

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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)	
Amendment of Parts 73 and 74 of the)	MB Docket No. 03-185
Commission's Rules to Establish Rules for Digital)	
Low Power Television, Television Translator, and)	
Television Booster Stations and to Amend Rules for)	
Digital Class A Television Stations)	
)	

To: Media Bureau

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

Low power television and translator stations face an uncertain future as a result of the looming broadcast incentive auction and subsequent industry-shaking repacking. Depending on how repacking unfolds, many LPTV stations are likely to be forced off the air entirely, or will be forced to seek channel sharing arrangements to give them any hope of staying on the air. Further, even if channels are available for LPTV and translator stations, broadcasters are not eligible for reimbursement of any costs associated with relocating such stations. It is therefore unreasonable to require broadcasters to invest in new low power facilities today that may well be displaced in repacking in the next few years.

All of this is in light of a process, as determined in the FCC's May 2014 incentive auction framework order, that already leaves the broadcast industry writ large with a tremendous amount of uncertainty. This includes the Commission's failure to include

any specific means for limiting full power and Class A television repacking, throwing into doubt the ability for the TV Broadcaster Relocation Fund to cover forced relocation costs. Together, existing construction deadlines and the lack of meaningful repacking optimization threaten to assess costs in the many millions of dollars on the broadcasting industry as a result of an auction that has no discernible benefit for broadcasters or their viewers.

The National Association of Broadcasters (“NAB”)¹ urges the Commission to grant a blanket waiver of the LPTV construction deadline until September 1, 2015, for all permittees authorized to construct new digital LPTV stations, as requested by the Advanced Television Broadcasting Alliance (“ATBA”).² The prompt grant of this waiver will provide needed clarity and certainty, and will prevent broadcasters from being forced to build new facilities that may ultimately be displaced following the auction. Grant will also conserve Commission resources, as the staff will not be forced to act on hundreds of individual waiver requests that can otherwise reasonably be expected.

ARGUMENT

As the ATBA Petition correctly notes, in establishing the September 1, 2015 transition deadline for LPTV stations, the FCC acknowledged that it would be preferable to avoid forcing broadcasters to make significant investments in facilities that “may have to be substantially modified due to channel displacement or taken off the air altogether

¹ The National Association of Broadcasters is a nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² Advanced Television Broadcasting Alliance Petition for a Blanket Extension or Waiver, MB Docket No. 03-185 (filed Feb. 20, 2014) (“ATBA Petition”).

in connection with the implementation of a spectrum repacking scheme.”³ This same logic should apply to permittees authorized to construct new digital LPTV stations – there is simply no good reason to force broadcasters to make investments that may ultimately be stranded.

Broadcasters already face substantial uncertainty regarding the repacking process. Repacking will pose a tremendously complex technical and practical challenge for the Commission and the broadcasting industry. Sample simulations of repacking released by the Incentive Auction Task Force⁴ suggest that, while well over a thousand stations may need to be relocated from their present channel, the precise number of full power and Class A stations that will need to be relocated may vary significantly depending on the amount of participation in the auction, bidding in the forward auction, and the amount of spectrum ultimately cleared.

In the coming year, it will be vital for the Commission to continue to provide information regarding repacking, and to proactively engage stakeholders in the planning process to minimize disruption and ensure the smoothest transition possible. NAB continues to urge the Commission to develop an industry working group to test the Commission’s repacking software to minimize disruption during and after the transition. At present, however, given the current uncertainty surrounding the repacking process, forcing broadcasters to invest in facilities that may ultimately be displaced due to the lack of available replacement channels would be wasteful.

³ Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, *Second Report and Order*, 26 FCC Rcd 10732, ¶ 8 (2011).

⁴ Letter from Gary Epstein to Rick Kaplan, GN Docket No. 12-268, ET Docket No. 13-26 (filed June 30, 2014).

This is all the more important because, absent further Commission action, broadcasters may be forced to go spend resources, which might otherwise be invested in programming, to cover relocation costs in addition to the substantial costs they will incur in attempting to keep their unprotected low power facilities on the air. Simulations released by the Incentive Auction Task Force have well over 1000 full power and Class A stations being relocated. NAB acknowledges that the number of stations needing to be repacked may be reduced by optimization in developing a final repacking plan, but broadcasters do not yet have any meaningful information as to how such optimization will be performed. While it is difficult to determine any reasonable “average” estimate of costs for repacking a television station, it is certain that, if the auction requires more than 1,000 full power and Class A stations to be repacked, the cost will total considerably more than the \$1.75 billion relocation fund set forth in the Spectrum Act.⁵

The Commission can minimize the chances that broadcasters will be forced to go out of pocket either by including the \$1.75 billion relocation fund set forth in the Spectrum Act as a constraint on repacking, or by requiring winning wireless bidders in the forward auction to cover the additional costs of relocating incumbent broadcasters. At a minimum, however, the Commission should not make an already difficult situation worse by requiring broadcasters to make investments in facilities that are likely to ultimately be stranded.

⁵ The Widelity Report the FCC released provides fairly broad ranges of potential costs for expenses associated with relocation, and readily acknowledges the potential for significant unanticipated costs, as well as changes in demand which may affect pricing. Media Bureau Seeks Comment on Widelity Report and Catalog of Potential Expenses and Estimated Costs, *Public Notice*, 29 FCC Rcd 2989, Attachment at 7, 42, 71 (2014). NAB has estimated that the \$1.75 billion set forth in the Spectrum Act is sufficient to repack roughly 400-500 stations. NAB Comments at 7, GN Docket No. 12-268 (filed Jan. 25, 2013).

CONCLUSION

Broadcasters already confront significant uncertainty regarding the availability of channels for LPTV and translator stations following repacking, as well as the potential that they will be required to partially fund an involuntary relocation that provides no benefit to broadcasters or their viewers. The FCC should promptly grant the ATBA Petition to avoid compounding these challenges by requiring broadcasters to make investments in facilities that will only need to be relocated, or even abandoned, following repacking. Grant of the blanket waiver ATBA seeks, rather than action on hundreds of individual requests, will conserve resources for both the FCC and the broadcast industry.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
BROADCASTERS**

1771 N Street, NW
Washington, DC 20036
(202) 429-5430



Rick Kaplan
Jane E. Mago
Patrick McFadden

Victor Tawil
Bruce Franca
Robert Weller

NAB Strategic Planning

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