

**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  
DTVAMERICA CORPORATION**

DTV America Corporation (“DTVAmerica”) files these Comments in response to the above-captioned Notice of Proposed Rulemaking. DTVAmerica is an owner and/or operator of low power television (“LPTV”) licenses and construction permits in over fifty (50) US broadcast television markets. Most of our broadcast TV markets are considered “second tier” due to population size and located in Nielsen TV DMAs #100-#200 which include Jackson, TN; Greenville, MS; and Jonesboro, AR; among others. These are small TV markets where opportunities for consumers to receive free over the air broadcast television are very limited especially compared to the major US television markets such as New York City and Los Angeles. DTVAmerica urges the Commission to adopt strong safeguards to ensure the preservation of the low-power television (“LPTV”) broadcasting industry as part of the “repacking” of the broadcast spectrum and thereby protect the millions of US consumers who depend on the continued operation of free over-the-air broadcast television.

According to statistics produced by the National Association of Broadcasters (“NAB”), there is an estimated 30 million U.S. consumers that rely solely on free over-the-air

broadcast television station, which would include LPTV stations and translators, for news, local information and entertainment. Among these are those who cannot pay the high costs of cable or satellite television subscriptions, those who cannot receive those pay services, and a high proportion of the minority community and many of the elderly. The Commission's plan to implement an incentive auction, particularly without strong safeguards to protect low power television stations in the repacking process, puts our local LPTV stations and the hundreds of thousands of consumers we serve, at risk.

Further at risk are the investments that the LPTV industry has made in reliance on the Commission's orders and policies regarding LPTV. When LPTV licensees accepted secondary status in the broadcast television band, it was with the understanding that LPTV was secondary in the broadcast spectrum only to full-power television stations and that the broadcast spectrum would be of sufficient size to accommodate secondary low-power service, especially in "second tier", rural markets. Our company has invested millions of dollars based on these well-established FCC rules regarding LPTV. With the FCC now changing the parameters of these rules after our company has already invested millions dollars in the LPTV business, the FCC has essentially put our company and the entire LPTV industry's future at substantial risk including the millions of U.S. consumers that depend our services.

### **Discussion**

At least one year before any auction and spectrum repacking takes place, the FCC should release information regarding the spectrum inventory and the Allotment Optimization Model ("AOM") to be used for the TV spectrum repacking. TV station licensees and their

viewers deserve to know how all the spectrum is currently being used and what the television landscape will look like after repacking of the spectrum takes place.

The Commission should ensure that LPTV stations will be accommodated as part of the repacking process. The FCC has acknowledged that it has authority to protect LPTV stations during the repacking process. Moreover, during the December 2012 Energy and Commerce hearing, “Keeping the New Broadband Spectrum Law on Track,” Congressman Joe Barton made it clear that he understood the intention of Congress is to protect all licensed TV broadcasters including LPTV. Congressman Barton reminded the Chairman that the intent of Congress was to protect broadcasters, and it was therefore not their intention to force LPTV broadcasters off the air or remove them from the market. DTVAmerica believes the proposed incentive auction, as authorized by H.R. 3630, must protect the pre-auction spectrum usage rights of all operating LPTV & translator operators. Though we understand that non-Class A LPTV licensees will be ineligible to participate in a reverse auction, they should nonetheless have rights with respect to participation in the repacking in light of the important role they serve to the American people.

### **Conclusion**

DTVAmerica thanks the Commission for the opportunity to comment on this important issue. Our company and its shareholders have invested millions of dollars in the engineering, construction, programming and operation of broadcast LPTV facilities in order to provide a public service to millions people across the US, who continue to rely solely on free over-the-air broadcast television for local news and public safety information and educational, informational and entertainment programming. We ask that the Commission consider very carefully the impact

of the incentive auction and the repacking of broadcast spectrum on the LPTV industry and establish solutions for the protection of all LPTV licensees.

Respectfully submitted,

**DTV America Corporation**

By: /s/  
**John Kyle, President**

Dated: January 25, 2013