



**LPTV  
SPECTRUM  
RIGHTS  
COALITION**

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November 20, 2014

**Via ECFS**

Ms. Marlene H. Dortch Secretary  
Federal Communications Commission 445  
12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Supplement to Petition for Reconsideration in GN Docket No. 12-268: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions**

Dear Ms. Dortch:

The LPTV Spectrum Rights Coalition, (the "Coalition"), has new facts which relate to the Proceedings which have been discovered since the last opportunity to present such matters to the Commission; and, these facts could not have been known through the exercise of ordinary diligence prior to the last opportunity to present such matters to the Commission.

These facts are:

1. The refusal of the Media Bureau to seek contract discovery within the Comcast/Time Warner merger Proceedings related to LPTV leased-access contracts; and,
2. The regulatory inability for the Media Bureau to seek disclosure of LPTV leased contracts from the MVPD within the context of the Incentive Auction proceedings.

These two items were disclosed to the Coalition Director, Mike Gravino, via a telephone call from Media Bureau Chief William Lake on November 14, 2014, in response to an email from the Coalition about these issues.

As was explained by Chief Lake, the Media Bureau and merger team did not think LPTV leased access contracts were relevant within the merger proceedings. This issue was first presented in the summer of 2014 in an ex parte meeting with the merger team, and was then followed up with a submission into the 14-47 proceedings in the fall of 2014<sup>1</sup>. The Coalition was told that the merger team and Chief Lake do not think it is appropriate to have any incentive auction issues as part of the merger proceedings.

The Coalition explained that there was reported wide spread abuse of MVPD leased access contracts, so much so that a Federal lawsuit had been filed<sup>2</sup>, and had since been referred to FCC for administrative legal judgment. And for LPTV, this information was key to it challenging or accepting the merger, as well as materially important for the Incentive Auction proceedings. MVPD have a statutory responsibility to provide LPTV in specific markets must-carry status, and in all markets fair treatment for leased access negotiations using a Federal formula and process. LPTV has a significant stake in the merger proceedings.

The Coalition then asked Chief Lake about LPTV leased access, retransmission, and must-carry contracts discovery from all MVPD within the Incentive Auction rule making process. The Coalition pointed out that the September 2012 Incentive Auction NPRM specifically asks for potential solutions from the MVPD to alleviate potential loss of the networks<sup>3</sup>.

The Coalition believes that without adequate and timely discovery of MVPD LPTV contracts of all types the Commission cannot make an informed judgment about any LPTV rulemaking, nor for that matter, any auction items related to the displacement of LPTV licensees, including the auction itself.

Chief Lake then informed the Coalition that the FCC does not have any authority for discovery from the MVPD within the Auction proceedings, even if the FCC had asked for comments about the use of MVPD for post-auction LPTV network carriage.

Each of the two above-mentioned facts are directly related to our Petition for Reconsideration, has material bearing on what we did petition for and would have petitioned for reconsideration of, in the Proceedings.

Respectfully submitted,

Mike Gravino, Director  
LPTV Spectrum Rights Coalition  
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<sup>1</sup> <http://apps.fcc.gov/ecfs/document/view?id=60000869727> - Coalition submission into the 14-57 Proceedings

<sup>2</sup> <http://apps.fcc.gov/ecfs/document/view?id=7521746690>  
<http://apps.fcc.gov/ecfs/document/view?id=7521816488>  
Beach TV filings into the 14-57 merger Proceedings

<sup>3</sup> <http://apps.fcc.gov/ecfs/comment/view?id=6017112815> - page 192, paragraph 359,  
“...Should we consider measures to promote use of available digital capacity on full power  
and Class A broadcast television stations, MVPD systems, and/or the Internet to distribute  
low power television programming?”