

United States Senate

WASHINGTON, DC 20510

May 13, 2013

The Honorable John F. Kerry
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

We are writing to you with respect to the potential for a significant loss of television service in markets along the U.S.-Canadian border as a result of the implementation of the spectrum provisions of the "Middle Class Tax Relief and Job Creation Act of 2012." As you no doubt recall, this Act gave the Federal Communications Commission the authority to conduct a reverse incentive auction to repurpose radio frequencies currently licensed to terrestrial television stations. The FCC will then repack the band by giving new channel assignments to the remaining television stations, and thereby obtain a block of spectrum that can be licensed for wireless broadband services.

Due to a bi-lateral agreement with Canada, both the United States and Canada are obligated to protect stations within 250 miles of the border from harmful interference. This obligation will limit the number of channels available to the FCC for repacking the band. And if there are an insufficient number of channels available, the FCC may have to reduce the coverage areas of stations along the border, thereby depriving American citizens of access to the signals of their favorite stations. An equally unpleasant alternative is that the FCC would have fewer frequencies to repurpose for mobile broadband use, which would reduce both auction revenues and the amount of funding available for public safety.

While this is a problem all along our border with Canada, New York is particularly vulnerable. Television stations within the 250 mile zone include those in Buffalo, Syracuse, Rochester, Plattsburg, and Watertown. And the ripple effect of repacking could affect stations in Albany and New York City, as well as elsewhere in New York and New England.

The new spectrum law requires coordination with Canada. It is my understanding that traditionally, the FCC has taken the laboring oar with respect to U.S.-Canadian frequency coordination. However the potential adverse impact on American television viewers of this particular coordination is sufficiently important that we believe that your Department should intervene, at a very high level, to help ensure a successful result. The decisions about coordination between the U.S. and Canada will affect millions of U.S. citizens who live near the border should be made with the benefit of the State Department's international negotiations expertise.

Moreover, time is of the essence. The statute requires that the coordination precede any repacking of the television band. As the FCC will presumably publish its proposed bandplan

prior to the incentive auction taking place, so that potential bidders are aware of any restrictions on frequency use that might be a condition of the licenses that are up for auction, it is thus important that the coordination process begin immediately.

Sound engineering, as well as good foreign policy, will require that the use of the affected bands be harmonized between our two countries, so that Canadian television broadcasts don't interfere with wireless devices, and towers and devices on this side of the border don't interfere with Canadian television reception. As part of this harmonization process it will probably be necessary to rebalance the allotments reserved for television broadcasting in our respective countries. This is likely to be a complicated and possibly contentious coordination. It's important to get it started quickly.

In our view, a successful incentive auction will both preserve the ability of Americans living along the U.S.-Canadian border to continue receiving the television broadcasts they now receive, while also freeing up a significant amount of spectrum for wireless broadband use. This will be the win-win outcome that all of us desire. But doing so will require a successful coordination with the Canadian government. It is our hope that you will assign responsibility for conducting this coordination to an appropriately senior official, and get the process underway without delay.

We look forward to hearing from you about this important matter.



Charles Schumer
United States Senator

Sincerely,



Kirsten Gillibrand
United States Senator