

Remarks of Thomas Sugrue to the National Coordination Committee
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(As Delivered)

The work of the NCC has convinced me, more than ever, that we in the communications business live in exciting times.

Before I go on to our main topic this morning, I want to commend the NCC and others who submitted comments and reply comments in response to the Fourth Notice of Proposed Rulemaking in the public safety docket. Those filings are insightful and they are going to provide us some useful guidance in finalizing rules for the interoperability spectrum.

At this point, I can't give you a precise date by which we will address the issues in the rule making and issue a final report and order containing the new rules. But, we have gotten the message that time is of the essence. I guarantee you that interoperability rules are a high priority and that we are devoting extensive staff time to insure that they get issued promptly.

My main topic today is the matter of band clearing. As you know all too well, there are television stations in the 700 MHz public safety spectrum in many of the areas where you want to implement public safety communications systems.

When Congress made the public safety allocation, it said that these incumbent television stations had to vacate Channels 60 through 69 by December 31, 2006. But that is a contingent deadline, not a firm one. The legislation allows analog television stations to stay on the air, beyond that date, until Digital Television reception capability reaches 85% of the market.

That 85% penetration figure might be hard to reach in that timeframe. DTV has had a difficult time getting started. One of the biggest impediments is the cost of DTV receivers, which is currently well in the thousands of dollars. I don't know about you, but a DTV receiver is not on my Christmas list this year. It seems to me that we have a

“chicken and egg” problem here; namely, what comes first: DTV program content or DTV-capable receivers?

Why should the public safety community be concerned about the transition to DTV? Because it affects the availability of the 700 MHz spectrum for public safety users. While I think all of us in this room agree that there are pressing public safety needs for access to the spectrum now being used for channel 60-69 television stations, sometimes that message does not come through as clearly as it should.

The commercial companies that have already bid, or will be bidding soon, for spectrum in the 700 MHz band are beginning to make their case for band clearing. But that is not going to be enough. You need to make the case that this is not just a battle between the broadcast industry and the commercial wireless industry — the type of dispute that Commissioner Quello once referred to in a different context as a fight between the rich and the extremely wealthy. We know that it also affects public safety agencies’ ability to use their allocation in the 700 MHz band. And, you in the public safety community and we at the FCC, have to work with the commercial interests and the broadcasters to help find solutions to the problem – solutions that will achieve your goals without unfairly penalizing incumbent television stations or their viewers.

The FCC’s Chairman, Bill Kennard, proposed some solutions to the band clearing problem in a speech he gave in New York last month. Most of his discussion of band clearing centered on bringing new commercial services on line in the Channel 60 through 69 spectrum. However, the points he made might have even greater implications for public safety. I would like to share a few of them with you.

But, before I do, I should point out that the Chairman’s views are his own – there’s no official Commission position on the subject. But I found his suggestions and comments thought provoking. I think you will, too.

First, Chairman Kennard put the 85% penetration figure into perspective. He pointed out that it took color television 22 years to reach 85% penetration. The penetration of VCRs into American

households was a bit faster, but it still took VCRs 16 years to reach the 85% penetration level. Public safety organizations can't wait 22 years – or even 16 years – before they have full access to the 700 MHz channels to help protect lives and property.

The Chairman also said that something had to be done to prevent analog television stations from becoming what he called “spectrum squatters.”

He stated that one way to address this would be to establish, legislatively, a firm DTV transition date. Then, public safety could make realistic plans for the implementation of 700 MHz technology.

Establishing a firm end date for the transition is controversial. There is certainly a question about whether Congress would be prepared to make such a change. But some additional clarity and certainty on a date by which the spectrum would be available to the new licensees would be extremely helpful for both commercial and public safety users and could help facilitate the DTV transition as well.

Another solution proposed by the Chairman is similar to the one that was used in the 1960's to kick-start the development of UHF television broadcasting. That was the All-Channel Receiver Act, which required manufacturers to include UHF tuners in television sets. A modern variation on that statute, as proposed by the Chairman, would be legislation directing the FCC to require that all new television sets must have DTV reception capability after a certain date.

It may be that the broadcasting industry would favor such a DTV reception rule because it would bring more viewers to DTV stations. Despite the significant investment that television stations have made to put DTV on the air, the viewer statistics are pretty dismal. As a matter of fact, I hear that a DTV station manager in Dallas claims that he is on a first-name basis with all of his viewers.

If DTV capability were required on all receivers, then it is reasonable to think that economies of scale would drive the cost of DTV receivers down to a mass market level pretty quickly.

The Chairman also discussed assessing a fee for television licensees who continue to use their existing Channel 60-69 licenses past a certain date. Under this proposal, the amount of this fee would increase yearly to provide economic incentives for the television broadcaster to relinquish use of its analog channel.

I should also mention another development that might advance the DTV transition date and free up 700 MHz spectrum for public safety use.

You might recall from the presentations made at the April NCC meeting, that there is a movement afoot by the commercial users of the spectrum to remove television broadcasters from the 700 MHz spectrum by entering into voluntary band clearing arrangements.

A voluntary band clearing arrangement probably makes sense for the commercial users who are laying down millions – or billions – of dollars for rights to the spectrum. However, although I don't see it as an option for public safety licensees, I still think the public safety community may want to support the voluntary clearing.

Why? Because the commercial licensees may want to enter into band clearing agreements with television stations operating on Channels 63, 64 or 68 – which is in your spectrum -- in order to eliminate adjacent channel interference to their commercial systems operating on adjacent Channels 62, 65, or 67. Similarly, when a commercial licensee negotiates a band clearing agreement with a television station operating on Channels 62, 65, 67 in the commercial allocation, that frees up public safety spectrum by eliminating adjacent channel interference.

In short, commercial interests buying out television stations in the channel 60-69 range could have some solid benefits for the public safety community. So, I suggest it may be time for you to join with your commercial counterparts to advance voluntary band clearing arrangements.

In closing, I want to say that I am optimistic that solutions are going to emerge that will free 700 MHz spectrum for use by public safety,

nationwide. I'm even optimistic about the Red Sox getting a reliable starting pitching staff next year – but that's another story.

A solution will not emerge overnight, certainly not for the Red Sox and probably not for Public Safety.

Your important task is to make known that the channel-shortage crisis in public safety communications is not going to be relieved without a reasonable and timely transition to free up 700 MHz spectrum.

I wish you well in that task, and I look forward to working with you. Thank you for listening.