

GUEST EDITORIAL

The Impact of Spectrum Auctions on LPTV



MIKE GRAVINO
DIRECTOR
LPTV SPECTRUM
RIGHTS COALITION

For those of us in the low-power television sector, the FCC's upcoming Spectrum Incentive Auction has become either a potential fortune-maker, or business-killer.

While LPTV Class-A licensees (4 percent of built stations and new

permits) could potentially get a huge payday in the auction, regular LPTV licensees (96 percent), will not (there are currently 1,856 LPTV licensees, which control 6,500 built facilities and 3,500 new construction permits). Proposed legislation requires that we must pay our own displacement costs, but LPTV has "the right of displacement," meaning we will either be assigned a new channel by the FCC using auction optimization software, or we may apply for a new channel by either changing our city of license or moving to an adjacent DMA (assuming we can get this approved).

Nationwide, the 1,800 LPTV stations constructed between channels 51-38 (new national mobile band), and more than 2,000 currently on channels 14-36 will be displaced by primary stations not participating or winning in the auction, resulting in 3,800 LPTV and TV translator stations in total being affected. With an average cost of \$150,000 per station move (based on the FCC's formula), an unfunded mandate of more than \$570 million is being forced on the LPTV industry. Include the build-out delay due to auction uncertainties, affecting more than 3,500 construction permits—many of which had intended on providing new advanced broadband services themselves—and the cost to our industry could easily exceed \$1 billion.

Whether you agree with our analysis or not, GAO will be conducting a bipartisan request of the House Energy and Communications Subcommittee members to study these impacts on LPTV. With the auction being delayed until at least early 2016, there is time for the impact on LPTV to be independently analyzed, and for Congress to correct its mistake.

These impacts stand in stark contrast to the 4 percent of the LPTV industry, the Class-As, which in about 140 of the 210 TV DMAs may be able to cash in and go out of business. Some of the valuations found in the auction proceeds evaluation report commissioned by the FCC are off the charts. Imagine spectrum from a Class-A licensee being worth over \$100 million, and others \$25 million and above.

What makes the 6-MHz of an auction-eligible station worth a potential fortune, and the same 6-MHz of an LPTV licensee not worth much? Simply, it is a construction of Congress and nothing more. And why are these stations, the primary and Class-A's, which have the most extensive public service obligations, "auction eligible"? Shouldn't they be the ones excluded from the auction? And why are the most gender and multiculturally diverse stations in the dense urban areas and rural areas the ones that are being displaced without compensation? The evidence supporting the spectrum crisis comes from a decade-old projection not borne out by current facts.

Even with the new six-month delay, the FCC is not slowing down its rulemaking process. The LPTV industry has to come up with a strategy now, in 2014.

First, in the LPTV rulemaking, the FCC wants comments about LPTV and TV translator channel sharing; the creation of a

new digital replacement translator (DRT) service; the use of the FCC auction optimization software for LPTV displacements channel assignments; the operation of analog radio services by digital LPTV stations as ancillary or supplementary services; the elimination of the analog tuner requirement; and a catch-all of additional measures to preserve LPTV and TV translator services. This is all within the context of an unknown amount of time for the extension of the 3,500 construction permits, including the final analog to digital conversions.

Second, LPTV has to monitor and comment on additional rulemakings for inter-service interference, a spectrum grab by "Google-plex advocates" for unlicensed spectrum, and wireless Internet service providers wanting more spectrum in each market.

The auction is only possible because 16,000 MHz of LPTV and TV translator spectrum is being taken from productive use and investment opportunities, and 12,000 MHz more is being displaced, all without compensation. The FCC has twice said in the rulemaking that they have the authority to include LPTV in the auction, but that they choose not to because it would not help the auction. Why hasn't the FCC done an economic study to back up their claim? Are they afraid of the answer?

We have until Nov. 12 to respond to the FCC's latest LPTV rulemaking. For more information, visit www.lptvcoalition.com.

Mike Gravino is the director for the LPTV Spectrum Rights Coalition and an investor in two LPTV licenses in the Washington, D.C. DMA.