



March 21, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268

Dear Ms. Dortch:

A successful broadcast spectrum incentive auction includes three key components: the reverse auction; the forward auction; and the transition of broadcasters into a reorganized band plan. With the start of the reverse auction just days away, the post-auction transition could be poised to begin in mere months. Repacking broadcasters into a smaller portion of the UHF band after the close of the auction will present unprecedented logistical challenges and require careful coordination, as well as close cooperation with the broadcast industry. At a minimum, several hundred broadcast television stations will be moving to new channels, with finite resources. Further, the potential for interference within and between adjacent markets will mean in many cases that all stations in a market may need to complete their channel moves in a carefully coordinated fashion, and that delays for individual stations may have widespread implications.

A smooth, well-coordinated and efficient transition will reduce disruption to viewers, make better use of limited resources, and help clear spectrum more quickly for use by winning bidders in the forward auction. For these reasons, we agree with AT&T that the Commission should begin conducting the intensive planning that will be required to ensure a successful transition, and dedicate the resources necessary to advance such planning.¹ While vital facts about the repack will not be fully understood until the auction concludes, including how many stations will move, where those stations are located, and to which channels they will be moving, the Commission nevertheless can take steps to put in place a structure that will govern the transition and help ensure that viewers do not lose service and wireless carriers do not face avoidable delays in building out their licenses.

¹ Letter from Joan Marsh, Vice President – Federal Regulatory, AT&T Services, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 12-268, AU Docket No. 14-252 (March 14, 2016).

1771 N Street NW
Washington DC 20036 2800
Phone 202 429 5300

AT&T is correct that a successful structure for overseeing the post-auction transition should have three key components: planning; reporting; and dispute resolution. We discuss each of these elements below.

Planning

An orderly transition will proceed more quickly than a disorganized, chaotic transition. Because broadcast signals travel great distances, individual stations in a given market cannot be repacked in isolation. In some cases, every station in a market may not be able to move to its new channel until all stations in the market are prepared to move. And, in some regions, these effects will spill over into adjacent markets. The ability to coordinate and concentrate resources in regions and markets will lead to the transition of markets as a whole more quickly, and will thus minimize viewer disruption while also clearing usable spectrum for forward auction bidders as efficiently as possible. On the other hand, trying to perform work on the same schedule in all regions simultaneously is likely to bog the transition down and result in avoidable delays.

Accordingly, we agree with AT&T that a regionalized approach to repacking is a logical framework. We also agree that the over-arching objectives of any such regionalized approach are minimizing disruptions for broadcasters and their viewers, and making usable spectrum available as quickly as possible. There are three principles that should guide the FCC in developing a regional repacking plan that meets these objectives.

First, the FCC should immediately begin stakeholder outreach to inform its development of a repacking plan. The FCC will be indispensable in creating a plan for the transition, because there is likely to be disagreement both between, but more importantly within, the affected industries as to the appropriate path forward. For example, wireless carriers may disagree concerning which markets should be prioritized based on which markets are most important to individual carriers' deployment priorities. But industry expertise and experience will be critical to the FCC in developing a plan, and the Commission should be actively engaging with stakeholders.

Second, a regional prioritization plan should focus on clearing the most populated areas of the country first. As stated above, there is disagreement within the wireless industry concerning how to prioritize market clearing. Accordingly, the Commission should, where possible, rely on objective considerations for ordering markets and regions. One of those considerations should be cabining the impacts of unavoidable delays to less populated regions. This will be consistent with forward auction bidder expectations, as spectrum in the most highly populated markets is likely to have the greatest value at auction. Further, more highly populated markets will likely have the greatest density of broadcasters that must be repacked. Delaying commencement of work in these markets may mean leaving the most complex transition projects until the end of the process, which risks creating extensive and otherwise avoidable delays in clearing the most valuable markets for forward auction bidders. Prioritizing the most highly populated markets will also help ensure that broadcasters in those markets can engineer a smooth cutover to their new channels, which will minimize viewer disruption and confusion.

Third, a regional prioritization plan must be flexible and capable of rapid recalibration. While we support beginning work in the most populated regions and markets first, there will inevitably be instances where work must be performed in less populated markets to allow more crowded markets to transition. Additionally, in a project of this magnitude and complexity, unforeseen complications are inevitable. For example, if tower modifications are required in a given market and zoning approvals create unavoidable delays, or if an antenna falls from a tower during installation, the Commission must be able to pivot to other markets and/or regions to continue to make progress with the transition while those issues are addressed.

Reporting and Communication

A system for monitoring and reporting progress in the transition will be important for both industry and decision-makers. Winning forward auction bidders deserve to know the status of the transition in markets across the country so they can plan for testing and deployment. Broadcasters will need to maintain awareness of progress in markets and regions to ensure that cutovers can be smooth, and to prepare for work if their region or market is upcoming. A monitoring system will be invaluable for consumer outreach in markets where stations are nearly ready to flash cut to new channels. Most critically, however, the Commission will not be able to adjust expectations and appropriately adjust priorities without an understanding of the progress of the transition. Identifying risks and potential bottlenecks early will enable the development of more efficient solutions.

The Commission should develop a system that will provide stakeholders with detailed reports concerning the progress of the transition. In particular, AT&T's proposal for a dedicated website would be an efficient means of disseminating repacking information and updates to the broad array of affected stakeholders during the transition.

Dispute Resolution

The record of this proceeding reflects an ongoing debate concerning the total time and funding that will be required to repack television stations in a smaller portion of the current television band. Regardless of one's position on that debate, an intelligent repacking plan must include predictable and efficient methods for resolving potential disputes and waivers.

Repacking broadcasters following a successful auction will be the most complex transition the Commission has ever overseen. During the DTV transition, television stations operated on both analog and digital channels and, when the time came to complete the transition, most stations simply needed to turn off their analog signal – not cut over from one channel to another. Shifting hundreds of television stations from one channel to another is a wholly different project, with materially enhanced risks and challenges.

Similarly, while the still-ongoing 800 MHz reconfiguration presented difficult challenges, that project also had a number of significant advantages, including a broad base of vendors and suppliers and a finite set of hardware possibilities that, in many cases, was readily subject to retuning. While the post-auction transition will not involve the same number of licensees, it presents unique difficulties. These include limited resources, significantly diminished over

the past several years, highly customized antenna systems that are simply not readily interchangeable between licensees, and large daisy chain effects.

Given these challenges, we agree with AT&T that a comprehensive planning process should include dispute resolution procedures to address two potential concerns. First, the Commission should be prepared to address disputes concerning broadcaster reimbursement, to provide broadcasters with confidence that they will be reimbursed for their costs. Second, the Commission should have in place a waiver process, with predictable standards, to address situations where the transition extends beyond the FCC's deadlines for a given market or region. This is particularly the case in this transition, where many potential challenges will be wholly outside broadcasters' control. These include weather-related delays, delays in receiving zoning or permitting approvals, a lack of availability of qualified vendors or necessary equipment and accidents. A well-understood, well-defined waiver process will provide winning forward auction bidders with greater clarity and certainty regarding the availability of spectrum, while avoiding unnecessary disruption to broadcasters and their viewers. The Commission should also be prepared to adjust and adapt its repacking plan and schedule as needed based on waiver requests – particularly waivers that have widespread market or regional implications.

Even with careful planning, unforeseeable and unavoidable problems will arise and the Commission, broadcasters, and wireless carriers alike must be prepared to adapt. But without a plan in place, problems that could have been avoided will not be. While certain critical inputs for a repacking plan will only be available after the auction, we hope the Commission is taking all appropriate steps to ensure that it has a framework in place for developing a plan, and the resources necessary to manage and adjust that plan as repacking unfolds over the coming years.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Rick Kaplan', with a long horizontal line extending to the right.

Rick Kaplan
General Counsel and Executive Vice President,
Legal and Regulatory Affairs
National Association of Broadcasters