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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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FCC INCENTIVE AUCTION TASK FORCE RELEASES INCENTIVE AUCTION INFORMATION PACKAGE FOR BROADCASTERS INCLUDING ESTIMATED COMPENSATION VALUES AND IRS TAX GUIDANCE

Broadcaster participation in the incentive auction is strictly voluntary. Communicating clearly and effectively to broadcasters about the economic potential of the incentive auction is critical to its overall success.

Washington, D.C. – Today FCC Chairman Tom Wheeler announced that an information package entitled Incentive Auction Opportunities For Broadcasters is being sent to the owners of full power and Class A broadcast stations that Congress determined to be eligible to participate in the incentive auction. The information package was prepared for the FCC by the investment firm Greenhill and Co. Inc. and is designed to assist broadcasters in their analysis of the opportunities afforded by the incentive auction. The package describes how the incentive auction will work and reviews the flexible multiple bidding options for broadcasters. It also includes FCC staff estimates of high end compensation that could be paid for broadcast spectrum rights in each market, and a letter from the IRS providing guidance on the tax implications of the incentive auction.

Due to the voluntary nature of the incentive auction, each broadcaster will make the decision about whether to participate based on its own assessment of its financial and business interests. Given the complexity and financial scope of the auction, the decision whether to participate is analogous to the decision faced by potential investors in large, complex transactions. The Commission therefore contracted with Greenhill and Co., an investment firm with longstanding expertise in transactions of this sort, to prepare an information package to assist broadcasters in their analysis of the auction and the options it presents.

In a letter to station owners that accompanies the information package, Chairman Wheeler wrote, “I believe the incentive auction is an unparalleled business opportunity for broadcasters. I hope you give careful consideration to the economic potential that it offers you.”

Highlights from the information package include the following:

- The FCC has the sole ability to unlock spectrum value through the reorganization of the UHF band that cannot be matched by individual private sales or leases.

- Multiple bidding options offer significant flexibility to broadcasters including the option to relinquish their spectrum and remain on the air through channel sharing. Initial participation in the auction only commits broadcasters to accept the opening bid price.
- Robust participation from all sized markets is key to the incentive auction’s success. Due to the “daisy chain” nature of interference, mid- and smaller size markets will be able to derive substantial value for their spectrum usage rights.
- Estimated high end compensation values of what broadcasters in each market could be paid in an optimal scenario that were generated by FCC staff using a methodology similar to the auction methodology currently under development.
- The estimated high end compensation for an individual station ranges from several million dollars to hundreds of millions of dollars, with some of the highest estimates being in mid-size and smaller markets. Of course, the actual prices broadcasters will receive will only be determined in the auction itself.
- The IRS letter describes the Federal income tax provisions most likely to be relevant to compensation received by broadcasters whose bids are selected in the incentive auction and relocation reimbursements to stations that are repacked as part of the auction.

To accompany the release of the information package, the Incentive Auction Task force has updated its Learn Everything About Reverse Auctions Now webpage (www.FCC.gov/LEARN) to include information for broadcasters potentially interested in participating in the incentive auction. A complete version of the information package prepared for the FCC by Greenhill, the IRS guidance, and Chairman Wheeler’s letter to broadcasters are available there as well.

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