



July 21, 2015

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; Policies Regarding Mobile Spectrum Holdings, WT Docket No. 12-269; Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002, AU Docket No. 14-252, Notice of *Ex Parte* Communication

Dear Ms. Dortch:

The National Association of Broadcasters (NAB) urges the Commission to uphold the widely-supported compromise it adopted in the incentive auction order that dedicates the 600 MHz duplex gap for unlicensed uses and wireless microphones used to cover breaking news and local and national emergencies. It is unclear why, 14 months after the FCC adopted this compromise, Commission staff now believes it essential to impair the duplex gap with TV stations in certain markets across the country. If adopted, this change would eliminate both the guaranteed nationwide channel for unlicensed uses and the very limited remaining reserved spectrum available to broadcasters to cover critical news events. No other solution being discussed comes close to supporting both of these important services.

While NAB remains opposed to the proposed impairments, we believe strongly that, if the Commission insists on impairing certain markets, there is a far better solution than what is currently being considered. Indeed, the Commission can achieve its stated objectives in a way that better serves not only the staff's ends, but also those of wireless carriers, licensed wireless microphone users and unlicensed operators.

Following the Commission's July 16, 2015 open meeting, the Chairman stated publicly that the Commission is seeking to impair the duplex gap in only six markets.¹ NAB therefore first

¹ Press conference of Chairman Wheeler (July 16, 2015), video available at: <https://www.fcc.gov/events/open-commission-meeting-july-2015> ("There are 210 markets in the

proposes that the Commission be permitted to impair *up to* six markets with one television station each. To avoid crippling unlicensed services and the ability of newsgatherers to effectively report breaking news, no more than one of those impaired markets should be among the Top 25. Limiting the six impairments primarily to markets outside the Top 25 is consistent with the staff simulations released publicly on July 10.² This approach gives the Commission the flexibility it seeks in setting the initial spectrum clearing target.

Second, NAB proposes that once the clearing target is established, the Commission may not add any new television impairments in the wireless band, whether it be to the guard bands, duplex gap or downlink/uplink. Thus, if a volunteering station elects to drop out of the auction and cannot be repacked in the broadcast portion of the band, the Commission must buy that station at its last accepted price. This approach will enhance the auction by lessening 600 MHz band impairments and creating more unimpaired paired spectrum for the forward auction. It also fairly compensates broadcasters by not allowing the FCC to avoid paying the most valuable stations by simply shifting them to the 600 MHz wireless band. Much like the Commission's dynamic reserve pricing proposal, mechanisms designed to forgo paying broadcast volunteers are not worth reducing the amount of clean, unimpaired spectrum available and damaging wireless microphone and unlicensed services for the American public.

NAB's proposed new compromise meets all of the Commission's goals. It allows the FCC to achieve a high clearing target with the six markets it seeks to impair, while maximizing broadcaster participation and protecting, for the most part, unlicensed and licensed wireless microphone operations. It also avoids the pitfalls of other potential solutions that sacrifice one service for another or that uniformly diminishes each of them.

NAB continues to believe that the Commission's original commitment – in place for well over a year – is the right one. The FCC has produced no data to suggest that the success of the auction hinges on its ability to impair the duplex gap. However, NAB is willing to take Commission staff at its word, and to limit impairment only to what is stated and is absolutely necessary. The new compromise proposal presented herein accomplishes that aim, without unnecessarily sacrificing other critical policy ends.

country. Six of them may be affected. That's three percent of the markets in the country may be affected.")

² *Id.*; see also Letter from Gary M. Epstein to Marlene H. Dortch, Attachment at 3, GN Docket No. 12-268; WT Docket No. 12-269; AU Docket No. 14-252 (July 10, 2015).

Respectfully Submitted,

A handwritten signature in black 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

cc: Chairman Wheeler
Commissioner Clyburn
Commissioner O'Rielly
Commissioner Pai
Commissioner Rosenworcel
Jessica Almond
Chanelle Hardy
Louis Peraertz
David Strickland
Robin Colwell
Erin McGrath
Matthew Berry
Brendan Carr
Valery Galasso