

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions</b>	)	<b>GN Docket No. 12-268</b>
	)	
	)	

TO: The Office of the Secretary

**COMMENTS OF CERTAIN ANONYMOUS BROADCAST LICENSEES**

Pursuant to the Commission’s October 12, 2012 Notice of Proposed Rulemaking, FCC 12-118 (“Notice”)<sup>1</sup>, the following comments are being submitted anonymously on behalf of certain broadcast licensees with stations in various top 75 markets. These broadcasters are not affiliated with any of the top 4 television networks.<sup>2</sup>

The Notice seeks comments on the Commission’s implementation of the voluntary incentive auction authorized in the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012) (Spectrum Act). Section 6402 of the Spectrum Act authorizes the Commission to conduct incentive auctions in which TV licensees may voluntarily relinquish their spectrum (the forward auction), and Section 6403 allows TV licensees to specify in a reverse auction the amount of payment

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<sup>1</sup>In the Commission’s November 29, 2012 Order, DA 12-1916, the date for submission of comments was extended until January 25, 2013.

<sup>2</sup>On December 18, 2012 the Commission issued a Public Notice, DA 12-2040, encouraging participation in the captioned proceeding by broadcasters wishing to do so on an anonymous basis.

they would take to vacate their spectrum usage rights, and at what level (i.e., all rights, UHF usage rights, or channel sharing). Section 6403(b)(2) also specifically limits the “repacking” of the television spectrum and obligates the Commission to “make all reasonable efforts to preserve [ ] the coverage area and population served of each broadcast television licensee, as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology.”<sup>3</sup> These comments primarily focus on the repacking aspect, and urge implementation of the Commission’s “second option” proposal where all reasonable efforts to preserve service to the same specific viewers for each eligible station are used, and “no individual channel reassignment, considered alone, could reduce another station’s specific population served on February 22, 2012 by more than 0.5 percent.”<sup>4</sup>

### **Interference Standard for Repacking**

Of the three repacking options proposed, Notice ¶¶ 98-118, only the second option (Notice ¶ 106) properly protects a station’s coverage area and would use the less than 0.5% interference standard in the precise area where a station currently (as of February 22, 2012) experiences interference. This option would best protect and incentivize those stations that want to share a television channel, since coverage of an existing station would not change substantially upon repacking.

The first option proposed, Notice ¶ 105, would allow the Commission to shift interference from where it exists today (as of February 22, 2012) to new locations. This is

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<sup>3</sup>Notice ¶ 30.

<sup>4</sup>Notice ¶ 106.

undesirable and would allow, for example, a station's current interference outside of its market to occur within its market. This problem would be compounded if it also compromised the ability of a cable head end to receive the station's signal. Moreover, if a station presently experiences interference within a very urban area (heavily populated) and that interference population is shifted after repacking to a more rural area, a significant interference area could result, even though the total population would remain the same. This would undoubtedly affect reception at numerous cable head ends.

The third option proposed, Notice ¶ 107, is also undesirable because it would allow an interference limit of 2%, rather than the present 0.5% limit. In major markets, this would represent a huge population (e.g., 2% of the service population for a NYC station would, for example, be over 300,000 people). If multiple stations were allowed to contribute 2% interference, the total interference population would be staggering.<sup>5</sup>

### **Encourage Collocation, Improve the Commission's Coverage and Interference Software, and Other Suggestions**

In a number of major markets, there are antenna farms where most of the television transmitting antennas are located. In some instances, there are outlying stations that cannot operate at the antenna farm because of interference or lack of city-grade coverage from that site. The Commission should allow such stations to collocate with the other stations in the market, in order to improve spectrum efficiency for the repacking process.

A station collocated with first-adjacent-channel stations typically has no interference

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<sup>5</sup>The Commission could allow a station to participate in the auction if it is willing to agree to accept more interference than it presently accepts. This would help the repacking of spectrum without requiring some or all stations (or potentially all stations) to accept more interference due to adoption of a different interference methodology than the current 0.5% limit.

issues with the other station. Conversely, non-located first adjacent stations in the same market can cause significant interference to each other and sometimes cannot be so spaced from a channel standpoint. The Commission should allow such co-location in the repacked spectrum. For those stations that do not place a city grade contour over their city of license from the new location, they should be permitted to place a booster or DTS facility near or in their city of license to provide an equivalent city-grade contour (albeit by booster or DTS). An additional caveat might be that a station can only move to an antenna farm if the other stations are located within the same DMA and if the relocating station's service contour encompasses the city of license (which is normally necessary for booster/DTS proposals).

Because replication of a station's service area/population differs by channel and interference circumstances, the Commission's replication software will undoubtedly create repacking allotments for stations that include a hypothetical and often times unbuildable antenna patterns. Stations should be allowed to substitute a real-world pattern or one that replicates their present pattern without regard to extension of the service contour beyond that allotted, as long as the interference criteria to other stations (0.5% or less) is met. The Notice (at ¶ 100) suggest that a real antenna pattern can be specified, but only if the area within the contour is not more than that of the allotment facility. Considering that the differences between a hypothetical pattern created by the Commission's replicating software and a real antenna pattern can be significantly different, this proposal is too constraining. Instead, a limit could be placed on a station's

use of a standard pattern, such as not exceeding 10% of the allotment's area and/or population.<sup>6</sup>

Also, the Commission's coverage and interference software could use a more precise cell size. Presently the Commission uses a 2-kilometer cell size. The use of a 1-kilometer cell size results in better accuracy, especially along the edges of a station's protected service contour, and most engineering consultants have the ability to employ the smaller cell size.

MVPD (cable and satellite) penetration should have no impact on whether the Commission would allow new interference to another station. Over-the-air viewership is increasing, not decreasing, and stations should not have to give up any viewers (present or future) based on the availability of MVPDs in the area. In addition, mobile/handheld reception is becoming an important attribute for television stations, and this service would be compromised by additional interference.

Finally, the Commission should allow for the most flexibility as possible during the repacking transition. Special temporary authorizations (STA's) to operate with reduced facilities, temporary operation on other channels, and use of alternative transmitter sites should be leniently allowed in order to facilitate the move to a new (repacked) channel.

## **Conclusion**

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<sup>6</sup>Also, while the Notice (at ¶ 19) provides that the Commission will consider the move of Land Mobile (T-band) stations in a separate proceeding, it is worth noting that if the Commission moved up the date for this service to move off of the lower UHF channels in major markets, currently required by 2021, many channels would open for use in those markets.

As the Commission reorganizes (repacks) the broadcast television spectrum as part of the incentive auction process, and to fulfill the Congressional mandate that it “make all reasonable efforts to preserve [ ] the coverage area and population served of each broadcast television licensee” (Spectrum Act § 6403(b)), it is urged to follow its “second option” interference proposal where all reasonable efforts to preserve service to the same specific viewers for each eligible station are used, and “no individual channel reassignment, considered alone, could reduce another station’s specific population served on February 22, 2012 by more than 0.5 percent.

Respectfully Submitted,

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January 24, 2013