

**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)

**COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (“NCTA”) submits these comments in response to the Public Notice in the above-captioned proceeding.¹

In adopting the Spectrum Act, Congress ensured that cable operators and other multichannel video programming distributors (“MVPDs”) would be held harmless for expenses they “reasonably incur[]” to continue to carry television stations after the spectrum auction.²

NCTA previously commented on the different types of “hard” and “soft” costs that cable operators anticipate they will incur to carry broadcast stations that, due to the spectrum auction, change channels or move to a new shared channel location.³ In responding to the FCC’s September 2013 Notice, NCTA provided the results of an informal survey of a sample of its members on different costs for equipment and professional services.

The FCC separately engaged Widelity Inc. (“Widelity”) to assess “Potential Expenses and Estimated Costs” for cable operators, among others. For the most part, the costs detailed in

¹ FCC, Public Notice, *Media Bureau Seeks Comments on Widelity Report and Catalog of Potential Expenses and Estimated Costs*, GN Dkt. No. 12-268, DA 14-389 (rel. Mar. 20, 2014) (“Public Notice”).

² Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 §§ 6402, 6403, 126 Stat. 156, 226 (2012) (to be codified at 47 U.S.C. § 1452 (b)(4)) (“Spectrum Act”).

³ NCTA Comments filed in GN Dkt. No. 12-268 (Nov. 4, 2013) (detailing estimated “hard” and “soft” costs); NCTA Comments filed in GN Dkt. No. 12-268 (Jan. 25, 2013) and Reply Comments (filed Mar. 12, 2013) (identifying different scenarios that would require cable operators to incur expenses reimbursable from the fund); NCTA Ex Parte (filed July 29, 2013) (same).

the Widelity Report track fairly closely the cost estimates NCTA provided, although the figures do not exactly correspond. In two cases, however, Widelity's cost estimates vary widely from those projected by NCTA's survey. Specifically, while NCTA showed that costs resulting from the acquisition of a new receiver or other RF processing equipment could range as high as \$3500, excluding installation, Widelity estimated an upper range of only \$1000.⁴ In addition, NCTA's survey showed an upper limit of \$8600 for tower rigging costs, while Widelity estimated less than half that amount (\$4000). Widelity's estimates, therefore, appear to be significantly below that needed to cover costs in some circumstances.

Beyond providing "useful guidance,"⁵ the Public Notice does not shed further light on how the FCC intends to use the Widelity estimates. The Public Notice notes that "these suggested prices are estimates only and are not meant to indicate that reimbursement will reflect the suggested prices," and further that "inclusion or exclusion of a particular category of expenses should not be read to state or imply that the expense will or will not be eligible for reimbursement."⁶ These are important caveats. NCTA's comments previously described how costs incurred by operators may vary due to a variety of circumstances.⁷ Therefore, while Widelity's cost estimates may provide a useful benchmark against which to consider whether costs incurred are "reasonable," the FCC should provide the necessary flexibility to ensure that cable operators are held harmless for all reasonable expenses they might incur and that they are fairly reimbursed from the fund.

⁴ Public Notice at 83. Widelity does not make clear whether that figure is inclusive or exclusive of installation.

⁵ Public Notice at 2.

⁶ *Id.*

⁷ For example, we demonstrated that in the worst case an operator may need to construct a new receive tower. In that instance, costs could run as high as \$17,600. NCTA Comments at 5 n.13 (Nov. 4, 2013).

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Respectfully submitted,

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