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FCC Chairman, Tom Wheeler
FCC Commissioners Clyburn, Rosenworcel, Pai, and O'Reilly
FCC Media Bureau Chief, William Lake
FCC Spectrum Auction Task Force Chair, Gary Epstein

RE: **Strict Adherence To The Act**

Dear Mr. Chairman, Commissioners, Spectrum Auction Task Force, and Media Bureau

As the Voluntary Incentive Auction NPRM process draws to a close, and all interested parties make their final pitches for what their various industries, special interest groups, and members want and need in the Report & Order, our Coalition of over 120 independent LPTV licensed broadcasters, with more than 885 stations and construction permits in 37 states, needs to make one final "ask" of those involved at the FCC in this process.

We ask that the language of the enabling Act for this Auction be strictly adhered to in the Report and Order, especially when it comes to the spectrum usage rights of LPTV, and the size of the guard bands. We fully understand that the FCC has the right to interpret the Act as it sees fit, but we suggest that providing an accommodation to the ask of the unlicensed advocates for a guard band big enough for them to provide a specific scale of service is totally outside the scope of the Act. The Act specifically directs the size of the guard band to be only as large as is "technically reasonable" to prevent inter-service interference. There is nothing in that legislative directive to provide the unlicensed advocates with anything at all in terms of accommodation for a scale of a service.

Within these Proceedings we have seen Google, the Public Interest Spectrum Coalition, New America Foundation, Public Knowledge, and the wireless internet industry, all call for a 24 to 30-MHz contiguous band for unlicensed use, and for "a couple of channels in each market." Any attempt by the FCC to accommodate these extreme positions by enlarging what is technically needed for a guard band will be considered by the LPTV community as a direct "taking" of the spectrum needed to repack our vital "licensed" services throughout the country.

For every 6-MHz needlessly given for unlicensed use there will be 210 less channel assignments available for the 10,000 LPTV and TV translators affected by the auction. To give the full 24 to 30-MHz, some 4 to 5 TV channels, could result in 840 to 1050 less channels available for the LPTV repack.



Another key point to make is that Google, et al, should have gone back to Congress to fix the Act instead of making extreme demands on the FCC to accommodate them. They want free spectrum to use for private gain. This is a fact.

Our Coalition will gladly support and is active in lobbying Congress for a legislative fix for LPTV issues within the Act. This is the normal process. And so is litigation and appeals after the Report and Order is issued. The FCC should not be teeing up litigation just so it can accommodate the extreme positions of Google, et al. This will needlessly slow down the implementation of the auction, and no amount of interpretation the FCC makes about the size of the guard bands will come to anything but a technical argument versus experts. Any scale of service argument will just not stand a legal test.

What the FCC needs to do is to look to the TV band operating environment in the post-auction and repack time-frame, 2017+. It is a well-known technical fact that alternative modulating schemes such as OFDM, which will be the basis for the new ATSC 3.0, have a much larger level of tolerance of interference, and as such, a much less need for a large guard band between licensed TV services and licensed mobile broadband services. The FCC should be configuring the new TV band with this in mind, and not as Google, et al desires for their own corporate uses.

Our Coalition has pointed out before in these Proceedings, in meetings with the Commissioners and staff, and in direct meetings with the unlicensed advocates, that if more unlicensed spectrum is wanted and needed, then there are many LPTV operators, probably in every TV DMA, who would seriously entertain either a purchase or lease of the spectrum they already have in licensed use. This is based on the evolution of the LPTV business model through restrictive legislation which it has been subjected to. It is easy for Google et al to come to the table and make offers for the spectrum. They could then operate it in a minimal configuration, and make it available for free unlicensed use. This is the American way, doing a business deal. The un-American way is for the government to attempt a “taking” of spectrum from licensed productive use in the public interest, to that of an unlicensed use for private gain. **Google can easily afford to purchase spectrum usage rights from LPTV and make it a gift to the public.**

Google, et al, blew it when the Act was passed, did not get a full buy-in from Congress for an expanded taking of unlicensed spectrum in the TV band, and is now trying to use its considerable political influence to affect these Proceedings. What they are requesting of the FCC is simply beyond the scope of the Act and is an attempt to destroy a class of legitimate licensed users of TV spectrum which tens of millions of diverse and affected families and communities rely on.

Just as the FCC staff has recommended that no priorities be given to any type of TV translators (except those within the noise limited contours of the originating station) because of First Amendment issues, the FCC Commissioners should not provide any type of accommodation to the unlicensed advocates based on political payback. Our Coalition trusts the FCC Office of Engineering Technology will provide a “technical-basis” for whatever is approved in the Report and Order, and not be forced into a “political accommodation”.

Respectfully submitted,
Mike Gravino - Director, LPTV Spectrum Rights Coalition