

June 12, 2015

**Via Electronic Filing**

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

***RE: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268; Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, MB Docket No. 03-185***

Dear Ms. Dortch:

The Office of Advocacy, U.S. Small Business Administration (“Advocacy”) respectfully submits this *ex parte* letter regarding a meeting attended by Assistant Chief Counsel Jamie Saloom and Director for Interagency Affairs Charles Maresca with the following FCC staff on June 11, 2015: Bill Lake, Media Bureau Chief; Joyce Bernstein and Shaun Maher, staff attorneys in the Media Bureau’s Video Division; David Konczal from the Office of General Counsel; and Thomas Reed, Director of the Office of Communications Business Opportunities. During the meeting Advocacy staff forwarded the concerns of small Low-Power Television licensees with regard to the upcoming broadcaster incentive auction.

**The Office of Advocacy**

Congress established the Office of Advocacy under Pub. L. 94-305 to represent the views of small entities before Federal agencies and Congress. Advocacy is an independent office within the Small Business Administration (“SBA”), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. Part of our role under the Regulatory Flexibility Act (“RFA”) is to assist agencies in understanding how regulations may impact small businesses, and to ensure that the voice of small business is not lost within the regulatory process.<sup>1</sup> Congress crafted the RFA to ensure that, while accomplishing their intended purposes, regulations did not unduly inhibit the ability of small entities to compete, innovate, or to comply with the regulation.<sup>2</sup>

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<sup>1</sup> Pub. No. 96-354, 94 Stat. 1164 (1980).

<sup>2</sup> Pub. L. 96-354, Findings and Purposes, Sec. 2 (a)(4)-(5), 126 Cong. Rec. S299 (1980).

## **Background**

The Office of Advocacy supports the FCC's efforts to move forward with the Broadcaster Incentive Auction as expeditiously as possible. If successful, the auction will increase competition, consumer choice, and small business opportunities. Advocacy has discussed the auction and its various components with small business stakeholders, including wireless carriers, small broadcasters, and those advocating for greater access to unlicensed spectrum. Advocacy has heard significant and persistent concerns specifically from Low Power TV station owners regarding the impact of the incentive auction on their ability to continue to provide content to underserved communities.

According to the FCC's website:

The Low Power Television Service (LPTV) ... was primarily intended to provide opportunities for locally-oriented television service in small communities, both rural and individual, within larger urban areas. LPTV presents a less expensive and very flexible way of delivering programming tailored to the interests of viewers in small localized areas, providing a means of local self-expression. In addition, LPTV has created abundant opportunities for new entry into television broadcasting and has permitted fuller use of the broadcast spectrum.

Advocacy has heard from stakeholders that that LPTV stations provide content that may simply be unaffordable and thus unavailable without LPTV broadcasting. These stakeholders have stressed that broadcast television is unique in its ability to reach everyone, especially underserved and minority communities that lack access to broadband. Furthermore, these stakeholders explained to Advocacy that broadband is not a perfect substitute for the content that LPTV stations provide; while it is easy to create and post content online, it is much harder to reach underserved communities with it, and niche content creators lack the same financial incentives and opportunities to provide that content on the internet..

## **Advocacy's Recommendations**

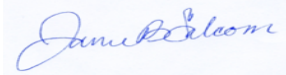
During the above-referenced meeting with FCC staff, Advocacy stressed that the FCC has an obligation to preserve localism and diversity in broadcasting, and expressed concern that the FCC has not yet given the LPTV community sufficient reassurances that those stations who wish to continue broadcasting will be able to do so. Advocacy asked that the FCC explain how it intends to preserve LPTV post-auction, with the understanding that the FCC must balance various small business considerations in making its ultimate policy decisions, as well as its various legal mandates. While Advocacy expressed general support for making spectrum available for unlicensed use, Advocacy highlighted the investments and added value that LPTV owners have made in their communities and urged the FCC to protect those investments through its auction policy.

Specifically, Advocacy expressed its understanding that the FCC may not prioritize unlicensed use of spectrum over the rights of LPTV broadcasters to relocate post-auction. Advocacy recommended that vacant channels should be available for displaced LPTV and translator stations before expanding unlicensed white spaces. Additionally, Advocacy confirmed that any channel sharing arrangements will be voluntary so that, to the extent possible, LPTV

stations can continue to broadcast in their existing service areas. To that end, Advocacy also expressed support for the FCC's proposal to use its optimization software to assist LPTV licensees with identifying suitable channels to relocate post-auction.

Advocacy encourages the FCC to offer any assistance it can to LPTV licensees following the broadcast incentive auction. For additional information or assistance, please contact Jamie Saloom at (202) 205-6890 or [Jamie.Saloom@sba.gov](mailto:Jamie.Saloom@sba.gov).

Respectfully submitted,

A handwritten signature in blue ink that reads "Jamie Belcore Saloom". The signature is written in a cursive style and is centered on a light blue rectangular background.

Jamie Belcore Saloom  
Assistant Chief Counsel  
SBA Office of Advocacy