

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

To: The Commission

Reply Comments of National Public Radio, Inc.

Introduction

Pursuant to Section 1.415 of the Commission’s Rules, 47 C.F.R. § 1.415, National Public Radio, Inc. (“NPR”) hereby submits its Reply Comments in response to the comments on the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹

Among the issues raised in the NPRM is whether to grant waivers of VHF power and height limitations for UHF-to-VHF bidders that experience unusual coverage problems on their new VHF channels. Of particular concern to NPR and its Member stations are the “low VHF

¹ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, 27 FCC Rcd 12357 (2012) [hereinafter "NPRM"]. Unless otherwise indicated, all citations to comments are to comments filed in this proceeding in response to the NPRM.

NPR is a non-profit membership corporation that produces and distributes noncommercial educational (“NCE”) programming through more than 900 public radio stations nationwide. In addition to broadcasting award winning NPR programming, including *All Things Considered*[®] and *Morning Edition*[®], NPR affiliated stations are significant producers of local, regional, and national news, information, and cultural programming. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its Member stations.

channels,” including digital television (“DTV”) Channel 6, which is immediately adjacent to the portion of the FM band reserved for NCE radio station use. In the initial comments, some commenters endorsed the permissive granting of such waivers, even going so far as to advocate the adoption of a rebuttable presumption in favor of granting such waiver requests.²

While NPR supports the Commission’s efforts to reallocate the television broadcast spectrum in a way that increases the amount of spectrum available for wireless broadband use, generates revenue for the Federal government, and maintains broad availability of over-the-air television service, those objectives should not be pursued at the expense of NCE radio service. Accordingly, the Commission should only grant waivers of DTV Channel 6 power and antenna height limitations when the protection of adjacent NCE FM radio stations from interference is assured.

Under current DTV rules, any new DTV Channel 6 allotment requires the proponent to submit an engineering study demonstrating that no interference would be caused to existing FM stations on FM channels 200-220.³ This requirement is based on more than 60 years of Commission precedent requiring spectrum "newcomers" to bear responsibility for resolving interference caused to an incumbent broadcaster.⁴ A rebuttable presumption in favor of DTV

² See Comments of Entravision Holdings, LLC at 10.

³ 47 C.F.R. § 73.623(f).

⁴ In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Memorandum Opinion And Order On Reconsideration Of The Sixth Report And Order, 13 FCC Rcd 7418, 7437 (1998); Midnight Sun Broadcasting Co., 11 FCC 1119 (1947); see also Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act - Competitive Bidding, 10 FCC Rcd. 13821, at13829 (1995) (interference between co-equal

Channel 6 power and antenna height waiver requests would turn this precedent on its head, absolving the "newcomer" DTV Channel 6 station from any responsibility for interference caused to adjacent channel NCE FM licensees. Such a result cannot be justified either as a matter of law or policy and therefore must be rejected.

Indeed, there is no reason for the Commission to depart from the letter and spirit of the current DTV rules. Any entity contemplating transitioning to a DTV Channel 6 allotment should be prepared to accept any interference caused by an existing NCE radio station operating on a reserved FM channel. If the new DTV Channel 6 station wishes to modify its facilities to improve coverage, it should submit an engineering analysis demonstrating that the proposed facilities will not cause interference to any adjacent NCE FM stations. Finally, if any DTV Channel 6 station causes actual interference to an adjacent NCE FM station, it must bear the responsibility for remedying the interference.⁵

services); In re Resolution of Interference between UHF Channels 14 and 69 and Adjacent-Channel Land Mobile Operations, 2 FCC Rcd. 7328, at 7328 (1987) (cross-service interference).

⁵ NPR also supports the comments of Harris Corporation ("Harris") advocating reallocating the low-VHF channels, including by extending the FM band to encompass DTV Channels 5 and 6. See Comments of Harris Corporation, Broadcast Communications Division at 27-29. As Harris notes, the Commission has previously recognized the "tremendous opportunities for new entrants" such a reallocation would create, Id. at 29 n.57 (citing In the Matter of Promoting Diversification of Ownership in the Broadcasting Services, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd. 5992, at 5956 (2008)), and reallocation would address substantial radio broadcast spectrum needs in other ways. Id. at 29. NPR has long advocated reallocating the spectrum below the FM band for radio use based on these and other reasons. See, e.g., Comments of National Public Radio, Inc., In the Matter of Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, MM Docket No. 99-325, at 7-12 (filed Jan. 24, 2000).

Conclusion

NPR urges the Commission to clarify the responsibilities of any new DTV Channel 6 stations as outlined above and to grant any waiver seeking improved DTV Channel 6 coverage consistently therewith.

Respectfully submitted,

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