FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

May 1, 2014

The Honorable Frank LoBiondo
U.S. House of Representatives
2427 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman LoBiondo:

Thank you for your letter expressing concerns regarding recent small-market television broadcast transactions. I appreciate your interest in this matter, and your letter will be made part of the record in the incentive auction proceeding. I hope that the information below will address the issues you raise in your letter.

Incentive Auction Options

The Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) instructed the Commission to conduct an incentive auction of broadcast television spectrum. Our central objective in designing the incentive auction is to marry the economics of demand with the economics of current spectrum holders, broadcast television stations, and allow market forces to determine the highest and best use of spectrum.

I understand the value that local TV stations bring to viewers in fulfillment of their responsibility to serve the public interest. While the fundamental purpose of the incentive auction is to provide a market-based means of repurposing broadcast spectrum for mobile broadband use, I assure you that participation will be voluntary. No full-power or Class A television stations will be forced to participate or to go off the air. Each eligible station may decide whether to participate and, as required by the statute, the Commission will provide participating stations with a range of bid options. These include the options to go off the air, relinquish a UHF channel and share a channel with another broadcast station, or relinquish a UHF channel and accept another channel in the VHF band.

While the law clearly demonstrates that Congress contemplated that a successful auction would result in some stations choosing to go off the air, both the channel sharing and UHF to VHF bid options will provide stations with the opportunity to participate in the auction, receive a substantial payment, and continue to provide over-the-air programming to their local communities. In fact, the Commission recently provided authority for two stations in Los Angeles to develop a channel sharing pilot to test the technical issues related to this option, and I am optimistic that other stations will see channel sharing as a viable option.

Incentive Auction Impact

Due to the voluntary nature of the incentive auction, there is no way to predict the ultimate impact of the auction on stations choosing not to participate. However, the Spectrum

Act requires the Commission to make "all reasonable efforts" to preserve their coverage areas and populations served in any repacking of broadcast stations to new channels, and makes available $1.75 billion to reimburse stations that may have to move channels as a result of the auction. The Commission has been seeking the input of the broadcasting industry since the enactment of the legislation, and will continue to do outreach to ensure stations understand the auction and the options available to them. We will comply with statutory directives regarding the protection of the remaining stations, which will minimize the impact on consumers.

License Transfer Application Processing

At this point, there are no specific rules regarding the type of "speculation" in the broadcast TV industry about which you are concerned. Existing broadcast television licensees are always free to choose at any time to decide to sell their station, or to stop broadcasting and turn in their license, as several stations opted to do at the time of the digital television transition in 2009. The Commission staff evaluates license sales applications to determine if it is in the public interest to grant the application, including certifications regarding the character qualifications of the proposed licensee.

Programming Requirements

All licensees are expected to follow Commission rules in the operation of the station, but because of constitutional principles, there are generally no specific programming requirements on broadcast stations. Stations are free to determine how best to serve their communities, including whether to provide local news programming.

Joint Sales Agreements

The growing use of Joint Sales Agreements (JSAs) and other sharing agreements have led to stations circumventing existing local TV ownership rules. It is also clear that in many instances such arrangements reduce or homogenize local news. As a result, the Commission recently adopted a rule that a station that sells 15% or more of the advertising time for a competing station in the same market has an ownership interest in that station for purposes of calculating local ownership limits. The rule allows for a waiver for those stations that believe the benefits of their JSA outweigh long held concerns regarding sharing agreements and the Commission's ownership rules. The Commission also issued a *Notice* to learn more about how other shared services agreements impact whether the licensee retains control of the station, as required by Commission rules.

I hope that this information is helpful.

Sincerely,

Tom Wheeler