

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

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

COMMENTS OF
INTERNATIONAL BROADCASTING NETWORK

International Broadcasting Network (IBN) hereby submits its comments in response to the above-captioned Notice of Proposed Rulemaking. IBN urges that the Commission reconsider implementing its incentive auction.

I

The incentive auction is unnecessary and would be counterproductive for each of the following reasons:

A. The claimed shortage of wireless spectrum has not been proven and, in fact, does not exist. The wireless industry is sitting on unused spectrum and simply wants to warehouse as much additional spectrum as possible while making inefficient use of the spectrum it already has. There have been several studies indicating that the efficiency of wireless spectrum can be increased by as much as 1,000 times through the use of modern technology. Monopolization and elimination of competition are among the reasons that a

few large wireless companies with massive lobbying budgets have been demanding that spectrum be taken from television broadcasters and reallocated for wireless use.

B. Television spectrum is not well-suited for the wireless industry's business purposes. Cell phones and other mobile devices that are typically served by wireless companies like AT&T, Verizon and T-Mobile are quite small and cannot accommodate the large antennas required for reception of television spectrum. The wireless companies and their engineers know this, and claims to the contrary are false and unsupportable.

C. Unlike the pseudo shortage of wireless spectrum, there is a real shortage of television spectrum. Many low power television stations, for example, have been unable to find available channels on which to build digital facilities. The shortage of television spectrum will become much more critical as television technology advances. As television stations increase resolution and add new features, much more spectrum will be needed. The next generation of television could require as much as 25 MHz of spectrum per channel, more than four times that of today's television system. The Commission should not impede future advances in television technology in order to accommodate the unreasonable spectrum demands of wireless companies.

II

Under the Constitution, the spectrum of low power television stations, like that of full power television stations, must be protected. The Fifth Amendment's Takings Clause applies equally to low power stations and full power stations alike. Spectrum cannot be taken involuntarily from either without due process and just compensation. Spectrum has

value and, subject to compliance with applicable regulations and procedures, can be bought and sold just as any other property. In the modern era when applicants for television spectrum must often participate in auctions run by the Commission, old theories that licensees have no property rights are obsolete and invalid. Neither Congress nor the Commission has the power to override the Constitution or to limit the protection granted therein.

III

That low power television stations are said to be “secondary” is of no consequence with regard to their Constitutional rights. Such stations are secondary only in the sense that they must not cause interference to full power television stations. When low power television licensees accepted secondary status, it was with the understanding that their stations were secondary only to full power television stations and that the broadcast spectrum would continue to be of sufficient size to accommodate them. By careful engineering, the risk of displacement could be eliminated. It was not within the contemplation of the station licensees, their investors, the financial institutions that financed them, their legal advisors, their consulting engineers, the Commission or any other person or entity that low power stations could be forced out of existence through an auction or any other scheme.

IV

All estimates of net revenue to be obtained by auctioning off television spectrum are grossly inflated, and the amount to be set aside as compensation for broadcasters is far less

than actual damages will be. It is quite possible that the auction process will result in a net loss to the government. It should not be the purpose of government to engage in speculative endeavors that, at best, would yield only a paltry sum and, at worst, would significantly increase the national deficit.

V

Television broadcasting stations, whether full power or low power, serve the public interest, inform and entertain their viewers, provide employment and are an essential part of the fabric of the communities they serve. Wireless companies, being national in scope, can never match the services provided by broadcasters. Moreover, television broadcasters offer their signals free of charge to all within their range while wireless companies offer nothing that's truly free, charging all the market will bear and typically using contracts of adhesion that bind their customers to long terms that cannot be shortened without high cancellation penalties.

VI

It should be noted that many broadcast licensees, including IBN, are exempt nonprofit entities that are recognized as such by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. The Commission's proposals would jeopardize that status, especially if such nonprofit entities were forced to share facilities with for-profit entities. The whole idea that television broadcasters could be forced to share transmission facilities and spectrum with other broadcasters is preposterous. The channel

repacking scheme defies the laws of physics, ignores international treaties, restricts competition and positively will not work.

VII

If the Commission were to proceed with its ill-conceived plans notwithstanding the reasons it should not do so, the world's most successful and important broadcasting service would be severely crippled and could face ultimate extinction. A free and open press, including broadcasting, has long been considered to be essential to the preservation of democracy. If our nation is to survive as a beacon of freedom, liberty and hope for all the world to observe and seek to emulate, all the television spectrum must continue to be allocated exclusively for television and not be auctioned off for any other purpose. The very future of our nation is at stake, and that future must not be placed at risk by any short-sighted attempt to bring a relatively small amount of revenue into the Treasury in order to facilitate the spending spree that our political leaders have been engaged in for much too long.

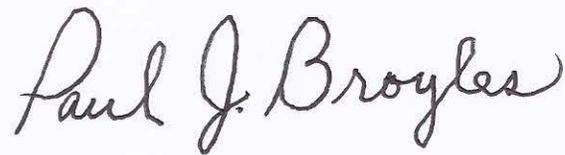
For each of the reasons stated above, International Broadcasting Network urges that the Commission reconsider its proposals in this proceeding, that it recognize that implementation of those proposals is not only unnecessary and counterproductive but also

contrary to the public interest and impossible to fulfill, that it promptly close this proceeding and that it abandon its plans to take television spectrum from broadcasters.

Respectfully submitted,

INTERNATIONAL BROADCASTING NETWORK

By its President

A handwritten signature in black ink that reads "Paul J. Broyles". The signature is written in a cursive, flowing style.

Paul J. Broyles
Post Office Box 691111
Houston, Texas 77269-1111

January 25, 2013