

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

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

**REPLY COMMENTS OF AZTECA INTERNATIONAL CORPORATION**

Azteca International Corporation (“AIC”), by its attorneys and pursuant to Section 1.415(d) of the Commission’s rules hereby files these reply comments in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION**

AIC is an international Spanish-language television network that owns and operates the Azteca America, which provides Spanish-speaking Americans with high quality news, entertainment, and sports programming, including live broadcasts of Mexico’s premier soccer league. Azteca America’s mission is to engage Spanish-language viewers by creating unique, passionate and enlightening content that is relevant to their daily lives. Azteca America currently reaches approximately 70% of the Spanish-language households in the U.S. through a network of affiliates that reaches 75 markets and includes over-the-air television stations, cable operators, and DBS providers.

AIC has a strong interest in the outcome of this proceeding because the distribution of its programming depends in large part on the survival of the well-functioning, diverse over-the-air broadcasting system that currently exists. Azteca America’s broadcast affiliates include full-

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<sup>1</sup> Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Notice of Proposed Rulemaking*, GN Docket No. 12-268, FCC 12-118 (rel. Sept. 28, 2012) (the “*NPRM*”); *Order*, DA-1916 (rel. Nov. 29, 2012).

power and Class A stations in a number of its markets and low-power stations in dozens of others.<sup>2</sup> Overwhelming evidence demonstrates that a higher percentage of Spanish-speaking viewers – in some markets as high as 40% – rely on over-the-air broadcast television than the U.S. population as a whole.<sup>3</sup> It is therefore critical that Azteca America retain access to a viable over-the-air distribution system to reach its many viewers nationwide.

AIC’s interest in maintaining a strong and vibrant over-the-air broadcasting system dovetails perfectly with Congress’s command to the Commission that it make “all reasonable efforts” to maintain the coverage area and service population of television broadcast stations and the other specific limitations Congress placed on the Commission’s authority to reclaim spectrum currently used by low-power television stations.<sup>4</sup> While AIC recognizes the importance of finding spectrum for wireless broadband services, that interest must be balanced against the need for preserving essential, relied-upon over-the-air television services. And that need is perhaps most acute for niche audiences like Azteca America’s, which, due to language barriers, have less access to services provided by the mainstream U.S. media companies. AIC exhorts the Commission to listen to the commenters in this proceeding that encourage the Commission to reclaim the broadcast spectrum it needs to foster increased wireless broadband services, but at the same time to leave enough TV spectrum intact to allow networks like Azteca America to continue serving America’s growing Spanish-speaking population.

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<sup>2</sup> See Azteca America, Affiliated Stations List, *available at* <http://www.aztecaamericacorporate.com/contenido.aspx?p=affiliatescontactses>.

<sup>3</sup> See, e.g., Comments of Univision Communications Inc., GN Docket No. 12-268, at 7, filed Jan. 25, 2013 (citing Nielsen, Local Custom Toolbox, Nielsen Station Index Impressions (November 2012)).

<sup>4</sup> See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012) (the “Spectrum Act”).

## **II. THE COMMISSION'S AUCTION POLICIES MUST PRESERVE TODAY'S VIBRANT OVER-THE-AIR BROADCASTING SERVICE, INCLUDING LOW-POWER TELEVISION STATIONS.**

The Commission can achieve Congress's vision of promoting wireless broadband while protecting TV viewers by adopting policies designed to preserve as much of today's vibrant over-the-air television service as possible, including a mix of full-power and low-power stations, while recovering only spectrum that will quickly become usable for wireless broadband services. The Commission should plan auctions and a repack that maximize value – in the form of improved broadcast and wireless broadband service to the public – rather than pursue policies designed simply to maximize spectrum recovery or auction receipts.

To achieve these goals, the Commission should abandon its proposal to adopt a market-by-market variable band-plan that would maximize the amount of spectrum repurposed through the auction.<sup>5</sup> Such a plan would remove large amounts of spectrum from the TV broadcast service regardless of whether much of that spectrum is usable for wireless broadband services. NAB and AT&T have extensively demonstrated the myriad interference problems that the variable band-plan concept would create.<sup>6</sup> And although AT&T still supports the idea of a variable band-plan, that idea, in practice, would be both a technical and policy disaster.

The Commission's pursuit of a maximal spectrum recovery strategy would lead to the virtual destruction of the low-power television service because there simply will not be enough spectrum to accommodate displaced stations.<sup>7</sup> This would eviscerate Azteca America's over-the-air distribution network and eliminate service to the many Spanish-speaking Americans who rely on it. Rather than seeking a wholesale reallocation of as much TV spectrum as possible, the

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<sup>5</sup> Comments of the National Association of Broadcasters, GN Docket No. 12-268, at 7-8, filed Jan. 25, 2013 ("NAB Comments").

<sup>6</sup> *Id.* at 39-45; Comments of AT&T Inc., GN Docket No. 12-268, at 14-39, filed Jan. 25, 2013.

<sup>7</sup> NAB Comments at 8-9.

Commission should plan to recover only so much broadcast spectrum as needed to develop a nationwide, non-variable band-plan that makes a clear demarcation between the spectrum band that will be used for TV and the band that will be used for wireless broadband.

AIC also agrees with NAB that the station relocation fund adopted by Congress in the Spectrum Act was designed to function as a budgetary limitation to prevent the incentive auctions from over-recovering TV spectrum.<sup>8</sup> The Spectrum Act requires that all broadcasters affected by the incentive auctions be made whole from the \$1.75 billion fund, placing an absolute limit on the impact of any repack. The Commission must respect Congress's judgment that the technical changes required by the auction must cost broadcasters and affected cable operators no more than \$1.75 billion and design its spectrum clearing targets accordingly. Limiting the number of full-power and Class A stations involved in the auctions and repack through a sound band-plan and an appropriately limited cost-reimbursement plan should preserve sufficient TV spectrum to permit both full power and low-power operations to thrive on the repacked broadcast spectrum.

In addition, AIC agrees with the commenters that argue the Commission should provide full protection in the repack for low-power stations that provide network-affiliated or important local service to their communities.<sup>9</sup> Azteca America's low-power stations provide essential service to underserved Spanish language audiences throughout the United States, and loss of this service would have a devastatingly negative impact on the diversity of services on which these viewers depend. While the Spectrum Act does not require that these stations be protected in the repack, such protection is not prohibited. Protecting it would be consistent with Congress's and

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<sup>8</sup> See NAB Comments at 48-51.

<sup>9</sup> See Comments of Lima Communications Corporation, *et al.*, GN Docket No. 12-268, at 6-7, filed Jan. 25, 2013.

the Commission's longstanding policies of promoting diverse broadcast services and service to underserved populations. Moreover, the relatively small numbers of these stations and their limited service areas should not add any significant challenges to the repack.

If the Commission elects not to provide repack protection for these important local services, at the very least, foreign language and network-affiliated low-power stations that are displaced by the repack should be given a very high priority in selecting new channels.<sup>10</sup> This high priority should not be limited to affiliates of the Big 4 English-language networks, but it should include foreign language networks like Azteca America as well.

### **III. CONCLUSION**

AIC looks forward to working with the Commission and the affected industries to bring about a successful incentive auction and repack. For the foregoing reasons, AIC urges the Commission to adopt the proposals described herein.

Respectfully submitted,

**AZTECA INTERNATIONAL CORPORATION**

/s/

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John R Feore  
John S. Logan  
Jason E. Rademacher  
Dow Lohnes PLLC  
1200 New Hampshire Ave., NW  
Suite 800  
Washington, D.C. 20036

Its Attorneys.

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<sup>10</sup> *NPRM* at ¶ 361.