

## Testimony

Witness: U. Bertram Ellis, Jr.

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My name is Bert Ellis and I am the President of Titan Broadcasting. Along with my partners, we currently own and/or operate 13 television stations. I have also founded and operated two prior broadcast groups of 8 and 13 television stations respectively. Therefore, I have owned and or operated over 34 television stations in markets as large as Los Angeles (market 2) and as small as Wilmington, NC (market 134). I have at one time or another operated an affiliate of every US-based English language broadcast network and have also operated several pure independent stations and several Hispanic stations. I have raised the capital for most of these stations or groups and am therefore intimately familiar with the economics of broadcast television operations.

I am also very active within our broadcast industry and currently serve as one of the founding Board Members of the Mobile 500 Alliance - a cooperative of some 44 broadcast groups working on plans to launch mobile television services.

I am here to address the issues of broadcast spectrum and the potential to repack the broadcast spectrum and auction off the spectrum freed up by such a process. I am here as a broadcaster that may well sell off the spectrum of some of our stations under the right conditions, but who also plans on investing further capital into and operating the majority of our stations well into the future.

I would like to make a very complicated process as simple as possible. First a little history...television broadcasters most recently gave up 108MHz of spectrum, channels 52-69, in 2009 as part of the analog to digital conversion, and we previously surrendered an additional 84MHz for channels 70-83 in 1983. In 2009 we broadcasters agreed to a voluntary repacking into channels 2-51, but in return, we were granted the right to broadcast 19.4Mbps over 6 MHz channels thereby getting the capacity to deliver HD signals and also to multicast. This was a tradeoff that broadcasters were happy to do and we did it. Everyone viewed this as a win-win.

The FCC would now like us to repack down into channels 2-31 to free up an additional 120MHz of spectrum. There are two major problems with this proposal. First, VHF channels do not work in the digital world and therefore in certain markets (mostly the Top 10 markets and a few adjacent markets) there are just too many broadcast signals currently on the air to repack into these remaining UHF channels. Consequently, some small number of television stations, 75 by my count, must be purchased and shut down, presumably through a voluntary incentive-based auction as is being proposed. This repacking can be done and the broadcast industry may support this so long as this process is totally voluntary and there are no disincentives for non-participation...none to individual station owners and none to the industry as a whole. Stations should be allowed to sell their spectrum and exit the business of television broadcasting only if they get an acceptable price. This price may or may not have anything to do with the owner's current carrying cost and/or the current "broadcast value" of the station. The auction value in this process must be that which each station owner establishes for his station or it will not be voluntary. If the FCC tries to control this valuation process with valuation caps and/or disincentives

for non-participation (i.e., spectrum fees etc) this will no longer be a voluntary process and then the entire process will break down into a litigious legislative morass. Everyone will lose.

The FCC can certainly run an auction process whereby stations submit selling bids (floor prices if you will) and if there are more stations willing to sell their spectrum than the FCC needs to buy to clear the market, then the FCC can certainly lower their overall spectrum clearance cost by accepting the bids from the lowest priced bidders. However, the spectrum auction still needs to be a process based on market forces and not compulsion.

In addition, the FCC needs to repack all of the stations in a manner such that the FCC a) does not diminish the current over the air coverage of all stations that remain on the air, b) does not increase the signal interference from adjacent channels or adjacent markets, and c) does not impair the newly repacked stations' abilities to launch new digital initiatives, most notably, mobile broadcasting. No station should be forcibly repacked into the VHF spectrum (VHF does not work for mobile broadcasting) and the FCC engineers need to carefully assess co-channel and adjacent channel interference in their repacking plan. This will not be easy.

In addition, the FCC must arrange cooperation from its regulatory counterparts in both Canada and Mexico to cause them to similarly repack at least their respective stations adjacent to our border markets...particularly Seattle, Detroit, Buffalo, and Rochester on the Canadian border and San Diego, El Paso, Yuma, and Brownsville on the Mexican border. This will require some diplomatic skill to pull off and without such the US cannot clear large portions of this broadcast spectrum nationwide. This effort should begin immediately to determine whether our neighbors are going to even consider such a proposal.

Finally, the FCC needs to use this whole process to provide a win-win for the broadcast industry and Americans in general. The stations that sell their spectrum and exit broadcasting may indeed view this as a win-win if they get to sell at a price that they think is satisfactory and not a price forced down their throat. But the remainder of the industry gets nothing of value...at best the individual stations are no worse off but the television broadcast industry will have had its spectrum reduced further and we will have set the precedent for the FCC and Congress and the wireless industries to come at us again and again to get even more spectrum. Therefore, I recommend that some offsetting advantage be offered to our industry within your legislation.

Fortunately, the FCC and Congress do have the power to offer up two very powerful incentives to the industry that also advance the National Broadband Plan.

Option #1: The FCC and Congress can either mandate or use their bully pulpit to convince the wireless carriers and the handset/tablet manufacturers to incorporate mobile tuners into all new handsets and tablets. This would help the broadcast industry fast-launch mobile services....and not just mobile services for personal entertainment but also mobile services that could be the basis for a nationwide emergency alert and communications network.

Option #2: The FCC can finance and facilitate the transition from the 8VSB modulation technology that is currently deployed by US television broadcasters to OFDM technology

similar to DVB-T2 – an international standard. Financial support for this transition to OFDM can be generated from spectrum auction revenues.

A properly defined new U.S. OFDM standard could come with 3 huge advantages for the FCC, the broadcast industry, and the consumer:

- 1) OFDM would permit the FCC to much more densely repack the broadcast stations, allowing more channels to be used. Using the existing 8VSB technology, adjacent channels cannot be used unless all stations broadcast from the same tower farm. It will be much more difficult to repack the Top 10-20 television markets with 8VSB technology
- 2) OFDM will allow one 6MHz broadcast channel to broadcast almost twice the current capability of 19.4 Mbps. This would enable broadcasters to offer software upgradable next-generation video compression, provide for a flexible/extensible architecture that could better manage high-bandwidth content distribution, and support a national LTE-based Emergency/First Responders interoperable network. Mobile broadcasting offers the best and fastest means for the US to create such a national emergency communications network.
- 3) OFDM allows broadcast signals on any device to be picked up by one chip. Consequently, this chip can be manufactured in large numbers very cheaply and can be embedded in handsets, tablets, computers, and televisions. This will allow a seamless mobile viewing methodology...a person can watch a newscast, a show, a movie, or a ball game on their handset, then their tablet, then their TV without ever missing a frame of viewing. This is the holy grail of future mobile video.

Broadcasters have a great deal to offer to the National Broadband Plan but much of the current thinking seems to relegate broadcasting to the technology trash bin. We want to continue to evolve and be an active part of the digital media future. The FCC should not strip broadcasters of our spectrum and then simply auction off this spectrum to four (soon to be 3) wireless carriers who currently own 90% of the available mobile spectrum in the US. If Congress and the FCC sell them more of our broadcast spectrum, then give us broadcasters the opportunity to fully compete with them on the mobile front. Do not let them close us out from the mobile consumer. No matter how much spectrum the government sells or allocates to these few wireless carriers, it will not be enough to handle future mobile video demand if these wireless carriers continue to deliver video on a one-to-one basis as their industry's technology is designed to do. Even the CTO of Verizon, Tony Melone, has been quoted as follows: "We're working with all of our infrastructure providers...to develop the technology to incorporate a **broadcast capability**. We think that will be a solution to this problem down the road."

Why let these few wireless carriers have this much spectrum and devote it to 4G one-to-one technologies when even they know they must develop a broadcast/multicast strategy to handle demand. Broadcasters already have this technology and the high power infrastructure to most efficiently support it. Help us develop it further. OFDM will allow us to develop even better broadcast strategies and will therefore allow us to compete even better with the wireless carriers. All of us in the media business want to be in the mobile video business in order to survive and thrive in the future. And more competition is better for the consumer.

The FCC intends to compensate broadcast stations to repack. By their own estimate, it will cost about \$1+ million per station or \$1+ billion to do this. For \$2-3 billion, stations can not only be repacked but can also switch-over to a new OFDM-based standard that can support a broadcast overlay for LTE and other services. This is the time to do both and also mandate such OFDM chips to be embedded in all handsets, tablets, computers and TV sets. Then we will have a totally mobile broadband enabled population. Furthermore, with such a system in place, we broadcasters can and will create an immediately accessible mobile video network for instantaneous communication to all of our citizens in the event of local, regional or national emergencies. Mobile broadcasting was technology by which many Japanese received critical information during their recent crisis. Their wireless system was completely overloaded with its one-to one infrastructure. Mobile broadcasting remained effective during this crisis.

We broadcasters are ready to actively participate in the National Broadband Plan. Give us some assets to further develop our business and we will repack and give up some of our spectrum and work with the FCC and the wireless industry to make the National Broadband Plan even more effective. First, Congress should mandate the installment of tuners in all new handsets and tablets to enable a pervasive mobile broadcast business with the same potential consumer penetration as wireless. Secondly, Congress should use a small part of these auction proceeds to buy out the stations that cannot be repacked, and an even smaller amount of these auction proceeds to finance both the repacking and conversion to OFDM of the remaining broadcasters so our industry can evolve and compete. Even after having done this, the lion's share of these spectrum auction proceeds can still be used by Congress to pay down the deficit and/or finance other initiatives.

There is a win-win agenda here that can be supported by the broadcasters.

Thank You.