence, Rhode Island, opposes all but one portion of the Petition filed by CTIA-The Wireless Association and Rural Cellular Association seeking to limit the protections and options available to licensees of television stations that operate on Channel 51. As a company that has long supported Commission facilitation of voluntary agreements, Media General supports the Petition's request that the FCC accelerate the clearance of Channel 51 when incumbent Channel 51 broadcasters reach voluntary agreements with Lower A Block licensees to relocate to an alternate channel. For three reasons, Media General strongly objects, however, to the remainder of the Petition and any effort to restrict broadcasters' future use and modification of Channel 51 facilities.

First, Lower A Block users knew long before they bid on their spectrum – both as a result of numerous notice and comment proceedings addressing the DTV-wireless interference protection criteria and repeated warnings prior to the auctions – of the need to protect Channel 51 operations, and the Lower A Block licensees bid accordingly. The industry recognizes that the prices they paid for their spectrum were severely discounted as a result. These Lower A Block licensees should not now be allowed to expand their rights beyond what they purchased at auction – at the expense of Channel 51 licensees who have long relied on the codified protections – just because they have buyer's remorse.

Second, the solution to Lower A Block licensees' problems lies elsewhere, either through voluntary agreements or technological developments. Yesterday's FCC interoperability panels confirmed technical solutions have emerged that will permit wireless equipment to function well in the presence of Channel 51 operations.

Third, particularly in light of these technical developments, the Petition fails to establish an evidentiary record of a nationwide problem warranting a government "fix" at the expense of Channel 51 licensees. Administrative law requires concrete evidence of a problem before an agency may adopt rules. The Petition speaks only in terms of "possibilities," "risks," and "dangerous opportunities" but lacks documentation of a nationwide problem warranting a change to the FCC's rules. In this environment, in which a technical solution exists and is still being explored on the wireless side, the FCC should not initiate action at the expense of Channel 51 licensees, which the agency has long recognized deserve protection.

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Media General, Inc. ("Media General"), the corporate parent of the licensee of WJAR(TV), which broadcasts on Channel 51 in Providence, Rhode Island, by its counsel, submits these comments in response to the Federal Communications Commission ("FCC") public notice seeking comment on the Petition for Rulemaking and Request for Licensing Freeze ("Petition") filed by CTIA-The Wireless Association and Rural Cellular Association ("Petitioners").[1] As the public notice states, the Petition asks that the FCC do the following: "(1) revise its rules to prohibit future licensing of TV broadcast stations on Channel 51; (2) implement freezes, effective immediately, on the acceptance, processing, and grant of applications for new or modified broadcast facilities seeking to operate on Channel 51; and (3)

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[1] *See* FCC Public Notice, "Media Bureau Seeks Comments on a Petition for Rulemaking and Request for Licensing Freezes," RM-11626, DA 11-562 (Mar. 28, 2011) ("Public Notice"); *see also* Petition for Rulemaking and Request for Licensing Freezes by CTIA-The Wireless Association and Rural Cellular Association, RM 11-626, filed Mar. 15, 2011.

accelerate clearance of Channel 51 where incumbent Channel 51 broadcasters reach voluntary agreements to relocate on an alternate channel."[2]

Media General supports Petitioners' third request involving advancement of private agreements. In matters of spectrum and other FCC policy, Media General has long supported reliance on market mechanisms as a more efficient resolution of disputes. Commission acceleration of regulatory action to implement such voluntary agreements would be welcome.

Media General strongly objects, however, to the remainder of the Petition and any effort by the Commission to restrict its ability in the future to modify the facilities of WJAR(TV) or removing use of Channel 51 from the frequencies available should it need to reconfigure any of its other facilities. As explained in detail below, the Commission should deny all but Petitioners' third request for three reasons. First, Lower A Block users are impermissibly attempting to expand rights beyond what they purchased at auction.[3] Those licensees were alerted long prior to even registering their bids – both through FCC statements over a decade regarding the applicable DTV-wireless interference protection criteria and repeated public notices preceding the auctions – that their operations would need to protect broadcast operations on adjacent Channel 51. They bid accordingly and cannot now seek to interfere with Channel 51 licensees because they have buyer's remorse. The prices that they paid for their spectrum took into account any issues related to Channel 51. Second, the solution to the Lower A Block licensees' problems lies elsewhere – through voluntary agreements with Channel 51 licensees and in equipment and technological developments, not through disrupting long codified protections for

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[2] Public Notice at 1.

[3] Lower A Block licensees hold authorizations to utilize former broadcast channels Channel 52 (698-704 MHz) and Channel 57 (728-734 MHz).

Channel 51 licensees. Finally, the broad nationwide relief the Petition seeks – both in terms of Channel 51 rule revisions and the imposition of "freezes" – is not justified by any record evidence of a problem or supported by allegations of a spectrum "crunch." Here, again, the solutions lie in technological developments and not mandated changes to establish spectrum protections. The Commission should dismiss all but Petitioners' third form of requested relief and take no further action on the Petition.

I. Lower A Block Users Are Impermissibly Attempting To Expand the Rights They Purchased.

The Lower A Block users who would benefit from the Petition's request that the Commission restrict the options of Channel 51 licensees cannot say they lacked warning of the restriction about which they now complain. Section 27.60 of the FCC's rules, 47 C.F.R. § 27.60, which establishes DTV interference protection criteria for Lower A Block users, has applied to those users for almost a decade, during which the Commission has reevaluated the rule multiple times in proceedings that offered full opportunity for notice and comment. Moreover, each auction involving Lower A Block spectrum has been preceded by repeated FCC warnings about the Channel 51 issues attendant to that spectrum. The Lower A Block licensees purchased with full knowledge of these issues and structured their bids – and presumably their business plans – accordingly. Channel 51 licensees should not now suffer because of the Lower A Block purchasers' buyer's remorse.

A. The Administrative History of the FCC's Adoption of DTV-Wireless Interference Protection Criteria Shows the FCC Gave Potential Lower A Block Licensees More Than Adequate Notice and Opportunity To Comment on Channel 51 Issues.

At the time that Section 27.60 of the FCC's rules was first applied to use of frequencies in the Lower 700 MHz Band, the FCC, after notice and comment proceedings, made clear the rule was essential to ensure that new wireless licensees adequately protected core TV channel

operations, "including those on Ch. 51."[4] The FCC also recognized that "the need for protection of broadcast operations in the core TV channels will continue indefinitely."[5]

In that proceeding, the FCC considered adoption of a guard band approach "or other specialized mechanism to protect DTV operations on Channel 51," but chose instead "to rely on our interference protection criteria."[6] In making this decision, the FCC specifically acknowledged that "the bidders for this spectrum will take into account criteria established to protect core TV channels and will develop their business plans, services, and facilities accordingly."[7]

Although numerous parties sought review of the FCC's adoption of reallocation and service rules for the Lower 700 MHz Band, the decision on reconsideration indicates that none sought changes to the application of the interference protection criteria to use of A Block

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[4] Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, 17 FCC Rcd 1022 at ¶ 23 (2002) ("*Lower 700 MHz Report and Order*").

[5] *Id.* In supporting adoption of reallocation and service rules for the Lower 700 MHz Band, Commissioner Copps noted that the FCC had properly balanced "promoting the transition to digital television and establishing a pathway to making Channels 52-59 available for new services . . . ." *Id.* at Separate Statement of Commissioner Michael J. Copps. Commissioner Copps then added the following comments about the importance of over-the-air broadcasting:

> Continued access to free over-the-air television is also a central concern of this Commission. Broadcasters serve a special and critical role in our communities and in the nation's marketplace of ideas. We must always work to maintain the viability of free over-the-air television, and protect this service for the millions of Americans who receive their news, entertainment, and so many other services solely from over-the-air broadcasting. Free over-the-air television will be just as critical in the digital era as it is right now in these early days.

Id.

[6] *Lower 700 MHz Report and Order* at ¶¶ 22-23.

[7] *Id.* at ¶ 23.

frequencies.[8] In addressing one of the other issues raised on reconsideration, the FCC again mentioned the need to protect broadcast operations on Channel 51 and noted Lower Block A licensees needed "flexibility to engineer their systems around . . . [such] operations by the use of measures such as internal guard bands."[9]

Several years later, in the *Second DTV Periodic Review*, the FCC revisited the interference protection criteria.[10] The Commission noted that the *NPRM* that preceded the periodic review decision had "sought comment on the interference protection that should be afforded by wireless entities and other new service providers to future . . . DTV facilities on Channel 51 that are authorized or requested after the auction of the spectrum comprising Channel 52."[11] Again, the Commission determined that it would accord protection to future digital broadcast facilities on Channel 51:

> [W]ireless and other operators on channel 52 must provide the interference protection prescribed in the *Lower 700 MHz Report and Order* to all broadcasters on Channel 51, including any that may commence operation after the auction of the adjacent channels in the 52-58 band. We agree . . . that stations on Channel 51 should receive the same level of protection as other stations on in-core channels, including protection from wireless and other new service providers.[12]

In this proceeding, the FCC was asked, but refused, to adopt proposals that interference protections be "reciprocal" and that it reduce or eliminate the required desired/undesired signal

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[8] Reallocation and Service Rules for the 700 MHz Spectrum Band, *Memorandum Opinion and Order*, 17 FCC Rcd 11613, ¶ 2 & Appendix A (2002).

[9] *Id.* at ¶ 16.

[10] Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, 19 FCC Rcd 18279 (2004) ("*Second Periodic Review*").

[11] *Id.* at ¶ 122.

[12] *Id.*

strength ratio for "distantly adjacent" wireless channels.[13] "Channel 51 is part of the core channels reserved for broadcast use, and we do not believe use of Channel 51 for broadcast purposes should be restricted in order to protect operations on channel 52, even if those operations predate the commencement of operations on Channel 51," the FCC added.[14] The FCC noted that its rules also permitted wireless operators in the Channel 52-58 band to negotiate agreements with broadcasters to accept any interference.[15] No party sought reconsideration of the portion of the *Second DTV Periodic Review* addressing interference protection criteria for Channel 51. As this administrative history of Section 27.60 of the FCC's rules attests, parties interested in purchasing Lower A Block spectrum had innumerable opportunities to object to the DTV-wireless protection criteria prior to bidding.

B. Public Notices for Spectrum Auctions Similarly Alerted Lower A Block Bidders Over and Over Again to Channel 51 Issues.

As the FCC began to prepare to auction the Lower A Block frequencies, it repeatedly gave potential bidders for the spectrum notice of the need to protect Channel 51. When the auction of the Lower A Block frequencies (Auction No. 44) was first contemplated, the FCC issued a specific public notice entitled "Due Diligence Announcement for the Upcoming Auction of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002." On its very first page, this notice cautioned potential bidders to "thoroughly research the nature and extent and probable broadcast incumbencies in the Lower 700 MHz band (channels 52-59) as well as on adjacent

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[13] *Id.* Based on the text of the decision, apparently only one party came forward with any objection to interference protection criteria for Channel 51.

[14] *Id.*

[15] *Id.*

channels (*e.g.*, channels 51 and 60).[16] Within the text of the public notice, the Commission further amplified this warning:

> [P]otential bidders should be aware that there are a number of incumbent licensees currently authorized to operate in the Lower 700 MHz band (channels 52-59) plus adjacent channels (*e.g.*, channels 51 and 60), and that incumbents may have multiple authorizations (*e.g.*, a license and a construction permit (CP) or modified CP). These incumbents may also have pending applications to make changes in authorized facilities.
>
> To aid potential bidders with their research, attached to this Public Notice is a list of incumbent licensees, permittees and/or applicants in the Lower 700 MHz band, as of April 11, 2002 (*see* **Attachments B and C**) . . . Potential bidders may use this list to research additional information about these licensees, permittees and/or applicants, including technical data for specific authorizations or pending applications. This list contains information regarding adjacent channels because new licensees are required to provide interference protection to licensees operating on adjacent channels (*e.g.*, channels 51 and 60). The Commission makes no representations or guarantees that the listed licensees are the only licensees, permittees and/or applicants that could affect spectrum availability or operations in the Lower 700 MHz band.
>
> * * *
>
> **Potential bidders are solely responsible for identifying associated risks, and investigation and evaluation of the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 44.**[17]

Although Auction No. 44 was postponed shortly thereafter as the result of enactment of the Auction Reform Act of 2002,[18] the materials that the FCC issued when it revived the process in Auction No. 73 included very similar warnings to potential bidders. Those admonitions described the DTV-wireless interference protection criteria, specifically citing 47 C.F.R. § 27.60, as well as the fact that this requirement would continue after the DTV transition:

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[16] FCC, Public Notice, DA 02-904, rel. Apr. 18, 2002, at 1.

[17] *Id.* at 2-3 (emphasis in original).

[18] Auction Reform Act of 2002, PUB. L. NO. 107-195, 116 Stat. 715.

> **3. Protection of Incumbent Operations**
>
> A number of incumbent broadcasters are licensed and operating on these frequencies (TV channels 52-53, 56-58, 60-62, and 65-67) and adjacent channels. In accordance with the Commission's rules, 700 MHz band licensees must protect analog and digital TV incumbents from harmful interference through February 17, 2009, the end of the DTV transition period. After February 17, 2009, 700 MHz licensees must continue to operate in accordance with the Commission's rules to reduce the potential for interference to public reception of the signals of DTV broadcast stations transmitting on DTV Channel51. These limitations may restrict the ability of such geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to some parts of their geographic license areas.[19]

Even last month, as the Commission prepared to auction remaining Lower A Block frequencies in Auction No. 92, it once again repeated the caution:

> **3. Protection of Incumbent Operations**
>
> 700 MHz Band licensees must operate in accordance with Commission rules to reduce the potential for interference to public reception of the signals of digital television (DTV) broadcast stations transmitting on DTV Channel 51. These limitations may restrict the ability for such geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to some parts of their geographic license areas.[20]

Given these repeated statements by the Commission, no Lower A Block licensee has grounds to argue that it was unaware of the Channel 51 concerns at the time it bid for and obtained its frequencies.

The Lower A Block bidders also apparently took these Channel 51 issues into account in devising their bidding strategies. As AT&T has noted in another context, the Lower A Block licensees had been made aware of potential issues with their spectrum from the time the *Lower*

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[19] FCC Public Notice, "Auction of 700 MHz Band Licenses Scheduled for January 24, 2008," 22 FCC Rcd 18141, ¶ 35 (2007) (footnote citing 47 C.F.R. § 27.60 omitted).

[20] FCC Public Notice, "Auction of 700 MHz Band Licenses Scheduled for July 19, 2011," DA 11-420, rel. Mar. 16, 2011, ¶ 30 (footnote citing 47 C.F.R. § 27.60 omitted).

700 MHz Report and Order was first released in 2002 and, as a consequence, paid lower prices for their frequencies:

> Lower 700 MHz A Block licenses brought far lower prices in the auction than other 700 MHz licenses that were not adjacent to high power broadcast licenses. Any difficulties or higher costs that A Block licensees encounter in deploying service are fully reflected in the sharply lower prices they paid to obtain the A Block licenses."[21]

Motorola has similarly noted that "[t]he significance of the 700 MHz band plan and the existence of Channel 51 television stations and high powered transmitters in the unpaired blocks were well known prior to Auction 73, and indeed the lower 700 MHz block licenses were auctioned for less than half the value of the B block licenses."[22] The Petition's proposed revision of the FCC's rules to restrict Channel 51 licensees is nothing more than an attempt to get the government to make up for mistakes in the business plans of the successful Lower A Block bidders.

II. Solutions Lie Elsewhere Than the Petition.

The Petition itself highlights just one mechanism for Lower A Block licensees to address problems they encounter in protecting Channel 51 licenses. A Block licensees can negotiate voluntary channel change agreements with Channel 51 licensees, and the Petition cites several instances in which Cellular South, Inc. has successfully pursued this option.[23]

At this point, Lower A Block licensees' principal impediment to delivering service in a manner that still protects Channel 51 operations seems to be one of expense – the cost of designing and manufacturing equipment, an issue that has been debated extensively as the wireless industry focuses on the interoperability of mobile equipment across the entire 700 MHz

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[21] Letter from Joseph P. Marx, Assistant Vice President – Federal Regulatory, AT&T Services, Inc. to Marlene H. Dortch, Secretary, FCC, RM-11592, dated Nov. 2, 2010, at 9.

[22] Comments of Motorola, Inc., RM-11592, filed Mar. 31, 2010, at 10.

[23] Petition at 19 & n.46.

band.[24] Channel 51 licensees should not become the scapegoats for Lower A Block licensees' failure to resolve the interoperability question.

As part of this interoperability debate, parties have noted that the solution to the equipment issue is one that lies within the control of the Lower Class A licensees themselves. In comments cited in the Petition, Verizon Wireless explained this in addressing use of Band Class 12 equipment (the designation that the standards setting body 3GPP has ascribed to equipment that can be used in the Lower A, B, and C 700 MHz frequency blocks):

> In short, there are technical challenges in deploying Band Class 12 equipment at this time. However, these challenges are not insurmountable and nothing prevents members of the Alliance [of Lower A Block licensees] from themselves determining how to address these issues in designing Band 12 devices. Indeed, the Alliance members are free to work (either collectively or individually) with manufacturers to build devices that operate on the spectrum its members voluntarily acquire, and those devices could include other spectrum besides Band Class 12. But those decisions have to be made by those carriers to meet their own individual business plans.[25]

In the same proceeding, Cellular South, Inc., which acquired numerous 700 MHz Block B licenses in the Lower Band A Block in Auction No. 73, similarly recognized the issue is one of cost:

> It is quite possible that devices developed for use in this block must have filters to lessen the interference problems, thus increasing the cost of devices including Lower Block A. Petitioners anticipate that the incremental cost of

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[24] Indeed, the FCC yesterday held a workshop on the interoperability issue. *See* FCC Public Notice, "Federal Communications Commission To Hold April 26, 2011 Workshop on the Interoperability of Customer Mobile Equipment Across Commercial Spectrum Blocks in the 700 MHz Band," RM-11626, DA 11-622 (2011). During the first panel, there was discussion of options for adequately addressing the Channel 51 concerns held by Lower A Block licensees through technical measures, including recognition that a guard band solution exists. *See, e.g.,* http://beta.fcc.gov/event/700-mhz-interoperability-workshop (oral testimony of Gene Fong, Senior Staff Engineer, Qualcomm, at 12:00 – 16:36; oral testimony of Doug Hyslop, Wireless Strategy, at 19:00 – 20:20, 21:31 – 22:25, and 23:41 – 23:52).

[25] Comments of Verizon Wireless, RM-11592, filed Mar. 31, 2010, at 9.

> including filters would not likely be substantial if the equipment is produced in large quantities . . . .[26]

The Petition lacks any proof that A Block licensees have pursued technical solutions to the equipment issue and that they have exhausted all such options. In this environment, in which a technical solution exists and is still being explored on the wireless side (even if a matter of cost), the FCC should not instead take action at the expense of Channel 51 licensees, which the agency has long recognized deserve protection. Channel 51 licensees have planned and constructed their own facilities in reliance on this long-codified protection, most recently as part of the DTV transition.

III. No Nationwide and Immediate Crisis Exists That Warrants Action on the Petition or Even a "Freeze".

In addition to failing to demonstrate the lack of a technical solution, Petitioners premise their requested relief on several other statements and on several assumptions that they also fall far short of documenting and that must be established for any Commission action on the Petition to comply with statutory administrative law principles requiring demonstration of the existence of an actual problem before an agency may act.[27] Indeed, "a regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist."[28] Lacking any concrete evidence of a nationwide problem, the FCC should not disrupt Channel 51 licensees' protections and expectations by proceeding with action on the Petition.

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[26] Comments of Cellular South, Inc., RM-11592, filed Mar. 31, 2010, at 5.

[27] *See, e.g.*, *Burlington Truck Lines v. U.S.*, 371 U.S. 156, 168 (1962).

[28] *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977) (internal quotation marks omitted); *see also California v. FCC*, 985 F.2d 1217, 1238 (9th Cir. 1990).

The APA also requires the FCC to support any rule it promulgates with substantial record evidence. 5 U.S.C. § 706(2)(E); *see also Burlington Truck Lines*, 371 U.S. at 168.

In reciting the alleged obstacles faced by Lower Block A licensees that supposedly warrant action, the Petition speaks in terms of "possibilities," yet it never makes a technically documented case of any actual nationwide problem requiring a nationwide regulatory solution involving Channel 51. The Petition notes "a *possibility* that mobile devices operating in close proximity to a TV receiver could potentially exceed the D/U protection ratio."[29] It adds that "numerous A Block licensees . . . have commented on *the risk* of interference from Channel 51 broadcast operations to wireless broadband networks operating in the A Block."[30] Equipment manufacturer LG, as the Petition notes, "has cautioned that 'resolving these [interference] issues *may* require substantial modification to device manufacture and network infrastructure plans, ..."[31] Finally, in the examples most lacking in concrete evidence, it posits the "dangerous opportunity" in which Channel 51 licensees might "exploit opportunities for potential gain at the expense of an A Block licensee" as well as possible "risk[s]" to investor confidence.[32] The Petition clearly lacks any real-world evidence of harm or, even if assuming a concrete problem, of efforts to solve it. In short, without a concrete demonstration of extensive harms, the FCC may not move forward. Doing so based merely on the Petition's contents would be inconsistent with administrative law dictates.[33]

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[29] Petition at 5 (footnote omitted) (emphasis supplied).

[30] *Id.* at 5 (emphasis supplied).

[31] *Id.* at 6 (emphasis supplied).

[32] *Id.*

[33] The Petition's reference to another statutory section – 47 U.S.C. § 333 – is also off base. Petition at 11 n.27. The Petition states that its requests are "consistent with the interference prevention objectives of the Communications Act . . . .," citing and then quoting Section 333. As the Commission has recognized, however, the legislative history of that provision makes clear that it addresses "willful and malicious interference" such as "'intentional jamming, deliberate transmission on top of the transmissions of authorized users already using specific frequencies in (continued...)

The Petition states that its request to modify Channel 51 licensees' rights and expectations is also undergirded by a nationwide spectrum crunch that jeopardizes the provision of broadband, particularly mobile broadband, service. Media General strongly supports the development of broadband of all types but believes that marketplace mechanisms will most efficiently and creatively advance this goal. If the government must act, Media General believes it should proceed in a fashion that recognizes the complementary nature of broadband and broadcast services, advances innovation in both areas, and does not stifle technological developments in either one.

Just as the Petition offers no compelling issue of a nationwide problem specific to the relationship between Lower A Block and Channel 51 licensees, the Petition does not conclusively demonstrate a nationwide spectrum crisis demanding spectrum-based solutions, writ large or small. To the contrary, an expert study submitted earlier this week by the National Association of Broadcasters demonstrates that there is scant evidence supporting any alleged "spectrum crisis."[34] This study shows that the fast pace of wireless innovation and developments will provide carriers with more than adequate options to address any capacity concerns they may have. At the same time, the study sets forth a number of concrete actions that the FCC can adopt

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order to obstruct their communications, repeated interruptions, and the use and transmission of whistles, tapes, records, or other types of noisemaking devices to interfere with the communications or radio signals of other stations.'" *David E. Perka, Notice of Apparent Liability for Forfeiture*, 47 CR 744 (Enf. Bur. 2009), *quoting* H.R. REP. NO. 101-316, at 13 (1989).

[34] *See* Onyeije Consulting LLC, "Solving the Capacity Crunch: Options for Enhancing Data Capacity on Wireless Networks," Apr. 2011, at i-ii, 1-6, Attachment A to Reply Comments of the National association of Broadcasters and the Association for Maximum service Television, Inc., ET Docket No. 10-235 (filed Apr. 25, 2011).

to remedy their capacity concerns without taking drastic steps affecting non-wireless spectrum and allocations.

In fact, the public statements of the executives of several of the Petitioners' members belie their trade associations' spectrum "crisis" claim. For example, following the recent announcement of AT&T's planned acquisition of T-Mobile, AT&T Mobility CEO Ralph de la Vega stated that the deal will "resolve[] the pending spectrum challenges that we're facing in major cities,"[35] and that, "'with this deal, we're set' for both the short and long haul."[36] Verizon Wireless executives also have disavowed any need for TV spectrum.[37] Sprint likewise has noted that broadcast spectrum reallocation is not necessary to address immediate spectrum needs.[38]

Rapid and continuing technological developments undercut the presumption of a spectrum crisis. Earlier this year, for instance, Alcatel Lucent unveiled the LightRadio Cube, which compresses the elements of a cell tower into a 2.3 inch cube that can operate on existing wireless frequencies. This new technology promises to double available bandwidth while reducing cost-per-bit and operational costs.[39] If just this one innovation is able to double

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[35] James Rogers, *AT&T CEO: T-Mobile Solves Spectrum Crunch*, THE STREET (Mar. 22, 2011), http://www.thestreet.com/story/11055239/1/att-ceo-t-mobile-solves-spectrum-crunch.html.

[36] Mark Milian, *AT&T Exec Says Problems Soon Without T-Mobile Merger*, CNN (Mar. 22, 2011), http://articles.cnn.com/2011-03-22/tech/verizon.att.spectrum_1_aloha-partners-spectrum-at-t-executive.

[37] *See id.* (quoting CTO David Small); *see also Verizon Not Seeking Television Spectrum*, RADIO AND TELEVISION BUSINESS REPORT (Apr. 8, 2010), www.rbr.com/tv-cable/23161.html (quoting CEO Ivan Seidenberg).

[38] *See* Sprint Nextel Corp. Comments, GN Docket No. 09-51 (filed Oct. 23, 2009) at 2; *see also* Yu-Ting Wang, *FCC Eyes Spectrum Harmonization and Sharing, Milkman Says*, COMMUNICATIONS DAILY at 9-11 (Apr. 7, 2011).

[39] *See* Alcatel Lucent, *LightRadio: Evolve your wireless broadband network for the new generation of applications and users*, http://www.alcatel-lucent.com/features/light_radio/index.html (last visited Apr. 25, 2011); Charles Babcock, *Alcatel Lucent Shrinks Cell Phone Towers*, INFORMATIONWEEK (Feb. 7, 2011), http://www.informationweek.com/news/telecom/business/ 229201232.

bandwidth in densely populated areas, it and similar innovations will expand capacity far more than any reallocation of broadcast spectrum.

The way to meet projected future wireless broadband needs is not only through today's one-to-one wireless network architecture. Wireless video programming will drive consumer demand, but the one-to-many architecture of Mobile DTV provides a far more efficient way to deliver high-value, high-demand video programming than current wireless networks.[40] Fostering Mobile DTV will save spectrum by allowing broadcasters to efficiently deliver mobile video, whereas reallocation and spectrum sharing would make broadcasters' mobile video plans impossible to execute.[41]

Without government meddling, wireless technological developments will solve both the narrow Channel 51 issue and the broader supposed spectrum "crunch." The FCC should deny the Petition as an impermissible attempt to support one particular portion of the wireless industry that is confronting problems of which it was fully aware at the time it purchased its spectrum. Government relief is inappropriate, and Lower A Block licensees should not be allowed to count on removing Channel 51 licensees' protections to address their avoidance of working through a technical solution.

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[40] *See, e.g.*, Pearl Mobile DTV Comments, ET Docket No. 10-235 (filed Mar. 18, 2011) at 7.
[41] *See, e.g.*, Comments of Local Television Broadcasters, ET Docket No. 10-235 (filed Mar. 18, 2011) at 22-25; Comments of Cox Media Group, Inc., ET Docket No. 10-235 (filed Mar. 18, 2011) at 9-11.

IV. Conclusion.

For the foregoing reasons, the Petition – but for its third request – should be dismissed.

Respectfully submitted,

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April 27, 2011

CERTIFICATE OF SERVICE

I, Tammi Foxwell, do hereby certify that, on this 27th day of April, 2011, I caused a copy of the foregoing "Opposition of Media General, Inc. to Petition for Rulemaking and Request For Licensing Freezes" to be served via first-class U.S. mail upon the following:

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