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NEWSLETTER

FCC Establishes Rules for Voluntary Channel Sharing

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On April 27, 2012, the Federal Communications Commission (FCC) released a Report and Order (R&O) establishing rules for voluntary channel sharing for full power and Class A television stations that will participate in future spectrum incentive auctions. The rules provide a framework for two or more stations to share a single 6 MHz channel while continuing to be separately licensed and without any change in their cable or satellite carriage rights. The Commission characterized the R&O as a "preliminary" step toward repurposing broadcast spectrum for wireless broadband services while noting that "over-the-air broadcast television continues to serve very important public interests." The information that follows supplements our initial Client Alert discussing the R&O.

The R&O provides broadcasters with the "basic ground rules" for entering into channel sharing arrangements. First, only broadcasters participating in incentive auctions will be allowed to enter into channel sharing agreements. The Commission will consider how channel sharing will be applied outside of the incentive auction context in a future proceeding. Second, only full power and Class A stations (as well as some applicants for original construction permits) that hold licenses prior to the commencement of reverse auctions may execute channel sharing agreements. Third, each station must retain adequate spectrum usage rights to provide at least one standard definition program stream at all times. Stations that satisfy these "basic qualifications" will have the flexibility to tailor channel sharing agreements to meet their individual programming and economic needs.

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The rules also clarify a number of related issues. First, broadcast licensees electing to channel share will have the same cable and satellite carriage rights that they would have had absent a channel sharing agreement. Second, stations will continue to be licensed and operated separately, have their own call signs and be separately subject to the Commission's rules. Third, full power licensees sharing a channel must continue to provide minimum coverage to their individual community of license; Class A stations do not have a minimum community coverage requirement. The FCC will address whether to allow service losses in a future proceeding. Finally, channel sharing is permissible between commercial and non-commercial educational licensees, as well as between full power and Class A stations.

In response to commenters' concerns that licensees would be forced into involuntary channel sharing arrangements, the Commission emphasized that its rules "will not require any licensees to operate on a shared channel under any circumstances." The rules also will not "authorize the Commission to choose channel sharing partners." In addition, because stations wishing to participate in channel sharing will have "fully considered the technical issues surrounding a proposed sharing relationship," the Commission found technical concerns expressed by some commenters to be "unfounded."

The R&O delegates to the Media Bureau authority to establish procedures through which stations may undertake channel sharing.

On Tuesday, May 22, 2012, the Commission will host a public workshop at its headquarters to discuss channel sharing. The workshop will focus on "how broadcasters are approaching the financial and strategic opportunities presented by channel sharing." Wiley Rein partner Eric DeSilva will be among the invited panelists; members of the public unable to attend in person are invited to submit questions via email to incentiveauctions@fcc.gov.