# Incentive Auction Opportunities for Broadcasters

Prepared for the Federal Communications Commission by

Greenhill

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**Note**: These slides present an unofficial summary of the Incentive Auction Report and Order and rules dated May 15, 2014. Should this summary vary from the Report and Order or rules as released, the official document governs. Final auction procedures have not yet been adopted by the Commission.

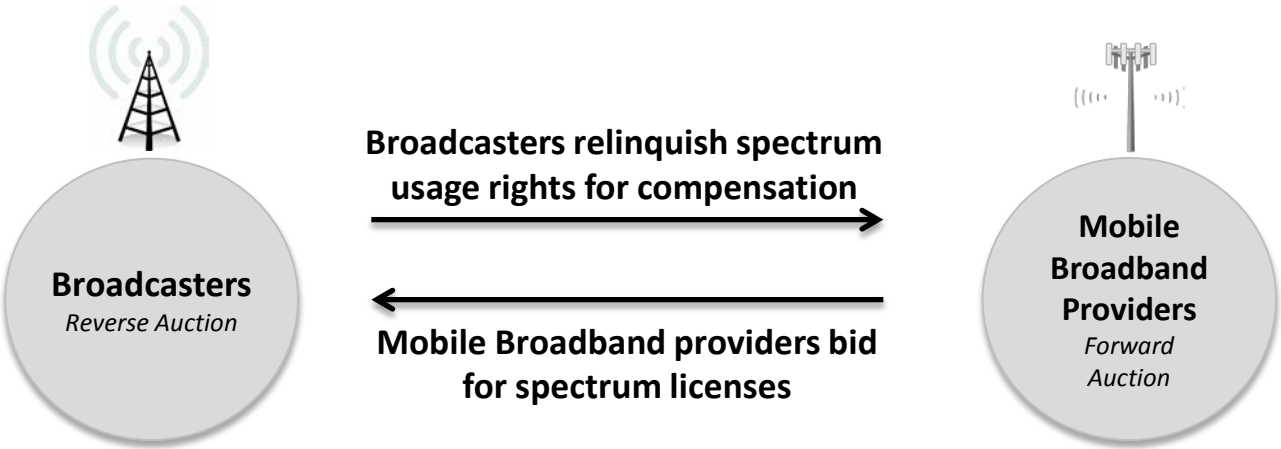
# What is the Incentive Auction?

## *The Incentive Auction Represents a Unique Opportunity for Broadcasters to Monetize the Value of their Spectrum*

- The Incentive Auction is a market-based approach to repurposing the 600 MHz spectrum band that will provide Broadcasters the opportunity to sell their spectrum usage rights while retaining the flexibility to remain on the air
  - Participation is completely voluntary and provides the potential for significant cash proceeds to Broadcasters
  - Recent transactions suggest spectrum valuations could be substantial

- The Incentive Auction is comprised of a Reverse Auction and a Forward Auction, which together will create a structured spectrum marketplace for Broadcasters and Mobile Broadband Providers

- The FCC has the unique ability to unlock value for Broadcasters by reorganizing the 600 MHz spectrum band into contiguous blocks on a nationwide basis and reallocating it for wireless use
  - Broadcasters on their own lack the ability to unlock the kind of opportunity made possible by the Incentive Auction




Source: FCC



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# Why Should You Participate?

## *The Incentive Auction Offers a Compelling Opportunity for Broadcasters*

### Unique Opportunity

- The FCC has the unique ability to unlock spectrum value through its authority to repurpose broadcast spectrum for wireless use and reorganize the 600 MHz Band on a nationwide basis
  - Broadcasters cannot repurpose their spectrum for wireless broadband on their own
  - Only the FCC can reorganize the UHF spectrum into nationwide contiguous spectrum for wireless broadband
- A private sale of spectrum is not an option
- The FCC has no other Incentive Auctions planned or expected

### Attractive Valuation Levels

- Recent transaction trends suggest attractive spectrum valuation levels
- Independent studies have estimated total Forward Auction proceeds could approach **$45 billion**[(1)]
  - AT&T alone estimates it will bid at least **$9 billion** in the Forward Auction[(2)]
- **Broadcasters in large and small markets are pivotal to clearing spectrum on a nationwide basis**
  - Estimated Maximum Compensation for Full Power Broadcaster in DMA #1 –New York City, NY: **$490 million**[(3)]
  - Estimated Maximum Compensation for Full Power Broadcaster in DMA #113 – Youngstown, OH: **$95 million**[(3)]

### Voluntary with the Potential for Significant Upside

- Participation is strictly voluntary – Broadcasters decide whether to participate after they see the opening price offered by the FCC and have the flexibility to drop out in any subsequent round
  - Simplified "descending clock" auction format means that a Broadcaster never needs to reveal its drop-out price
- The FCC has committed to keep all information identifying Broadcasters who participate and drop out / are not chosen confidential for two years
- With multiple bidding options, participation does not mean a Broadcaster has to exit its business – Channel Sharing and moving to VHF are flexible ways to reap Auction proceeds and stay on the air
- The IRS has provided guidance on the tax implications for each bidding option[(4)]

(1) EOBC Notice of Oral Ex Parte (June 13, 2014)
(2) AT&T press release (May 18, 2014)
(3) Estimated projections by FCC staff for relinquishing a license, using auction methodology currently under development; DMA rankings per Nielsen 2013-2014
(4) Federal Tax Principles Applicable to the FCC's Proposed Broadcast Incentive Auction, Internal Revenue Service (July 3, 2014)

Source: FCC



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# How the Incentive Auction Will Affect Broadcasters

***Congress Authorized the FCC to Reorganize ("Repack") Broadcasters That Are Not Selected or Do Not Participate in the Auction***

**Stations that Participate and are Selected**

- Broadcasters receive cash proceeds for relinquishment of their spectrum usage rights based on final bids
- If a Broadcaster accepts a License Relinquishment or Channel Sharing bid, it is required to vacate its existing channel within 3 months of receiving proceeds
- If a Broadcaster accepts a UHF to VHF or High VHF to Low VHF transition bid, it must cease operations on its pre-Auction channel within 39 months

**Stations that Participate and are Not Selected**

- Broadcasters retain spectrum usage rights subject to repacking
- Post the Incentive Auction, the final channel assignments will be released
- Broadcasters will be treated as if they had not participated in the Auction
- If a Broadcaster's channel is changed during the repacking process, it must cease operations on its pre-Auction channel within 39 months
  - Broadcasters will receive a portion of the $1.75 billion Relocation Fund to reimburse them for relocation costs

**Stations that Choose Not to Participate**

- Broadcasters retain spectrum usage rights subject to repacking
- Post the Incentive Auction, the final channel assignments will be released
- If a Broadcaster's channel is changed during the repacking process, it must cease operations on its pre-Auction channel within 39 months
  - Broadcasters will receive a portion of the $1.75 billion Relocation Fund to reimburse them for relocation costs

Source: FCC



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# How Broadcasters Should Prepare for the Auction

***It is Important for Broadcasters to Understand and Prepare for the Unique Opportunity the Incentive Auction Presents***

- While the Incentive Auction is designed by the FCC for simplicity, it is important to understand the options and prepare in advance
- Broadcasters should review materials prepared by the FCC and third parties, including the Report & Order and the LEARN website, to better understand the Incentive Auction and the opportunities it presents
- Broadcasters should determine the current value of their spectrum usage rights and establish an internal "walk away" price at which they would elect not to participate, which may guide auction strategy
  - Broadcasters may consider many factors including, but not limited to:
    - Current and future profitability of a Broadcaster's television business
    - Trends in spectrum valuation and the impact of possible disruptive or new technologies that may affect the Broadcast business
    - Opportunities for channel sharing in their market
    - Population shifts and trends in a station's coverage area
    - Competitive broadcasting and video landscape and viewership trends
    - Potential opportunities for content distribution through other mediums including programming agreements with remaining broadcasters
    - Intangible social value and community-wide branding from providing broadcast services
- Additionally, the FCC has committed to being available throughout the Reverse Auction to answer any questions and provide Broadcaster support



Source: FCC

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# Unique Opportunity for Broadcasters

***The Incentive Auction Represents a Unique Opportunity for Broadcasters to Monetize their Spectrum***

- The FCC has the unique ability to unlock broadcast spectrum value
  - A private sale of spectrum is not an option
- There are several advantages for Broadcasters participating in the Reverse Auction
  - ✓ Value unlocked as a result of FCC-backed repurposing and reorganization of broadcast spectrum for wireless broadband use
    - Reallocation of 600 MHz spectrum for wireless use – Broadcast spectrum is not usable by wireless providers unless authorized for flexible use by the FCC
    - Reorganization – Repacking broadcast spectrum allows for contiguous blocks and a nationwide band plan which is highly attractive to wireless providers
  - ✓ Ability to receive compensation by relinquishing spectrum, while retaining the flexibility to stay on air via Channel Sharing and Moving to VHF options
  - ✓ The FCC will conduct the Auction, reducing deal-execution complexity as well as reducing burdens and fees to Broadcasters
    - The FCC has committed to full transparency on the rules surrounding the sale

Given the FCC's one-time authorization for this Incentive Auction, Broadcasters who choose not to participate will miss this unique opportunity to unlock value

Source: FCC



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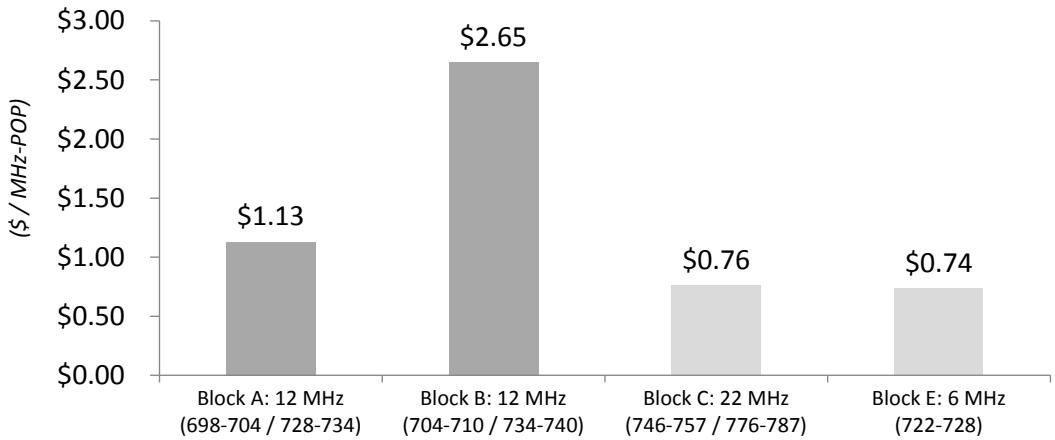
# Your Low-Band Spectrum Usage Rights are Valuable

- Increased demand for wireless communication, greater coverage and increased speeds have driven wireless carriers to continue to build out their networks
  - Global mobile data traffic is forecasted to increase at a CAGR of 61% from 2013-2018[(1)]
- UHF spectrum currently being utilized by television Broadcasters is a rare and valuable resource
  - Low band spectrum, such as the 600 MHz band, has the ability to travel for longer distances and penetrate buildings better than higher-band spectrum – as such, low band spectrum transactions have drawn higher MHz-POP figures and have continued to trend upwards
- With the potential for unexpected technological shifts and uncertainty about future broadcast technical standards (e.g. Advanced Television System Committee ("ATSC") 3.0), the Incentive Auction provides Broadcasters an opportunity to maximize value now

**Last Auction of Comparable Spectrum Generated Record-Breaking Revenues[(2)]**




The 2008 700 MHz auction (Auction 73) raised **$19 billion**

- Average unit price for all blocks: $1.28 per MHz-Pop
- Average unit price for paired blocks *(most comparable to 600 MHz band plan)*: **$1.35 per MHz-Pop**

(1) Cisco Visual Networking Index: Forecast and Methodology, 2013–2018 (June 10, 2014); Compound annual growth rate - year-over-year growth rate of mobile data traffic from 2013 to 2018
(2) Source for all Auction 73 data: FCC
Source: FCC



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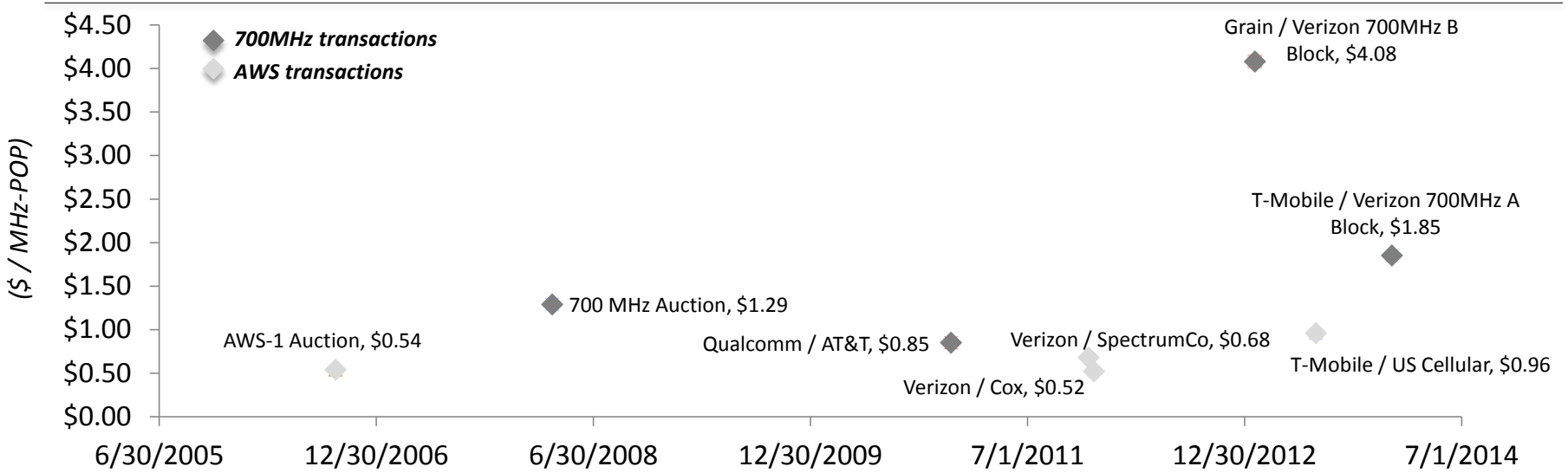
# Wireless Spectrum Prices Have Continued Trending Upwards

- Over $9 billion in secondary market transactions since the last two major auctions
- Major recent transactions include:

| *Dec 2010* | *Dec 2011* | *Jan 2013* | *Jun 2013* | *Jan 2014* |
|---|---|---|---|---|
| **ATT-Qualcomm** | **Verizon-SpectrumCo** | **Verizon-Grain** | **T-Mobile-USCC** | **T-Mobile-Verizon** |
| 700 MHz Band | AWS Band | 700 MHz Band | AWS Band | 700 MHz Band |
| $1.9 Billion | $3.6 Billion | $189 Million | $308 Million | $3.3 Billion |

- MHz-POP unit prices for spectrum licenses have increased at an approximately 6% CAGR over auction prices, or approximately 33% over a five-year period

**$ / MHz-POP Figures from Recent Comparable Transactions – 700MHz and AWS**




Source: FCC, Public press releases



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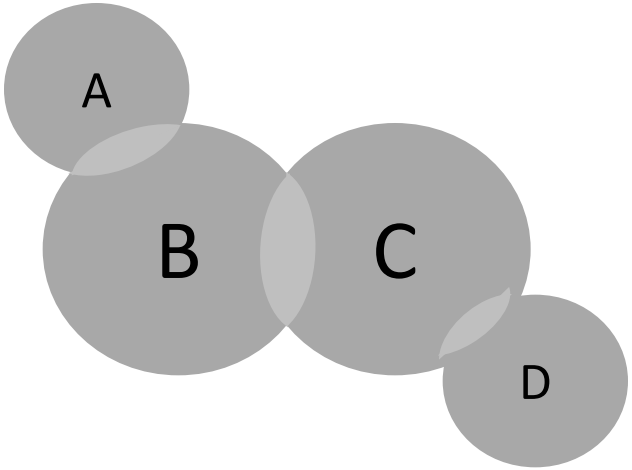
# Robust Participation From All Sized Markets is Key to the Incentive Auction's Success…

***Due to the "Daisy Chain" Nature of Interference, Stations in Mid to Smaller-Sized Markets will be able to Drive Substantial Value***

## Illustrative Interference Effect Across Multiple Markets




- Interference from Broadcasters in smaller markets can affect nearby larger markets
- For example, relinquishment of spectrum usage rights by Station A would enable the repacking of Station B and thereby free up more channels in Station B's market for sale in the Forward Auction
- That in turn could facilitate the repacking of Station C or other stations in Station C's market
- Participation by Station D could have the same effect

## Select Commentary

**Participation of Over 200 Broadcasters is Needed**

"…under the assumption of full participation, we learn that to clear 84 MHz of spectrum, **a minimum of roughly 200 voluntary broadcaster exits are needed ignoring the domain constraints as identified by the FCC, and approximately 250 exits, if those constraints are considered"**

*AT&T Computational Study (June 18, 2014)*

Source: FCC



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# …Which Unlocks Value for Broadcasters in Markets of all Sizes

***Compensation is Expected to Be Compelling for Full Power Broadcasters Across the Nation, Not Just in Top Markets***

## Top 10 DMAs(1)

| DMA | FCC's Estimated High End Compensation Per Broadcaster ($mm) | | |
|---|---|---|---|
| | Maximum | - | Median |
| New York, NY | $490 | | $410 |
| Los Angeles, CA | 570 | | 340 |
| Chicago, IL | 130 | | 120 |
| Philadelphia, PA | 400 | | 230 |
| Dallas-Ft. Worth, TX | 67 | | 53 |
| San Francisco-Oakland-San Jose, CA | 140 | | 110 |
| Boston, MA | 140 | | 93 |
| Washington, DC | 140 | | 130 |
| Atlanta, GA | 91 | | 65 |
| Houston, TX | 52 | | 45 |

## DMAs Below the Top 30(1)

| | DMA | FCC's Estimated High End Compensation Per Broadcaster ($mm) | | |
|---|---|---|---|---|
| | | Maximum | - | Median |
| 38 | West Palm Beach-Ft. Pierce, FL | $100 | | $93 |
| 46 | Greensboro-High Point-Winston Salem, | 60 | | 45 |
| 52 | Buffalo, NY | 73 | | 46 |
| 53 | Providence, RI-New Bedford, MA | 160 | | 110 |
| 54 | Wilkes Barre-Scranton, PA | 150 | | 140 |
| 68 | Flint-Saginaw-Bay City, MI | 100 | | 45 |
| 71 | Tucson, AZ | 38 | | 20 |
| 98 | Burlington, VT-Plattsburgh, NY | 58 | | 17 |
| 113 | Youngstown, OH | 95 | | 90 |
| 148 | Palm Springs, CA | 180 | | 100 |

Estimated projections by FCC staff of the compensation for relinquishing a license, using auction methodology currently under development as applied to all auction-eligible television stations. Actual compensation may be higher or lower; opening bid prices may be higher in some markets. Markets and stations needed in the Reverse Auction will depend on which stations choose to participate; low VHF stations are least likely to be selected in the auction because of the availability of low VHF channels. Estimates assume the sale of 100 MHz of spectrum in the Forward Auction at an average price of $1.50 per MHz-pop; the amount of cleared spectrum and the price per pop may vary from these assumptions when the auction is run. The Appendix includes a chart showing the maximum and median estimated high-end proceeds per full power station for each television market.



(1) DMA rankings per Nielsen 2013-2014

Source: FCC

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# Eligible Class A Stations Could Also Receive Significant Compensation in Many Markets

***Compensation is Expected to Be Compelling for Eligible Class A Broadcasters Across the Nation, Not Just in Top Markets***

## Top 10 DMAs(1)

| DMA | FCC's Estimated High End Compensation Per Broadcaster ($mm) | | |
|---|---|---|---|
| | Maximum | - | Median |
| New York, NY | $360 | | $280 |
| Los Angeles, CA | 370 | | 310 |
| Chicago, IL | 120 | | 100 |
| Philadelphia, PA | 180 | | 110 |
| Dallas-Ft. Worth, TX | 58 | | 50 |
| San Francisco-Oakland-San Jose, CA | 92 | | 70 |
| Boston, MA | 77 | | 77 |
| Washington, DC | 98 | | 67 |
| Atlanta, GA | 54 | | 51 |
| Houston, TX | 38 | | 36 |

## DMAs Below the Top 30(1)

| | DMA | FCC's Estimated High End Compensation Per Broadcaster ($mm) | | |
|---|---|---|---|---|
| | | Maximum | - | Median |
| 34 | Milwaukee, WI | $32 | | $30 |
| 38 | West Palm Beach-Ft. Pierce, FL | 47 | | 29 |
| 53 | Providence, RI-New Bedford, MA | 56 | | 56 |
| 54 | Wilkes Barre-Scranton, PA | 56 | | 8 |
| 71 | Tucson, AZ | 15 | | 11 |
| 86 | Harlingen-Weslaco-Brownsville-McAllen, TX | 28 | | 13 |
| 103 | Johnstown-Altoona, PA | 23 | | 12 |
| 125 | Monterey-Salinas, CA | 36 | | 31 |
| 148 | Palm Springs, CA | 170 | | 26 |
| 178 | Harrisonburg, VA | 17 | | 6 |

Estimated projections by FCC staff of the compensation for relinquishing a license, using auction methodology currently under development as applied to all auction-eligible television stations. Actual compensation may be higher or lower; opening bid prices may be higher in some markets. Markets and stations needed in the Reverse Auction will depend on which stations choose to participate; low VHF stations are least likely to be selected in the auction because of the availability of low VHF channels. Estimates assume the sale of 100 MHz of spectrum in the Forward Auction at an average price of $1.50 per MHz-pop; the amount of cleared spectrum and the price per pop may vary from these assumptions when the auction is run. The Appendix includes a chart showing the maximum and median estimated high-end proceeds per full power station for each television market.



(1) DMA rankings per Nielsen 2013-2014

Source: FCC

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# The Forward Auction is Expected to Raise Substantial Proceeds

***Mobile Broadband Providers and Others Have Publicly Predicted Aggressive Bidding for Spectrum in the Forward Auction***

**Select Commentary**

| | |
|---|---|
| AT&T Intends to Bid At Least $9 billion | "The [DIRECTV] transaction does not alter AT&T's plans to meaningfully participate in the FCC's planned spectrum auctions later this year and in 2015. **AT&T intends to bid at least $9 billion in connection with the 2015 Incentive Auction** provided there is sufficient spectrum available in the auction to provide AT&T a viable path to at least a 2x10 MHz nationwide spectrum footprint." *AT&T Press Release Regarding AT&T's acquisition of DIRECTV (May 18, 2014)* |
| Significant Demand for Spectrum Exists | "We **expect** that there will be **vigorous bidding** for spectrum **across the entire country** and the FCC's action today is a win for competition, consumers, and companies of all sizes." *U.S. Cellular CEO Kenneth Meyers (May 16, 2014)* |
| DISH and New Entrants Expected to Participate Meaningfully | "**DISH…looks forward to meaningfully participating** in the upcoming 600 MHz Broadcast Incentive Auction. The incentive auction offers **opportunities for competitive providers and new entrants to bid on and win much-needed lowband spectrum**, which will facilitate the deployment of mobile broadband services. " *DISH Network (July 9, 2014)* |

**Independent studies, including one conducted by the Expanding Opportunities for Broadcasters Coalition ("EOBC"), have estimated that total Auction proceeds could approach $45 billion[(1)]**

(1) EOBC Notice of Oral Ex Parte (June 13, 2014)
Source: FCC



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# Participation is Completely Voluntary and Flexible

- Initial participation in the Incentive Auction only commits Broadcasters to accept the opening bid price
  - If opening bid prices are not attractive, Broadcasters need not participate – the Incentive Auction is completely voluntary
  - Broadcasters who participate are free to reject a lower bid offer after the first round and drop out, with no penalties
  - Auction participation does not impact treatment with regards to the repacking or reimbursement process

- Multiple bidding options offer significant **flexibility** to Broadcasters in the Incentive Auction
  - Broadcasters may relinquish their spectrum license, but also have the option to share channels with another Broadcaster or move to VHF spectrum

- FCC has said it will maintain participation **confidentiality** for those who are not winning bidders
  - Pursuant to statute, the FCC will hold the identity of Broadcasters who participate in the Auction but do not submit winning bids confidential for two years following the Incentive Auction

Preparations for the Incentive Auction and the repacking of Broadcasters are proceeding as planned under the Congressional mandate to the FCC



Source: FCC

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# Significant Flexibility for Broadcasters Through Multiple Bidding Options

***The Reverse Auction is Structured so Broadcasters Can Receive Compensation, but also Retain the Optionality to Continue Broadcasting***

| | |
|---|---|
| License Relinquishment | ✓ Relinquish entire 6 MHz channel and go off the air<br>✓ Highest level of proceeds for winning bidders<br>✓ Enables Broadcasters to reallocate proceeds to support other operations, reinvest in more strategic markets or return capital to stakeholders<br>✓ Potential for long-term capital gains tax treatment(1) |
| Channel Sharing | ✓ Relinquish entire 6 MHz channel and negotiate a commercial arrangement with another Broadcaster to share channels / facilities and stay on the air<br>✓ Winning bidders will receive the same level of Auction proceeds as in a License Relinquishment bid, prior to any effect of sharing arrangement<br>✓ Remain on the air and receive proceeds from the Auction with no loss of licensee status<br>✓ Maintain cable carriage rights<br>✓ Lower operating costs and capital expenditures through facility sharing<br>✓ Immediate value in markets in which commonly owned broadcasters can pair up<br>✓ Broadcasters in dozens of markets already transmit two top-4 network signals on the same 6 MHz channel, and Sinclair recently announced that it will transmit two network signals on the same channel(2)<br>✓ Channel sharing by two different licensees was successfully validated in a trial conducted in early 2014<br>✓ May qualify for tax deferral for the portion of the gain associated with moving to a shared channel(1) |
| UHF to VHF / High VHF to Low VHF Move | ✓ Relinquish 6 MHz UHF or high VHF channel in exchange for another channel<br>✓ Remain on the air and receive proceeds from the auction with no loss of licensee status<br>✓ Maintain cable carriage rights<br>✓ Flexibility to limit bids to a high or low VHF channel<br>✓ May be able to defer taxes on a portion of gain through like-kind exchange (1) |

"The framework established in the Report and Order offers a **win-win for broadcasters to generate revenue and continue to broadcast over the air**, while ensuring that consumers will benefit from more robust competition among wireless carriers**."**

***DISH Network (July 9, 2014)***

(1) Federal Tax Principles Applicable to the FCC's Proposed Broadcast Incentive Auction, Internal Revenue Service (July 3, 2014)
(2) FCC 2014 Quadrennial Review Further Notice of Proposed Rulemaking; Sinclair press release (March 20, 2014)

Source: FCC



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# The FCC Has Considered Broadcaster Business and Strategy Concerns

***The FCC has Designed the Reverse Auction to Cater to the Unique Business Concerns of Broadcasters***

- Ease of Participation
  - The FCC has designed the Incentive Auction for simplicity – the descending clock structure allows Broadcasters to react to prices that are provided, rather than having to formulate their own bids
  - The availability of mock-auction tools will allow Broadcasters to gain comfort with the auction bidding system in advance
  - The FCC has committed to being available throughout the Reverse Auction to answer any questions and provide Broadcaster support
  - Pursuant to statute, the FCC will provide two years of confidentiality for Broadcasters who participate in the Auction but do not submit winning bids
- Time and Transparency
  - Auction timeline is designed to ensure that Broadcasters have sufficient time and access to all the necessary information in advance of the Reverse Auction
  - The IRS has provided guidance on the tax implications for each bidding option[(1)]
- Webinars and other resources are available to educate stakeholders about the Incentive Auction and assist in preparation
  - Webinar available at www.wireless.fcc.gov/incentiveauctions/learn-program/
  - Tax guidance by IRS available in the Appendix
  - Template channel sharing agreements are being developed by third parties

(1) Federal Tax Principles Applicable to the FCC's Proposed Broadcast Incentive Auction (July 3, 2014)
Source: FCC



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# Why You Should Participate in the Auction

Unique Spectrum Marketplace –
Unlikely to Occur Again

Spectrum Value Unlocked – FCC's Sole Authority to Repurpose and Reorganize Spectrum

Potential for Attractive Valuation Levels – Recent Transactions Have Been Driven by Unprecedented Spectrum Demand

Multiple Bidding Options – Flexibility to Receive Compensation While Continuing to Stay on the Air

Participation is Completely Voluntary and Provides
the Potential for Significant Upside



Source: FCC

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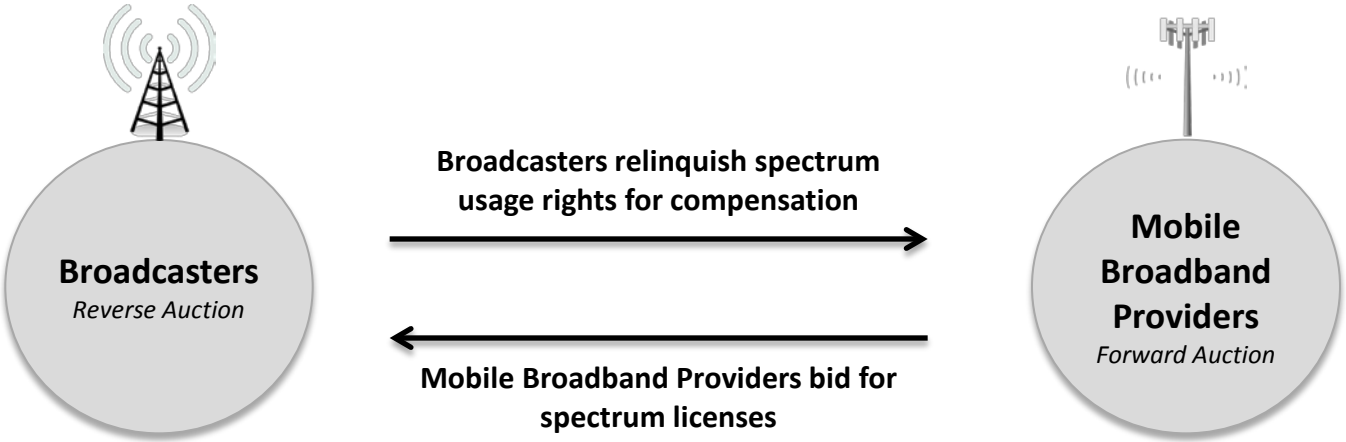
# Overview of the Incentive Auction

## *The Incentive Auction has been Structured to Make Participation as Easy as Possible for Sellers and Buyers*

- The Incentive Auction will combine two separate, but interdependent Auctions
  - A **Reverse Auction** where Broadcasters will offer to relinquish some or all of their spectrum usage rights
  - A **Forward Auction** where Mobile Broadband Providers will bid to buy new, flexible licenses utilizing the spectrum made available through spectrum relinquishment and nationwide repacking
- The Reverse and Forward Auctions will be integrated: proceeds from the Forward Auction will be used to pay Broadcasters who relinquish spectrum usage rights in the Reverse Auction
- Only Broadcasters who participate in the Reverse Auction, by either relinquishing all of their spectrum usage rights or by utilizing one of the bidding options that enables them to stay on the air, can share in the Auction proceeds based on the value of their spectrum
- Pursuant to statute, any excess Forward Auction proceeds(1) that remain following the conclusion of the Incentive Auction will be deposited into the Public Safety Trust Fund




Source: FCC

(1) "Excess" proceeds means proceeds in excess of payments to Broadcasters who are selected in the Reverse Auction, the $1.75 billion Broadcaster Relocation Fund, and any funding required for FirstNet



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# Reverse Auction Description

***The Reverse Auction will use a Descending Clock Format to Make Participation Easy and Transparent for Broadcasters***

## Illustrative Reverse Auction Example where 2 Stations are Needed

**(Assumes technically identical stations)**

| Round | Bid Price | Stations Accepting Bid Price | Stations in Excess of Clearing Target | |
|---|---|---|---|---|
| 1 | $$$$$$ | | 3 stations | |
| 2 | $$$$$ | | 1 station | Dropped Out Participants Repacked into Pre-Auction Band |
| 3 | $$$$ | | 1 station | |
| 4 | $$$ | | 0 stations ✓ | Market Clears / Dropped Out Participants Repacked into Pre-Auction Band |

**1**

i. The Reverse Auction begins with a Clearing Target of 2 stations and an Opening Price of $$$$$$

ii. 5 stations accept this Opening Price

iii. Since there are 3 stations above the Clearing Target, the market does not clear and the new round of bidding begins with a lower bid price

**2**

i. The second round begins with a price of $$$$$

ii. Only 3 stations accept this price

iii. Since there is 1 station above the Clearing Target, the market does not clear and the new round of bidding begins with a lower price

**3**

i. The third round begins with a price of $$$$

ii. All 3 remaining stations still bid to accept this bid price

iii. Since there is 1 station above the Clearing Target, the market does not clear and the new round of bidding begins with a lower price

**4**

i. The fourth round begins with a price of $$$

ii. 2 stations accept this price

iii. Since there are no stations above the Clearing Target, the current stage of the Reverse Auction ends

Note: Not all stations willing to accept an offered price will be selected to relinquish their licenses. Since all stations are not technically identical, as is assumed in this slide, stations are not perfectly substitutable in the repacking process. The auction system will take into account bid amount and the feasibility of repacking stations into the broadcasting band when it selects stations to receive a relinquishment payment.



Source: FCC

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# Forward Auction Description

***The Forward Auction is Designed to be Efficient and Fast in Order to Draw in Maximum Participation from Wireless Providers***

## Illustrative Forward Auction Example with 6 Blocks for Sale

| Round | Price per Block | Bidder 1 | Bidder 2 | Excess Demand | |
|---|---|---|---|---|---|
| 4 | $$$$$ | 2 blocks | 4 blocks | 0 blocks ✓ | Prices Set |
| 3 | $$$$ | 3 blocks | 4 blocks | 1 block | |
| 2 | $$$ | 4 blocks | 4 blocks | 2 blocks | |
| 1 | $$ | 6 blocks | 6 blocks | 6 blocks | |

**1**

i. The Forward Auction begins with 6 blocks for sale and an opening Bid Price of $$
ii. Bidder 1 and Bidder 2 each demand 6 blocks
iii. Since there are 6 blocks of excess demand, a new round begins with a higher price per block

**2**

i. The round begins with a Bid Price of $$$
ii. Bidder 1 and Bidder 2 each reduce their demand by 2 blocks
iii. Since there are 2 blocks of excess demand, a new round begins with a higher price per block

**3**

i. The round begins with a Bid Price of $$$$
ii. Bidder 1 reduces its demand by 1 block
iii. Since there is 1 block of excess demand, a new round begins with a higher price per block

**4**

i. The round begins with a Bid Price of $$$$$
ii. Bidder 1 reduces its demand by 1 additional block
iii. Since there is no excess demand for blocks, the current stage of the Forward Auction ends

Source: FCC



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# Eligibility for Participation in Reverse Auction

***The Reverse Auction Will Be Open to Full Power and Class A Licensees***

- Full power and Class A television stations that were licensed as of February 22, 2012
- Entities that obtain licenses on or before the Pre-Auction Licensing Deadline (to be announced by the Media Bureau at a later date) for the following facilities:
  - New full power television stations that were authorized by construction permits, but were not yet constructed or licensed, as of February 22, 2012, and certain digital Class A facilities that also were not licensed on that date
  - Full power facilities authorized in outstanding construction permits issued to effectuate a channel substitution for a licensed station
  - Modified facilities of full power and Class A stations that were authorized by construction permits granted on or before April 5, 2013, the date the Media Bureau issued a freeze on the processing of certain applications
  - Class A facilities authorized by construction permits to implement Class A stations' mandated transition to digital operations
- Eligible stations that choose not to bid or that participate and subsequently drop out of the Incentive Auction will still be protected from additional interference, as provided by statute, in the nationwide repacking process



Source: FCC

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# Illustrative Reverse Auction Example

| | Station A<br>**Participates, Selected** | Station B<br>**Participates, Not Selected** | Station C<br>**Does Not Participate** |
|---|---|---|---|
| During Auction | – Broadcaster A elects to participate and remains in the Reverse Auction during each round at the offered price<br>– If the Final Stage Rule is met, Broadcaster A will receive a payment at least as high as the final offer price it accepted(1) | – Broadcaster B elects to participate and remains in the Reverse Auction each round until the price offered is below the Broadcaster's internal "walk away" price<br>– Once price is below the "walk away" price, Broadcaster B drops out of the Reverse Auction | – Broadcaster C decides to not participate in the Reverse Auction and continues business while awaiting the results of the repacking process |
| Post Auction | – Broadcaster A receives compensation for relinquishing its existing spectrum usage rights after the auction<br>– License Relinquishment / Channel Sharing Bid<br>• Vacate channel within 3 months of receiving compensation<br>– UHF to VHF / High VHF to Low VHF Bid<br>• File application for construction permit to modify facility within 3 months<br>• Cease operation on pre-auction channel within 39 months(2) | – Final channel assignments released<br>– Same rights in the repacking process as if it had not participated<br>– Repacking process begins<br>• If channel is changed, file application for construction permit to modify facility within 3 months<br>• Cease operation on pre-auction channel within 39 months(2)<br>– Eligible for reimbursement of relocation costs from $1.75 billion TV Broadcaster Relocation Fund<br>– FCC keeps information regarding participation confidential for two years post auction | – Final channel assignments released<br>– Repacking process begins<br>• If channel is changed, file application for construction permit to modify facility within 3 months<br>• Cease operation on pre-auction channel within 39 months(2)<br>– Eligible for reimbursement of relocation costs from $1.75 billion TV Broadcaster Relocation Fund |

(1) If Forward Auction proceeds are not sufficient to meet the Final Stage Rule, the Reverse Auction will be run again
(2) Includes 3 month period in which construction permit applications must be filed
Source: FCC



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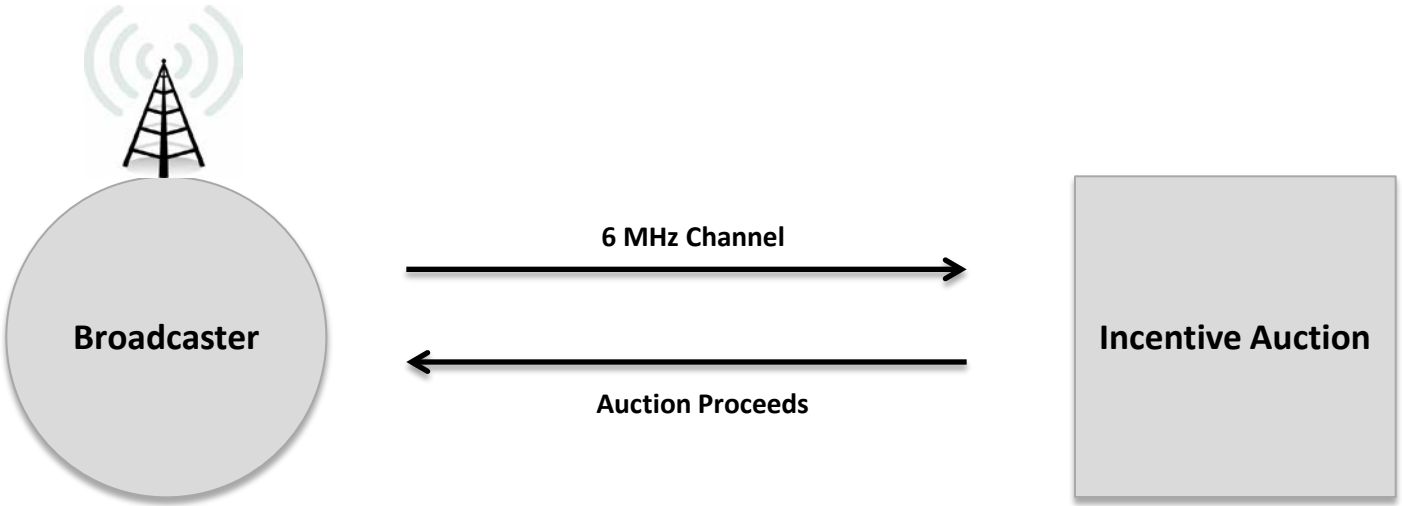
# License Relinquishment Option

***Broadcasters Who Are Willing to Relinquish Their License Will Receive the Highest Level of Compensation for Their Spectrum***

- Under this option, a Broadcaster will completely relinquish its spectrum license in the Reverse Auction and go off the air in exchange for Auction proceeds
- A Broadcaster will have up to 3 months after it receives proceeds to cease operations
- Can use proceeds to strengthen its other broadcast operations






Source: FCC

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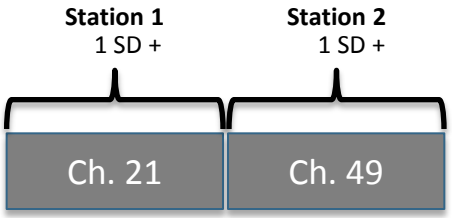
# Channel Sharing Option

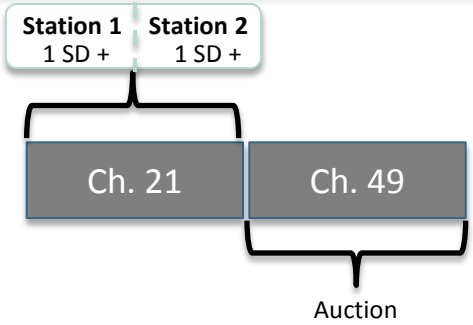
## *Enables Broadcasters to Remain on the Air While Receiving the Same Level of Compensation as in the License Relinquishment Option[1]*

- Under this option, a Broadcaster will relinquish its existing 6 MHz channel in the Reverse Auction and share a channel with another station
- Potential for Broadcasters to remain on the air, receive proceeds with no loss of licensee status, and lower operating costs and capital expenditures through facility sharing
- Immediate value in markets in which commonly owned Broadcasters can pair up
- Broadcasters in dozens of markets already transmit two top-4 network signals on the same 6 MHz channel, and Sinclair Broadcast Group recently announced that it will transmit two network signals on the same channel[2]
  - Channel sharing by two different licensees providing 2 HD streams was successfully validated in a trial conducted in early 2014
- Each shared station remains a primary FCC licensee with all current licensee rights
  - The FCC guarantees that Channel Sharing Broadcasters will retain must carry rights
- Broadcasters privately negotiate financial, operational and technical arrangements regarding sharing of channel and transmission facilities
- A Broadcaster will have up to 3 months after it receives proceeds to cease operations on its pre-Auction channel

### Standalone




### Illustrative Channel Share




(1) Prior to any sharing of Incentive Auction proceeds due to pre-negotiated channel sharing agreements
(2) FCC 2014 Quadrennial Review Further Notice of Proposed Rulemaking; Sinclair press release (March 20, 2014)
Source: FCC



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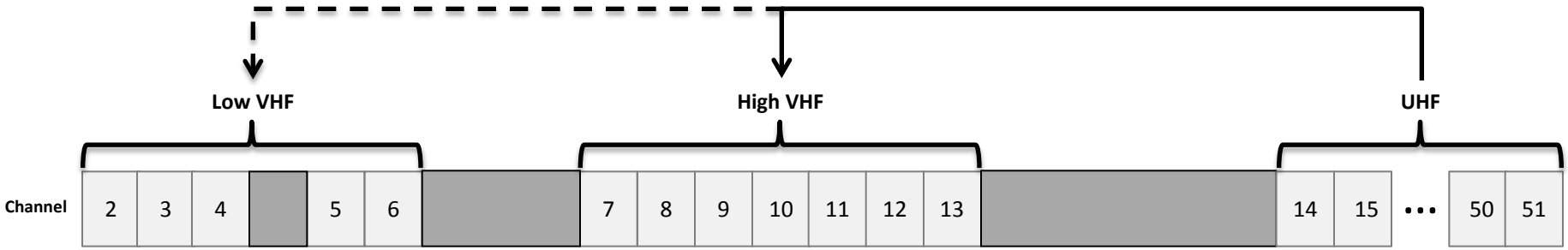
# UHF to VHF Band Change Option

***Moving from UHF to VHF is Another Way for Broadcasters to Receive Auction Proceeds and Remain on the Air***

- Under this option, a Broadcaster will bid to relinquish its UHF spectrum in the Reverse Auction and be assigned a frequency in the VHF spectrum
  - UHF to VHF bidders have the flexibility to limit their bids to a high or low VHF channel
- Broadcasters will remain on the air and receive proceeds with no loss of licensee status
- Pursuant to statute, Broadcasters will retain must carry rights at their new channel
- The FCC will work with winning UHF to VHF bidders seeking to modify their operations in order to mitigate any over-the-air reception issues
- A Broadcaster will have up to 39 months after the Incentive Auction ends to move to the new channel

## Illustrative UHF to VHF Option




Source: FCC



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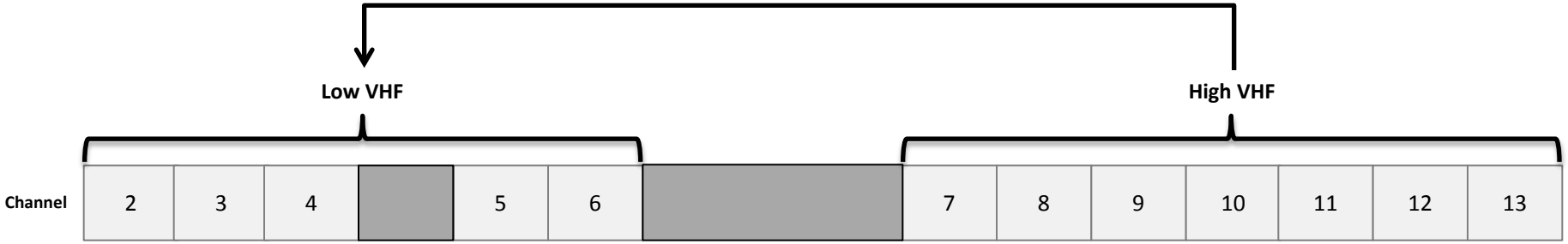
# High VHF to Low VHF Change Option

***High VHF Broadcasters Can Participate and Receive Auction Proceeds by Moving to Lower VHF Channels***

- Under this option, a Broadcaster will bid to relinquish its high VHF spectrum in the Reverse Auction
- Broadcaster will stay on the air on a low VHF channel, while still receiving proceeds with no loss of licensee status
- Pursuant to statute, Broadcasters will retain must carry rights at their new channel
- A Broadcaster will have up to 39 months after the Incentive Auction ends to move to the new channel

## Illustrative High VHF to Low VHF Option




Source: FCC



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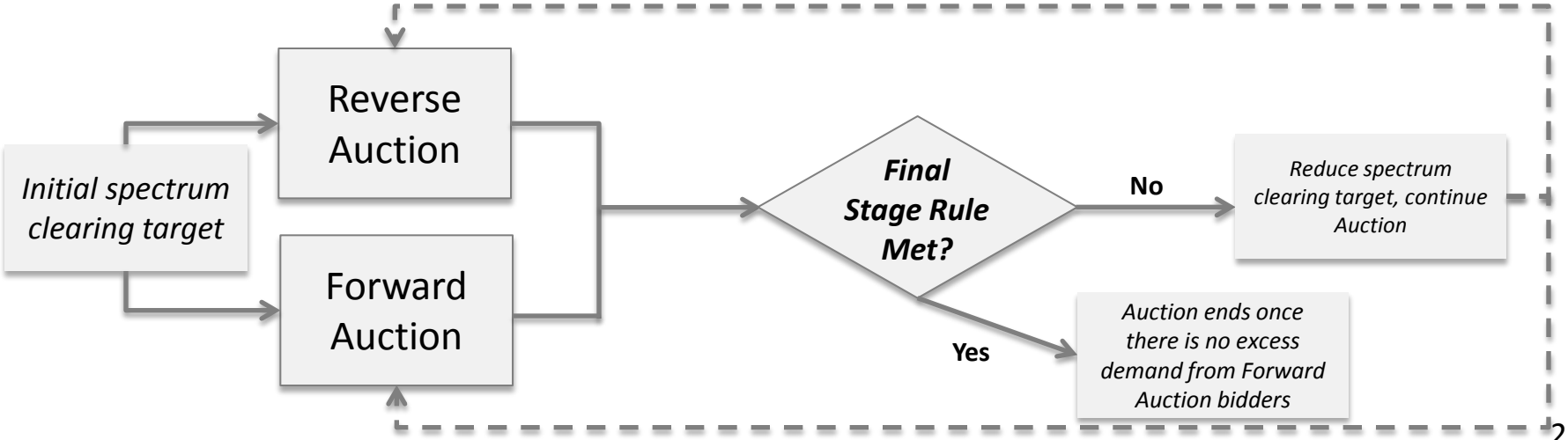
# Integration of the Reverse and Forward Auctions

## *The Reverse and Forward Auctions Will be Integrated through a Series of Stages and a Reserve Price Mechanism*

- Prior to the Incentive Auction, the FCC will determine an initial spectrum clearing target based on the number of Broadcasters willing to bid at opening prices
- The Reverse Auction bidding process will determine the total amount of incentive payments to Broadcasters required to clear that target level of spectrum
- The Forward Auction bidding process will proceed subsequent to the Reverse Auction, and will determine how much wireless providers are willing to pay for spectrum licenses corresponding to that target level of spectrum
  - If Forward Auction proceeds are able to cover the expense of Reverse Auction broadcaster bids, fund the TV Broadcaster Relocation Fund, and satisfy the other requirements of the Final Stage Rule, then the Incentive Auction will close at that spectrum clearing target
  - If not, the clearing target will be reduced and the Reverse and Forward Auction bidding process is repeated until the Final Stage Rule is met




Source: FCC



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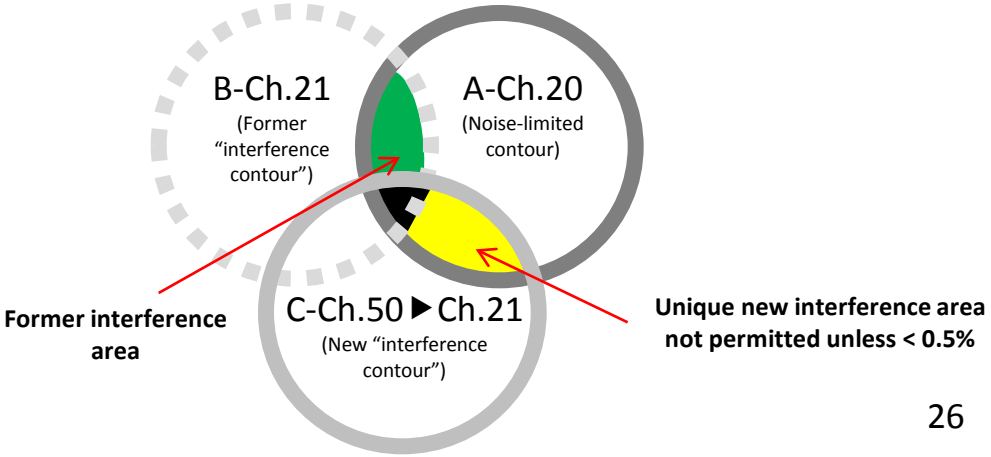
# Repacking the Broadcast Television Bands

## *The FCC Will Preserve Coverage Areas and Population Served for Repacked Broadcasters as Provided by Statute*

- Non-participating broadcast stations, or those that do not have bids accepted, will continue to operate in their pre-Auction spectrum bands following the Incentive Auction
  - Broadcasters who are eligible to participate in the Reverse Auction will be protected
- The FCC will reassign some TV stations that remain on the air so that the stations remaining on the air will occupy a smaller portion of the UHF band, enabling the reallocation of contiguous nationwide spectrum for the Forward Auction
  - Channel assignments would reduce a station's population served by no more than a de minimis (0.5%) amount, considered on a station-to-station basis
- Remaining on-air stations, if moved, will have up to 39 months following the conclusion of the Auction to vacate their old channel
- Broadcasters may seek reimbursement of relocation costs from the $1.75 billion TV Broadcaster Relocation Fund

## The Repacking Process is Designed to Preserve Population and Coverage

- ✓ Repack is designed to preserve actual population served as of February 22, 2012
- ✓ Channel assignment not permitted if population served loss exceeds 0.5% *(yellow)*
- ✓ Predicted areas of no change *(black)*
- ✓ New coverage area will replicate station's contour on its new channel




Source: FCC



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# Post-Auction Transition and Payments

***The FCC Plans to Pay Funds to Winning Broadcasters As Soon As Practicable***

| | |
|---|---|
| Payment Timing | – The FCC has said it intends to disburse Incentive Auction proceeds as quickly and efficiently as possible after spectrum licenses have been granted to winning Forward Auction bidders<br>• Spectrum licenses post-Auction will be granted on a rolling basis as license applications become ready for grant |
| Transition Requirements | – Participating Broadcasters who relinquish spectrum or channel share will have three months from payment to go off the air<br>– Participants who change bands will have up to 39 months after the Incentive Auction ends to transition |

Source: FCC



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# Tax Implications Applicable to Incentive Auction Proceeds / Reimbursements

## *The IRS Has Provided a Letter Identifying Potential Tax Implications for Proceeds / Reimbursements from the Incentive Auction and Repacking Process*

**Relinquishment of Spectrum:**

- If the relinquished spectrum usage rights are not depreciable or amortizable assets, the gain from the sale of the Broadcaster's spectrum usage rights is treated as a long-term capital gain, if the rights were held for longer than one year
- If the spectrum usage rights are depreciable or amortizable assets, the gain is first subject to depreciation recapture, which would be treated as ordinary income; additional gain would be a § 1231 gain and net § 1231 gain is generally taxed as a long-term capital gain

**Channel Sharing:**

- Federal tax implications of Channel Sharing arrangements will depend on the agreement between the parties, their actions, and other facts and circumstances regarding their arrangement
- Two possible tax alternatives are that a Channel Sharing arrangement could be treated as a partnership between the sharing parties or as a cost-sharing arrangement
  - Cost-sharing arrangement would mean that the relocating party may qualify for deferral from tax for the portion of the gain associated with moving to a shared channel
  - The character for federal income tax purposes of the gain resulting from the receipt of the cash "boot" (payment from the FCC for relinquishing existing spectrum rights) would be determined in the same manner as the payment for relinquishing spectrum rights described above

**UHF to VHF / High VHF to Low VHF Move:**

- Broadcasters may be able to defer immediate taxation of a portion of the gain resulting from the relinquishment of existing spectrum usage rights in exchange for a VHF channel under the like-kind exchange provisions of the Internal Revenue Code
  - The payment from the FCC for relinquishing existing spectrum rights under this option would constitute "boot," and any gain attributable to such "boot" must be reported in gross income by the Broadcaster
  - The character for federal income tax purposes of the gain resulting from the receipt of the cash "boot" by the Broadcaster would be determined in the same manner as the payment for relinquishing spectrum rights described above

**Reimbursement for Repacking:**

- Broadcasters who are repacked may not be required to include the reimbursement payments from the FCC in income, as the reimbursement provided by the FCC could be viewed as an amount realized by the Broadcaster from an involuntary conversion of the Broadcaster's property
  - The cost of new equipment, capitalized modifications to existing equipment, engineering studies, and construction services in connection with the channel change may be treated as the cost of property that is similar or related in service or use to the property so converted

Source: Federal Tax Principles Applicable to the FCC's Proposed Broadcast Incentive Auction, Internal Revenue Service (July 3, 2014). The full text of the letter is included in the Appendix.
**Neither the IRS letter nor the summary above constitutes tax advice. As the IRS notes, the federal income tax law is complex, and tax consequences depend highly on particular facts and circumstances, including how a broadcaster structures its particular transaction. Broadcasters will need to consult their tax advisers for specific advice.**



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# Summary of Channel Sharing Trial

- In early 2014, two Los Angeles market broadcast stations, PBS affiliate KLCS and Spanish language LATV Network affiliate KJLA tested the technical feasibility of having two different licensees share a single 6 MHz channel
- Data from the trial suggested:
  - Channel sharing is feasible, as stations found that all the TVs and tuners tested were able to receive and correctly parse all the required information
    - This included a virtual channel, both major and minor, ratings, audio configuration, codecs, program titles and descriptions
  - Testing demonstrated that one HD stream is possible with numerous SD programs
    - The trial tested 1 HD and up to 7 SD streams in a single ATSC channel with good results
    - The complexity of the content will determine the final program count
  - Testing furthermore demonstrated that it is technically feasible for the two 720p high definition streams to be combined with several variations of additional SD program streams – participants observed that up to two additional SD streams are possible without major impact to the quality of experience of the overall material
  - Testing also demonstrated that it is technically feasible for two 720p high definition streams to be combined into a single ATSC channel – results clarify that stations wishing to channel share must consider:
    - Whether to utilize fixed or dynamically allocated bitstreams between the parties
    - The relative "digital complexity" of the video content to be transmitted by two parties
    - How to govern the division of the bitstream based on those requirements
    - How to monitor and manage any agreement reached on sharing of the bitstream itself
  - Bandwidth management (allocating the bitstream among a variety of services, metadata, video and audio) must be determined upfront for channel sharing to work properly
    - Testing demonstrated that new encoders not only are more efficient in bit utilization but also dramatically improved the QoE



Source: CTIA–The Wireless Association and Los Angeles television stations KLCS and KJLA, FCC

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# Estimated Potential Auction Compensation

*($ in millions)*

These are estimated high payouts that illustrate the economic potential of the auction. In the actual auction, prices will be bid down in many markets and payouts to many winning bidders will be lower as a result. On a nationwide basis, it is anticipated that forward auction revenues will exceed the winning bid amounts and the other requirements specified by the final stage rule. Those additional revenues will be deposited in the Public Safety Trust Fund to advance the financial goals identified by Congress in the Spectrum Act.

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| 1 New York, NY | $490 | | $410 | $360 | | $280 |
| 2 Los Angeles, CA | 570 | | 340 | 370 | | 310 |
| 3 Chicago, IL | 130 | | 120 | 120 | | 100 |
| 4 Philadelphia, PA | 400 | | 230 | 180 | | 110 |
| 5 Dallas-Ft. Worth, TX | 67 | | 53 | 58 | | 50 |
| 6 San Francisco-Oakland-San Jose, CA | 140 | | 110 | 92 | | 70 |
| 7 Boston, MA | 140 | | 93 | 77 | | 77 |
| 8 Washington, DC | 140 | | 130 | 98 | | 67 |
| 9 Atlanta, GA | 91 | | 65 | 54 | | 51 |
| 10 Houston, TX | 52 | | 45 | 38 | | 36 |
| 11 Detroit, MI | 170 | | 110 | 58 | | 46 |
| 12 Phoenix, AZ | 36 | | 23 | 22 | | 10 |
| 13 Seattle-Tacoma, WA | 95 | | 36 | n.a. | | n.a. |
| 14 Tampa-St Petersburg-Sarasota, FL | 71 | | 60 | 43 | | 39 |
| 15 Minneapolis - St. Paul, MN | 32 | | 20 | 18 | | 18 |
| 16 Miami - Ft. Lauderdale, FL | 80 | | 78 | 76 | | 70 |
| 17 Denver, CO | 33 | | 28 | 22 | | 10 |
| 18 Orlando-Daytona Beach-Melbourne, FL | 85 | | 68 | 67 | | 44 |
| 19 Cleveland-Akron, OH | 130 | | 72 | 26 | | 18 |
| 20 Sacramento-Stockton-Modesto, CA | 130 | | 94 | 55 | | 43 |
| 21 St. Louis, MO | 21 | | 20 | 13 | | 11 |
| 22 Portland, OR | 24 | | 18 | 15 | | 14 |
| 23 Pittsburgh, PA | 46 | | 40 | 38 | | 21 |
| 24 Raleigh-Durham, NC | 51 | | 47 | 26 | | 20 |
| 25 Charlotte, NC | 54 | | 44 | 25 | | 20 |
| 26 Indianapolis, IN | 42 | | 36 | 28 | | 21 |
| 27 Baltimore, MD | 180 | | 160 | 79 | | 79 |
| 28 San Diego, CA | 250 | | 200 | 230 | | 140 |
| 29 Nashville, TN | 30 | | 20 | 12 | | 11 |
| 30 Hartford-New Haven, CT | 280 | | 170 | 77 | | 63 |

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| 31 Kansas City, KS-MO | $14 | | $14 | n.a. | | n.a. |
| 32 Columbus, OH | 41 | | 36 | 20 | | 14 |
| 33 Salt Lake City, UT | 12 | | 12 | 11 | | 7 |
| 34 Milwaukee, WI | 68 | | 53 | 32 | | 30 |
| 35 Cincinnati, OH | 44 | | 42 | 35 | | 35 |
| 36 San Antonio, TX | 35 | | 29 | 22 | | 20 |
| 37 Greenville-Spartanburg, SC-Asheville, NC | 57 | | 36 | n.a. | | n.a. |
| 38 West Palm Beach-Ft. Pierce, FL | 100 | | 93 | 47 | | 29 |
| 39 Grand Rapids-Kalamazoo-Battle Creek, MI | 70 | | 39 | 20 | | 14 |
| 40 Austin, TX | 48 | | 36 | 24 | | 12 |
| 41 Oklahoma City, OK | 17 | | 13 | 13 | | 12 |
| 42 Las Vegas, NV | 15 | | 12 | 13 | | 11 |
| 43 Harrisburg-Lancaster-Lebanon-York, PA | 180 | | 130 | n.a. | | n.a. |
| 44 Birmingham, AL | 33 | | 25 | 20 | | 12 |
| 45 Norfolk-Portsmouth-Newport News, VA | 28 | | 24 | 16 | | 11 |
| 46 Greensboro-High Point-Winston Salem, NC | 60 | | 45 | n.a. | | n.a. |
| 47 Albuquerque-Santa Fe, NM | 9 | | 5 | 6 | | 5 |
| 48 Jacksonville, FL | 27 | | 23 | 16 | | 15 |
| 49 Louisville, KY | 31 | | 25 | 18 | | 11 |
| 50 Memphis, TN | 13 | | 11 | 10 | | 8 |
| 51 New Orleans, LA | 18 | | 15 | 13 | | 11 |
| 52 Buffalo, NY | 73 | | 46 | 6 | | 4 |
| 53 Providence, RI-New Bedford, MA | 160 | | 110 | 56 | | 56 |
| 54 Wilkes Barre-Scranton, PA | 150 | | 140 | 56 | | 8 |
| 55 Fresno-Visalia, CA | 30 | | 26 | 17 | | 16 |
| 56 Little Rock-Pine Bluff, AR | 16 | | 12 | 9 | | 7 |
| 57 Richmond-Petersburg, VA | 44 | | 39 | n.a. | | n.a. |
| 58 Albany-Schenectady-Troy, NY | 81 | | 37 | 110 | | 10 |
| 59 Mobile, AL-Pensacola, FL | 15 | | 12 | 10 | | 10 |
| 60 Tulsa, OK | 19 | | 14 | 11 | | 10 |

Estimated projections by FCC staff of the compensation for relinquishing a license, using auction methodology currently under development as applied to all auction-eligible television stations. Actual compensation may be higher or lower; opening bid prices may be higher in some markets. Markets and stations needed in the Reverse Auction will depend on which stations choose to participate; low VHF stations are least likely to be selected in the auction because of the availability of low VHF channels. Estimates assume the sale of 100 MHz of spectrum in the Forward Auction at an average price of $1.50 per MHz-pop; the amount of cleared spectrum and the price per pop may vary from these assumptions when the auction is run.



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# Estimated Potential Auction Compensation (cont'd)

*($ in millions)*

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| 61 Knoxville, TN | $27 | | $19 | n.a. | | n.a. |
| 62 Ft. Myers-Naples, FL | 50 | | 35 | 14 | | 9 |
| 63 Lexington, KY | 31 | | 20 | n.a. | | n.a. |
| 64 Dayton, OH | 53 | | 48 | n.a. | | n.a. |
| 65 Charleston-Huntington, WV | 23 | | 16 | n.a. | | n.a. |
| 66 Roanoke-Lynchburg, VA | 25 | | 22 | 12 | | 12 |
| 67 Wichita - Hutchinson, KS | 8 | | 2 | 2 | | 2 |
| 68 Flint-Saginaw-Bay City, MI | 100 | | 45 | n.a. | | n.a. |
| 69 Honolulu, HI | 10 | | 5 | 6 | | 6 |
| 70 Green Bay-Appleton, WI | 13 | | 10 | 1 | | 1 |
| 71 Tucson, AZ | 38 | | 20 | 15 | | 11 |
| 72 Des Moines-Ames, IA | 13 | | 8 | 4 | | 4 |
| 73 Spokane, WA | 7 | | 3 | 0 | | 0 |
| 74 Omaha, NE | 9 | | 8 | n.a. | | n.a. |
| 75 Springfield, MO | 11 | | 8 | 3 | | 3 |
| 76 Toledo, OH | 100 | | 55 | 38 | | 38 |
| 77 Columbia, SC | 41 | | 17 | n.a. | | n.a. |
| 78 Rochester, NY | 34 | | 30 | 20 | | 16 |
| 79 Huntsville-Decatur-Florence, AL | 26 | | 22 | 18 | | 16 |
| 80 Portland-Auburn, ME | 37 | | 22 | n.a. | | n.a. |
| 81 Paducah-Cape Girardeau-Harrisburg-Mt Vernon | 17 | | 9 | 5 | | 4 |
| 82 Shreveport, LA | 16 | | 13 | 4 | | 3 |
| 83 Madison, WI | 40 | | 35 | 12 | | 12 |
| 84 Champaign-Springfield-Decatur, IL | 35 | | 19 | 4 | | 4 |
| 85 Syracuse, NY | 34 | | 24 | 10 | | 8 |
| 86 Harlingen-Weslaco-Brownsville-McAllen, TX | 32 | | 21 | 28 | | 13 |
| 87 Chattanooga, TN | 62 | | 33 | 21 | | 18 |
| 88 Waco-Temple-Bryan, TX | 63 | | 47 | 15 | | 14 |
| 89 Colorado Springs-Pueblo, CO | 25 | | 22 | 5 | | 5 |
| 90 Cedar Rapids-Waterloo-Iowa City-Dubuque, IA | 21 | | 13 | n.a. | | n.a. |
| 91 El Paso, TX | 9 | | 7 | n.a. | | n.a. |
| 92 Savannah, GA | 11 | | 8 | 4 | | 3 |
| 93 Baton Rouge, LA | 24 | | 18 | 14 | | 7 |
| 94 Jackson, MS | 17 | | 11 | n.a. | | n.a. |

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| 95 Charleston, SC | $14 | | $10 | $10 | | $7 |
| 96 South Bend-Elkhart, IN | 65 | | 56 | n.a. | | n.a. |
| 97 Tri-Cities, TN-VA | 32 | | 21 | 13 | | 11 |
| 98 Burlington, VT-Plattsburgh, NY | 58 | | 17 | 1 | | 1 |
| 99 Greenville-New Bern-Washington, NC | 33 | | 22 | n.a. | | n.a. |
| 100 Davenport, IA-Rock Island-Moline, IL | 22 | | 20 | n.a. | | n.a. |
| 101 Ft. Smith-Fayetteville-Springdale-Rogers, AR | 14 | | 10 | 8 | | 5 |
| 102 Myrtle Beach-Florence, SC | 32 | | 25 | 21 | | 21 |
| 103 Johnstown-Altoona, PA | 38 | | 26 | 23 | | 12 |
| 104 Evansville, IN | 16 | | 10 | 10 | | 6 |
| 105 Lincoln-Hastings-Kearney, NE | 14 | | 5 | n.a. | | n.a. |
| 106 Tallahassee, FL-Thomasville, GA | 10 | | 9 | 5 | | 3 |
| 107 Reno, NV | 48 | | 17 | 4 | | 4 |
| 108 Tyler-Longview, TX | 34 | | 24 | n.a. | | n.a. |
| 109 Ft. Wayne, IN | 33 | | 31 | 5 | | 5 |
| 110 Boise, ID | 5 | | 4 | 2 | | 2 |
| 111 Sioux Falls-Mitchell, SD | 8 | | 2 | n.a. | | n.a. |
| 112 Augusta, GA | 25 | | 17 | 8 | | 7 |
| 113 Youngstown, OH | 95 | | 90 | n.a. | | n.a. |
| 114 Springfield-Holyoke, MA | 120 | | 120 | 32 | | 32 |
| 115 Lansing, MI | 84 | | 62 | n.a. | | n.a. |
| 116 Fargo-Valley City, ND | 3 | | 1 | n.a. | | n.a. |
| 117 Peoria-Bloomington, IL | 30 | | 17 | n.a. | | n.a. |
| 118 Macon, GA | 40 | | 19 | 9 | | 9 |
| 119 Traverse City-Cadillac, MI | 28 | | 6 | n.a. | | n.a. |
| 120 Montgomery, AL | 18 | | 13 | 8 | | 5 |
| 121 Eugene, OR | 21 | | 6 | 6 | | 5 |
| 122 Lafayette, LA | 16 | | 14 | 7 | | 7 |
| 123 Santa Barbara-Santa Maria-San Luis Obispo, CA | 120 | | 30 | 59 | | 4 |
| 124 Yakima-Pasco-Richland-Kennewick, WA | 5 | | 3 | 2 | | 1 |
| 125 Monterey-Salinas, CA | 79 | | 72 | 36 | | 31 |
| 126 Columbus, GA | 38 | | 18 | 6 | | 6 |
| 127 Bakersfield, CA | 80 | | 31 | 28 | | 15 |
| 128 La Crosse-Eau Claire, WI | 18 | | 13 | 3 | | 3 |

Estimated projections by FCC staff of the compensation for relinquishing a license, using auction methodology currently under development as applied to all auction-eligible television stations. Actual compensation may be higher or lower; opening bid prices may be higher in some markets. Markets and stations needed in the Reverse Auction will depend on which stations choose to participate; low VHF stations are least likely to be selected in the auction because of the availability of low VHF channels. Estimates assume the sale of 100 MHz of spectrum in the Forward Auction at an average price of $1.50 per MHz-pop; the amount of cleared spectrum and the price per pop may vary from these assumptions when the auction is run.



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# Estimated Potential Auction Compensation (cont'd)

*($ in millions)*

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| 129 Corpus Christi, TX | $16 | | $11 | $4 | | $2 |
| 130 Amarillo, TX | 2 | | 1 | 0 | | 0 |
| 131 Wilmington, NC | 18 | | 17 | n.a. | | n.a. |
| 132 Chico-Redding, CA | 18 | | 16 | 22 | | 12 |
| 133 Columbus-Tupelo-West Point, MS | 13 | | 11 | 4 | | 4 |
| 134 Topeka, KS | 18 | | 8 | 5 | | 5 |
| 135 Wausau-Rhinelander, WI | 15 | | 6 | n.a. | | n.a. |
| 136 Rockford, IL | 55 | | 45 | n.a. | | n.a. |
| 137 Monroe, LA-El Dorado, AR | 11 | | 8 | 1 | | 1 |
| 138 Columbia-Jefferson City, MO | 9 | | 7 | n.a. | | n.a. |
| 139 Duluth, MN-Superior, WI | 7 | | 3 | n.a. | | n.a. |
| 140 Medford-Klamath Falls, OR | 5 | | 1 | 2 | | 1 |
| 141 Beaumont-Port Arthur, TX | 17 | | 14 | n.a. | | n.a. |
| 142 Salisbury, MD | 55 | | 50 | n.a. | | n.a. |
| 143 Lubbock, TX | 3 | | 2 | 1 | | 1 |
| 144 Wichita Falls, TX -Lawton, OK | 15 | | 12 | 1 | | 1 |
| 145 Minot-Bismarck-Dickinson, ND | 1 | | 0 | n.a. | | n.a. |
| 146 Anchorage, AK | 2 | | 1 | 1 | | 1 |
| 147 Sioux City, IA | 12 | | 5 | n.a. | | n.a. |
| 148 Palm Springs, CA | 180 | | 100 | 170 | | 26 |
| 149 Erie, PA | 41 | | 29 | n.a. | | n.a. |
| 150 Odessa-Midland, TX | 3 | | 1 | n.a. | | n.a. |
| 151 Albany, GA | 14 | | 10 | n.a. | | n.a. |
| 152 Joplin, MO-Pittsburg, KS | 12 | | 9 | n.a. | | n.a. |
| 153 Rochester, MN-Mason City, IA-Austin, MN | 15 | | 9 | n.a. | | n.a. |
| 154 Panama City, FL | 15 | | 7 | 5 | | 4 |
| 155 Terre Haute, IN | 22 | | 17 | n.a. | | n.a. |
| 156 Bangor, ME | 6 | | 5 | n.a. | | n.a. |
| 157 Wheeling, WV- Steubenville, OH | 59 | | 53 | 19 | | 10 |
| 158 Bluefield-Beckley-Oak Hill, WV | 16 | | 15 | n.a. | | n.a. |
| 159 Binghamton, NY | 40 | | 16 | 5 | | 5 |
| 160 Biloxi-Gulfport, MS | 16 | | 14 | n.a. | | n.a. |
| 161 Sherman, TX - Ada, OK | 61 | | 40 | n.a. | | n.a. |
| 162 Idaho Falls-Pocatello, ID | 2 | | 1 | 0 | | 0 |

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| 163 Gainesville, FL | $31 | | $28 | $28 | | $12 |
| 164 Missoula, MT | 2 | | 1 | 1 | | 0 |
| 165 Abilene-Sweetwater, TX | 10 | | 5 | n.a. | | n.a. |
| 166 Yuma, AZ-El Centro, CA | 11 | | 8 | n.a. | | n.a. |
| 167 Hattiesburg-Laurel, MS | 15 | | 13 | n.a. | | n.a. |
| 168 Billings, MT | 1 | | 1 | n.a. | | n.a. |
| 169 Clarksburg-Weston, WV | 31 | | 15 | n.a. | | n.a. |
| 170 Quincy, IL-Hannibal, MO-Keokuk, IA | 8 | | 7 | n.a. | | n.a. |
| 171 Utica, NY | 52 | | 14 | 6 | | 6 |
| 172 Dothan, AL | 12 | | 9 | n.a. | | n.a. |
| 173 Rapid City, SD | 2 | | 1 | n.a. | | n.a. |
| 174 Elmira, NY | 8 | | 7 | n.a. | | n.a. |
| 175 Lake Charles, LA | 25 | | 15 | 4 | | 4 |
| 176 Watertown, NY | 17 | | 16 | 5 | | 3 |
| 177 Jackson, TN | 13 | | 13 | n.a. | | n.a. |
| 178 Harrisonburg, VA | 64 | | 31 | 17 | | 6 |
| 179 Alexandria, LA | 10 | | 7 | n.a. | | n.a. |
| 180 Marquette, MI | 4 | | 2 | n.a. | | n.a. |
| 181 Jonesboro, AR | 12 | | 12 | n.a. | | n.a. |
| 182 Bowling Green, KY | 26 | | 11 | n.a. | | n.a. |
| 183 Charlottesville, VA | 39 | | 27 | 22 | | 22 |
| 184 Laredo, TX | 9 | | 5 | 5 | | 5 |
| 185 Grand Junction-Montrose, CO | 2 | | 1 | 1 | | 1 |
| 186 Meridian, MS | 13 | | 10 | n.a. | | n.a. |
| 187 Lima, OH | 36 | | 29 | 15 | | 15 |
| 188 Butte-Bozeman, MT | 1 | | 1 | 0 | | 0 |
| 189 Lafayette, IN | 52 | | 52 | n.a. | | n.a. |
| 190 Greenwood-Greenville, MS | 7 | | 7 | n.a. | | n.a. |
| 191 Great Falls, MT | 1 | | 0 | n.a. | | n.a. |
| 192 Twin Falls, ID | 2 | | 1 | n.a. | | n.a. |
| 193 Bend, OR | 2 | | 1 | 1 | | 1 |
| 194 Parkersburg, WV | 16 | | 16 | n.a. | | n.a. |
| 195 Eureka, CA | 1 | | 1 | n.a. | | n.a. |
| 196 Cheyenne, WY-Scottsbluff, NE | 35 | | 8 | 0 | | 0 |

Estimated projections by FCC staff of the compensation for relinquishing a license, using auction methodology currently under development as applied to all auction-eligible television stations. Actual compensation may be higher or lower; opening bid prices may be higher in some markets. Markets and stations needed in the Reverse Auction will depend on which stations choose to participate; low VHF stations are least likely to be selected in the auction because of the availability of low VHF channels. Estimates assume the sale of 100 MHz of spectrum in the Forward Auction at an average price of $1.50 per MHz-pop; the amount of cleared spectrum and the price per pop may vary from these assumptions when the auction is run.



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# Estimated Potential Auction Compensation (cont'd)

*($ in millions)*

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| 197 Casper-Riverton, WY | $0 | | $0 | n.a. | | n.a. |
| 198 San Angelo, TX | 2 | | 1 | 0 | | 0 |
| 199 Mankato, MN | 14 | | 14 | n.a. | | n.a. |
| 200 St. Joseph, MO | 15 | | 14 | n.a. | | n.a. |
| 201 Ottumwa, IA-Kirksville, MO | 7 | | 5 | n.a. | | n.a. |
| 202 Fairbanks, AK | 0 | | 0 | 1 | | 1 |
| 203 Victoria, TX | 20 | | 19 | n.a. | | n.a. |
| 204 Zanesville, OH | 32 | | 32 | n.a. | | n.a. |
| 205 Helena, MT | 2 | | 1 | n.a. | | n.a. |
| 206 Presque Isle, ME | 1 | | 1 | n.a. | | n.a. |
| 207 Juneau, AK | 0 | | 0 | n.a. | | n.a. |
| 208 North Platte, NE | 2 | | 1 | 0 | | 0 |
| 209 Alpena, MI | 8 | | 6 | n.a. | | n.a. |
| 210 Glendive, MT | 0 | | 0 | n.a. | | n.a. |

Estimated projections by FCC staff of the compensation for relinquishing a license, using auction methodology currently under development as applied to all auction-eligible television stations. Actual compensation may be higher or lower; opening bid prices may be higher in some markets. Markets and stations needed in the Reverse Auction will depend on which stations choose to participate; low VHF stations are least likely to be selected in the auction because of the availability of low VHF channels. Estimates assume the sale of 100 MHz of spectrum in the Forward Auction at an average price of $1.50 per MHz-pop; the amount of cleared spectrum and the price per pop may vary from these assumptions when the auction is run.



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# Estimated Potential Auction Compensation: Puerto Rico Supplement

*($ in millions)*

| DMA | FCC's Estimated High-End Compensation per Broadcaster | | | | | |
|---|---|---|---|---|---|---|
| | Full Power | | | Class A | | |
| | Maximum | - | Median | Maximum | - | Median |
| Puerto Rico | $46 | | $38 | $34 | | $19 |

Estimated projections by FCC staff of the compensation for relinquishing a license, using auction methodology currently under development as applied to all auction-eligible television stations. Actual compensation may be higher or lower; opening bid prices may be higher in some markets. Markets and stations needed in the Reverse Auction will depend on which stations choose to participate; low VHF stations are least likely to be selected in the auction because of the availability of low VHF channels. Estimates assume the sale of 100 MHz of spectrum in the Forward Auction at an average price of $1.50 per MHz-pop; the amount of cleared spectrum and the price per pop may vary from these assumptions when the auction is run.



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# Description of Methodology for Estimating Potential Auction Compensation

The estimated maximum and median high-end compensation in the accompanying charts was developed by the FCC staff using a "top-down" methodology, under which each broadcast station in a market receives a share of expected forward auction revenue proportional to its value in the nationwide repacking process. The estimated compensation therefore reflects the salience of a particular station to the reverse auction with regard to clearing spectrum for mobile broadband use. As noted in the charts, the estimates are for the license relinquishment and channel sharing options; high-end compensation for the other auction options (UHF-to-VHF and high VHF-to-low VHF) may vary.

## High-End Auction Revenue Methodology

Forward auction revenue-per-pop was calculated by multiplying an average nationwide $/MHz-pop forward auction price by an amount of spectrum sold in the Forward Auction, which was then multiplied by the total US population to get an estimate of gross forward auction proceeds. To arrive at the net auction proceeds available to pay broadcasters, this amount was reduced by an estimate of the amount of the costs, other than payments to broadcasters for relinquishing their spectrum usage rights, identified by the Spectrum Act and the Commission's rules to be paid from auction proceeds.

The estimates presented in the attached spreadsheets assume the following: $1.50/MHz-pop; a 126 MHz clearing target (with 100 MHz of available spectrum for the forward auction); and auction costs, other than broadcaster payments, of $7 billion ($1.75B for the TV Broadcaster Relocation Fund; $250M for auction costs; and $5B to cover the costs of FirstNet that are not covered by the H Block and AWS-3 auctions).[1]

A station's impact on repacking is derived from its interference volume and the channel constraints that it generates. An adjusted TV coverage population estimate was developed to approximate each station's interference volume and thus reflect its repack value. The estimate is a weighted average of a station's coverage population and the total coverage population of all stations that it directly constrains, i.e., one link in the "daisy chain," accounting for both adjacent and co-channel constraints. If a station has many constraints and blocks many other stations from being repacked, then it is likely to receive higher compensation to relinquish its spectrum. Stations with lower coverage populations may also be important to the repacking process insofar as their interference footprint prevents larger stations in critical areas from being repacked. Finally, each station's interference-weighted population was adjusted to reflect the amount of spectrum scarcity in its home band in the market in which it operates. This adjustment captures the added difficulty of clearing where there are not many vacant channels available for repacking, which is not captured by coverage population or blocked channel constraints alone. The value of a station will depend in part on the ratio of stations to available channels.

To determine the rate at which to compensate stations, net forward auction proceeds are divided by the total adjusted coverage population of stations that relinquish spectrum in staff-run Reverse Auction simulations.[2] The high-end dollar estimate for a station is then the dollar-per-adjusted coverage population multiplied by each station's individual adjusted coverage population. This approach is applicable to all stations and not just those that relinquish spectrum. Since every station has an adjusted coverage population, a station's high-end compensation reflects its individual repacking value priced at an average $/pop derived from the auction simulations. The methodology prices each station as if it were selected to relinquish spectrum.

## Estimated High-End Compensation by Market

The accompanying charts show the estimated maximum and median high-end compensation per station for full power and Class A stations in each market, based on the methodology described above. The median is included to help illustrate the distribution of compensation in the market.

(1) The Commission has stated that it is "optimistic that the proceeds from the H Block and AWS-3 auctions will be sufficient to fully fund amounts for FirstNet." Report and Order at ¶ 345.
(2) Extensive auction simulations have indicated that the total coverage population of spectrum-relinquishing stations is very stable across specifications, and can essentially be treated as a constant.



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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

July 3, 2014

Received & Inspected
JUL 21 2014
FCC Mail Room

Mr. Howard Symons
Vice-Chair of the Incentive Auction Task Force
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Reference: Federal Tax Principles Applicable to the FCC's Proposed Broadcast Incentive Auction

Dear Mr. Symons:

This responds to the Federal Communications Commission's ("FCC") request for general information concerning how the federal tax laws could be expected to apply to participants in the FCC's upcoming Incentive Auction.

As we understand the facts, the FCC is planning to expand the amount of UHF spectrum available for wireless broadband uses. The FCC will conduct a "reverse auction" to allow television broadcasters to voluntarily relinquish UHF or VHF spectrum usage rights. The FCC will then conduct a "forward auction" of UHF spectrum in the form of licenses suitable for providing mobile broadband services.

In addition, the FCC plans a reorganization ("repacking") of the broadcast television spectrum. Under the repacking, the FCC will involuntarily reassign the channels of some broadcasters who do not participate in the reverse auction or whose reverse auction bids are not accepted. Broadcasters that are reassigned will incur costs to acquire new equipment or modify existing equipment for use on the new channel. The FCC is authorized to reimburse broadcasters for reasonably incurred costs for relocating to the new channel, up to a maximum aggregate amount of $1.75 billion.

You ask specifically about the federal tax consequences to broadcasters who voluntarily relinquish spectrum usage rights or are involuntarily reassigned to new channels under the four scenarios outlined below. The federal income tax law is complex, and tax consequences depend highly on particular facts and circumstances, including how a broadcaster structures its particular transaction. However, we have identified below the federal income tax provisions most likely to be relevant to each of the four scenarios.

<u>Scenario 1: Go off the air</u> -- A broadcaster participating in the reverse auction relinquishes its spectrum usage rights in exchange for a payment from the FCC and goes off the air.

Mr. Howard Symons

The broadcaster will have gain or loss as determined by the difference between the amount realized, that is, the amount of money received from the FCC, and its adjusted basis in the relinquished spectrum usage rights as determined under Internal Revenue Code (IRC) §§ 1001 and 1011. This is simply a sale of the broadcaster's spectrum usage rights. Therefore, the full amount of gain or loss generally would be included in the broadcaster's gross income pursuant to IRC § 61(a)(3).

If the sale results in a loss, the law may not permit a broadcaster to recognize the loss for tax purposes if the spectrum usage rights are amortizable § 197 intangibles and the broadcaster acquired such rights and one or more other amortizable § 197 intangibles in the same transaction or series of related transactions. In that situation, no loss is recognized by the broadcaster on the sale of its spectrum usage rights if the broadcaster retains the other amortizable § 197 intangibles. Instead, the broadcaster adjusts the adjusted basis of the remaining amortizable § 197 intangibles.

The character of the gain for federal income tax purposes generally depends on when the broadcaster acquired the spectrum usage rights and whether the spectrum usage rights are of a character subject to the allowance for depreciation provided in IRC § 167. If the spectrum usage rights are not depreciable or amortizable assets, the gain is capital gain treated as long-term capital gain if the rights were held for longer than one year. If the spectrum usage rights are depreciable or amortizable assets, the gain is first subject to IRC § 1245 depreciation recapture. This amount is ordinary income and generally is equal to the lesser of (a) the gain realized by the broadcaster on the sale of the spectrum usage rights, or (b) the depreciation or amortization deductions previously claimed by the broadcaster with respect to the spectrum usage rights. The remaining gain, if any, is subject to IRC § 1231 if the broadcaster held the spectrum usage rights for more than one year. The character of the IRC § 1231 gain depends on what other IRC § 1231 property was disposed of by the broadcaster in that given year and whether, in the aggregate, the broadcaster had a net IRC § 1231 gain or a net IRC § 1231 loss on all § 1231 property. In general, a net IRC § 1231 gain is taxed at long-term capital gain rates and a net IRC § 1231 loss receives ordinary loss treatment.

Scenario 2: Move From UHF to VHF or from High VHF to Low VHF-- A broadcaster participating in the reverse auction relinquishes its UHF spectrum usage rights in exchange for a payment from the FCC plus an assigned frequency in the VHF spectrum, or relinquishes spectrum usage rights in the upper portion of the VHF band ("high VHF") in exchange for a payment plus an assigned frequency in the lower portion of the VHF band ("low VHF"). The broadcaster is responsible for purchasing new equipment for use in broadcasting on the new channel and will not receive reimbursement of those costs from the FCC.

In this scenario, the broadcaster may be able to defer immediate taxation of a portion of the gain resulting from the relinquishment of spectrum usage rights under the like-kind exchange provisions under IRC § 1031. To qualify for nonrecognition of gain or loss on an exchange, IRC § 1031(a) requires that both the "relinquished property" and the "replacement property" must be held by the taxpayer for productive use in a trade or business or for investment; the relinquished property and the replacement property must be of "like kind" to each other; the replacement property must be identified as property to be received in the exchange on or before 45 days after the date on which the taxpayer transfers the relinquished property; and the replacement property must be received on or before the earlier of 180 days after the date on which the taxpayer transfers the relinquished property, or the due date for the transferor's federal income tax return for the year in which the transfer of the relinquished property occurs.

If the taxpayer receives money and/or other property not of a like kind to the relinquished property ("boot") in addition to receiving the like-kind replacement property, IRC § 1031(b) requires the taxpayer to recognize gain in an amount not in excess of the sum of the money and the fair market value of the other property received. Under IRC § 1031(d), the taxpayer's basis in the replacement property is equal to the taxpayer's basis in the relinquished property decreased in the amount of any money received by the taxpayer and increased in the amount of gain (or decreased in the amount of loss) to the taxpayer that was recognized on such exchange.

Based on the description in the FCC materials that were provided to us, the UHF spectrum usage rights and the VHF spectrum usage rights, and the high VHF and low VHF spectrum usage rights, appear to us to constitute like-kind property. However, certainty as to the like-kind characterization of the properties exchanged will depend on the specific facts of the transaction.

Assuming all of the other requirements of IRC § 1031 are met, taxation of the gain on the relinquishment of the spectrum usage rights is deferred, except that realized gain must be recognized in an amount not to exceed the amount of any boot received in the exchange. The broadcaster's basis in the new VHF spectrum usage rights is determined under IRC § 1031(d).

The character for federal income tax purposes of the gain resulting from the receipt of "boot" by the broadcaster would be determined in the same manner as described under Scenario 1 above, except that in this scenario the § 1245 depreciation recapture amount is the lesser of (a) the gain recognized on the exchange under IRC § 1031, or (b) the depreciation or amortization deductions previously claimed by the broadcaster with respect to the spectrum usage rights.

With respect to the new equipment that the broadcaster purchases for use in broadcasting on the new VHF channel, the broadcaster's basis in the new equipment will be its cost under IRC § 1012. The broadcaster will depreciate such equipment under IRC § 168.

Scenario 3: Channel Sharing -- A broadcaster participating in the reverse auction relinquishes its spectrum usage rights in exchange for a payment from the FCC. The broadcaster stays on the air by entering into an arrangement to share a UHF or VHF channel with another broadcaster. Some or all of the payment from the FCC could be used by the participating broadcaster to obtain sharing rights in the new channel under the arrangement with the other broadcaster.

The treatment of a channel-sharing arrangement for federal income tax purposes will depend on the agreement between the parties, their actions, and other facts and circumstances regarding their arrangement. Two possible tax alternatives are that the arrangement results in a partnership or, alternatively, results in a cost-sharing arrangement for federal income tax purposes.

A channel-sharing arrangement may be treated as a partnership for federal income tax purposes if there is sufficient joint activity by the parties as well as other factors. If the arrangement is treated as a partnership, the rules under subchapter K (Partners and Partnerships) of the Code will affect how the parties are taxed and may affect the ability of the parties to engage in a like-kind exchange under IRC § 1031.

If the arrangement is treated as a cost-sharing arrangement, a broadcaster who relinquishes spectrum usage rights in return for cash that is used to obtain channel sharing rights may qualify under IRC § 1031 if the broadcaster (1) meets the requirements of IRC § 1031 as described above under Scenario 2 (including the requirement that the replacement property be of like-kind to the relinquished property); and (2) meets the requirements for a deferred like-kind exchange set forth in § 1.1031(k)-1 of the regulations.

To meet the requirements under § 1.1031(k)-1 for a deferred like-kind exchange, the broadcaster relinquishing its spectrum usage rights cannot actually or constructively receive the cash payment from the FCC. To be eligible as a qualifying like-kind exchange, the safe harbors under § 1.1031(k)-1(g) of the regulations must be used in order to prevent actual or constructive receipt by a taxpayer of money or other property. The safe harbors include use of "qualified escrow accounts" and "qualified intermediaries" to hold the money and acquire the replacement property as set forth in § 1.1031(k)-1(g)(3) and (g)(4).

The mechanics of a deferred like-kind exchange under § 1.1031(k)-1 are complex and broadcasters should consult with a tax advisor if they wish to take advantage of this nonrecognition provision. A broadcaster who complies with the requirements for a deferred like-kind exchange will obtain many of the same tax consequences set forth in Scenario 2.

If the broadcaster in this scenario does not meet the requirements of IRC § 1031, then the tax consequences described in Scenario 1 regarding the recognition and character of any gain or loss will apply with respect to the payment received by the broadcaster from the FCC.

Scenario 4: Repacking -- A broadcaster that does not participate in the reverse auction, or whose bid is not accepted, may be moved involuntarily to a new channel in its existing band (or sub-band, in the case of a VHF broadcaster) as part of the FCC repacking process. A broadcaster that has its channel involuntarily changed will incur costs for new equipment or modifications to existing equipment, engineering studies, and construction services to operate on the new channel. The Incentive Auction statute provides that "reasonably incurred" costs for new equipment and other costs of relocating to the new channel will be reimbursed by the FCC from the TV Broadcaster Relocation Fund. We assume that these costs will be capital expenses under IRC § 263(a).

It is anticipated that some or all of the broadcaster's existing equipment will no longer be usable by the broadcaster as a result of the FCC's actions in assigning it to a new channel. Under this scenario, the broadcaster may not be required to include the reimbursement payments from the FCC for relocating to the new channel in income. Under IRC § 1033(a)(2), if property is compulsorily or involuntarily converted into money, gain (if any) will be recognized only to the extent the amount realized exceeds the cost of property purchased by the taxpayer during the period specified in IRC § 1033(a)(2)(B) and the taxpayer elects to apply the provisions of IRC § 1033. The compulsory or involuntary conversion of property must be a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof. Property purchased by the taxpayer must be similar or related in service or use to the property so converted. The period specified in IRC § 1033(a)(2)(B) begins with the date of the disposition of the converted property or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is earlier, and generally ends 2 years after the close of the first taxable year in which any part of the gain upon the conversion is realized.

Under IRC § 1033(b)(2), if property is purchased in a transaction described in IRC § 1033(a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of the compulsory or involuntary conversion, the basis is the cost of such property

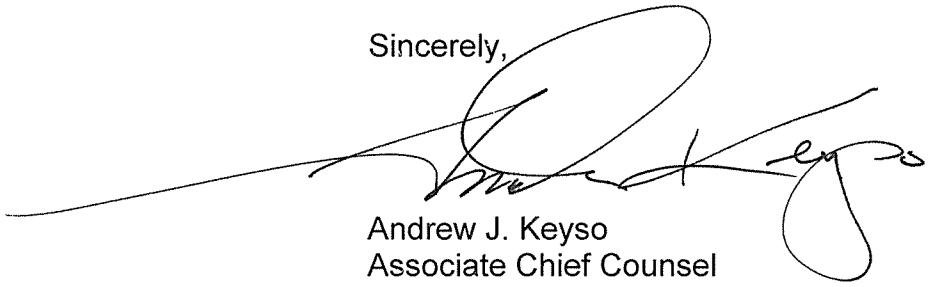
decreased in the amount of gain not so recognized; and if the property purchased consists of more than one piece of property, the basis is allocated to the purchased properties in proportion to their respective costs.

This scenario could be viewed as an involuntary conversion by condemnation of the broadcaster's property because it can no longer be used as a result of the involuntary move to the new channel. The reimbursement provided by the FCC could be viewed as an amount realized by the broadcaster from this involuntary conversion. Depending on a broadcaster's specific facts, the cost of new equipment, modifications to existing equipment, engineering studies and construction services in connection with the channel change may be treated as the cost of property that is similar or related in service or use to the property so converted. Because the Incentive Auction statute limits reimbursement to the "reasonable incurred" costs of relocation, a broadcaster that has its channel changed by the FCC under this scenario will not recognize gain from the reimbursement proceeds it receives if the requirements of IRC § 1033(a)(2) are met.

If IRC § 1033 does not apply, the reimbursement proceeds would be included in gross income by the broadcaster. The broadcaster's use of the reimbursement proceeds to purchase new equipment or modify existing equipment would increase the basis in the equipment.

As previously stated, the federal income tax consequences depend on the particular facts and circumstances of the transaction entered into between the FCC, the broadcaster, and any other parties. This letter provides general tax principles that apply to the four scenarios you describe. Broadcasters and their tax advisers are welcome to request a private letter ruling from the IRS national office that applies the law to their particular transactions. See Revenue Procedure 2014-1, 2014-1 Internal Revenue Bulletin 1. If you have any questions regarding this letter, please do not hesitate to call me at (202) 317-7002.

Sincerely,



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