



Hearing on
“RAY BAUM’S Act: A Bipartisan Foundation for
Bridging the Digital Divide”

United States House of Representatives
Committee on Energy and Commerce

Subcommittee on Communications and
Technology

December 11, 2018

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Introduction

Good morning Chairmen Walden and Blackburn, Ranking Members Pallone and Doyle and members of the Subcommittee. My name is Curtis LeGeyt, and I am the Executive Vice President of Government Relations at the National Association of Broadcasters (NAB). On behalf of the thousands of free, local television and radio broadcasters in your hometowns, I appreciate the opportunity to testify on this Committee's successful passage of RAY BAUM'S Act. This bipartisan legislation ensures that broadcast television and radio stations can continue to serve their communities following the unprecedented repack of nearly 1,000 full power television stations resulting from the recently completed incentive auction. Moreover, I am personally honored to speak to this legislative success, fittingly named after our beloved NAB colleague, distinguished public servant and friend to everyone he met, Ray Baum.

Broadcasters' Unique Service in Local Communities

Broadcast television and radio remain the most watched and listened to sources for entertainment programming, sports and investigative journalism in communities across America. But it is broadcasters' role as the trusted source of news and information during times of emergency that sets them apart from other mediums. Americans' first choice is to turn to local television and radio stations to get the information they need to stay safe during emergencies.

Local stations are part of the communities they serve, and broadcasters do not hesitate to put themselves in harm's way to bring critical information to their neighbors. Whether it's preparing listeners and viewers for the coming storm, helping them access

needed supplies and shelter during the disaster, or helping towns and cities rebuild in the aftermath, local broadcasters take seriously their commitment to protect the public.

Recent wildfires and hurricanes have once again shined a bright light on our nation's emergency preparedness and response abilities. Just as this is true for first responders, it is also true for broadcasters who are "first informers." In each of these cases and in countless others, broadcasters were there, serving their listeners, viewers and communities. Broadcasters invest heavily to ensure they remain on the air in times of disaster. Facilities often have redundant power sources, automatic fail-over processes, auxiliary transmission systems, generator back-up and substantial fuel reserves. Because of the resiliency of the broadcast infrastructure and the power of the airwaves, local radio and TV stations are often the only available communications mediums during disasters, especially when cell phone and wireless networks can be unreliable.

A Stronger Broadcast Lifeline Because of RAY BAUM'S Act

The passage of RAY BAUM'S Act strengthened the broadcast lifeline to the benefit of countless viewers and listeners. Most importantly, its inclusion of the Viewer Protection Act delivered on this Committee's promise of a voluntary incentive auction by providing an additional \$1 billion to ensure those repacked full power television stations who chose not to participate in the auction are fully reimbursed for costs associated with this transition, along with FM radio stations that are impacted by the moves. This appropriation also ensures that low power and translator television stations forced to relocate as a result of the auction can be reimbursed for those costs. Additionally, it

provided money to the Federal Communications Commission (FCC) for consumer education efforts to minimize viewer and listener disruption resulting from the repack. Finally, the bill's inclusion of the SANDy Act guarantees that local broadcasters in their role as "first informers" can access critical resources to keep their facilities functioning during times of emergency or major disaster. Collectively, these provisions will better enable broadcasters to remain on the air and continue to serve their communities with life-saving information when they need it the most.

In 2012, thanks to the work of many on this Committee, Congress passed the bipartisan Spectrum Act, which authorized the FCC to conduct a first-of-its-kind voluntary incentive auction of broadcast spectrum. Broadcasters across the country supported this legislation under the premise that it would be truly voluntary, and that non-participating broadcasters who chose to continue serving viewers would not be saddled with costs or disruptions in service due to mandatory relocation of their frequencies. To that end, the Spectrum Act provided \$1.75 billion to reimburse non-participating broadcasters for any repack costs resulting from the spectrum reallocation.

Over the next several years, as the FCC crafted rules to govern the incentive auction, conduct the reverse and forward stages of the auction, and design an aggressive broadcast repacking plan to maximize the sale of broadcast spectrum to wireless companies, it became evident that the \$1.75 billion repack fund would be woefully insufficient. The shortfall resulted from the unprecedented repacking of nearly 1,000 television stations (far above original estimates) to extract the maximum amount of available spectrum from the broadcast band. Recognizing the inevitability of a funding shortfall absent congressional action, the FCC planned to manage this by disbursing

only a portion (roughly half) of each station's relocation expenses, guaranteeing that every station would shoulder some involuntary financial burden. Several stations announced that they simply could not bear these costs and would be forced off the air. The passage of RAY BAUM'S Act enabled the FCC to make additional funds immediately available to these stations and provide all full power television broadcasters with the confidence that their costs would be reimbursed over the course of the repack, thus fulfilling Congress's original intent.

The FCC's implementation of the incentive auction also brought into clear view the significant financial harm the legislation would pose to hundreds of FM radio stations sharing towers with repacked television stations, as well as displaced low power television and translator stations. To that end, broadcasters are grateful that RAY BAUM'S Act made these stations eligible for significant cost reimbursements so they will not be collateral damage in an auction that provides them no benefits.

RAY BAUM'S Act also set aside \$50 million to help the FCC educate consumers on mandatory station transitions. Local TV stations are working diligently to ensure viewers understand how and when to rescan their TV sets if needed, but this additional funding is critical to ensuring viewer disruption is minimized. NAB continues to work closely with the FCC to encourage the use of this funding to establish a dedicated consumer call center, the production of in-language consumer education materials and other viewer outreach efforts to complement what NAB and individual stations are already doing.

Finally, the inclusion of the SANDy Act in RAY BAUM'S Act ensures broadcasters can access critical resources to allow their facilities to continue to function

during times of emergency. These provisions will better enable both television and radio stations to serve their audiences in times of need.

Remaining Repack Issues

As the FCC moves forward with the lengthy repack process, further work is needed to ensure that viewers will continue to have access to the local stations on which they rely. Both NAB and individual stations remain constructively engaged with the FCC in an attempt to anticipate issues before they emerge. However, early warning signs already suggest that significant oversight by the Committee is warranted to ensure that no broadcaster is forced off the air or to reduce service for reasons outside their control, consistent with the intent of the Spectrum Act.

The FCC has assigned the nearly 1,000 full power TV stations needing to be repacked to one of 10 distinct phases, the first of which was completed on November 30, 2018, and the last of which is scheduled for July 3, 2020. Broadcasters have every incentive to work toward a swift transition but continue to have concerns that the aggressive timeline threatens disruption of service to audiences.

In Phase 1 of the repack, which concluded two weeks ago, 79 stations completed their moves on time. However, 11 broadcasters were unable to meet their Phase 1 deadline for reasons beyond their control. The main reasons for these delays were tower crew shortages and weather delays, but the story of KVLV in Fargo, North Dakota, helps illustrate the challenges that broadcasters face. One might expect harsh weather in North Dakota or complications arising from servicing KVLV's 2,000-foot-plus tower; this was going to be a difficult project. But no one knew or had the ability to

prevent the tragedy that occurred in Springfield, Missouri, in April of this year. There, a tower crew was reinforcing the nearly 2,000-foot KOZK tower in order to support a new antenna needed for the repack when the tower unexpectedly collapsed. The foreman of the crew was tragically killed, and the remaining crew members sustained injuries. It was this crew that was scheduled to work on KVLV's tower this fall but was now clearly unavailable. Because of these setbacks, KVLV faced a terrible decision: shut down their broadcast transmission on their existing channel and go off the air to comply with the FCC rule, or operate on an interim facility that would leave 30,000 viewers without their local news, weather and emergency information.

Fortunately, equity prevailed and KVLV was not forced to make this choice. Broadcasters are grateful that the FCC reassigned KVLV and the other stations that were unable to meet their deadlines to another phase. However, the current black-letter FCC rules leave broadcasters exposed. Viewers should not be left in the dark if stations encounter challenges that make it impossible to meet their deadlines despite their best efforts and due to events outside their control.

Broadcast tower workers are already sounding alarms that there will be additional delays further down the schedule, citing system-wide "unforeseen site failures and low power television displacements requiring the pulling of equipment and crews, poor weather conditions delaying tower work by months, stations conducting their latter-phase transitions earlier than required by the Commission and unforeseen structural

and permitting delays.”¹ Given the expertise and safety training needed for crews to service towers over 1,000 feet, these same representatives “believe that they are witnessing the effects of an unrealistic expectation of what the repacking of 987 stations, with associated low power television displacements and FM accommodations, entails. The factors cited above have resulted in demands on the rigging community that simply cannot be met.”²

The Phase 2 deadline is April 12, 2019, and applies to 116 stations. Unlike the stations reassigned in Phase 1, many of these stations are linked with other frequency moves, meaning they cannot be reassigned without impacting another station’s frequency move later in the schedule. While broadcasters will do everything possible to meet their deadlines, this Committee should work with the FCC to ensure it applies a meaningful phase modification and waiver standard that will not force a single station to go off the air or reduce coverage due to circumstances outside their control, as Congress intended.

Indeed, this was precisely the goal that guided the Committee in providing additional reimbursement funds and access to our facilities during times of emergency in RAY BAUM’S Act.

¹ Letter from Paul A. Cicelski to Marlene H. Dortch, MB Docket No. 16-306, GN Docket No. 12-268 (Nov. 12, 2018), available at: <https://ecfsapi.fcc.gov/file/1112134002775/Ex%20Parte%20Notice%20MB%20Docket%20No%2016-306%3B%20GN%20Docket%20No.%2012-268.pdf>.

² *Id.*

Additional Issues for the 116th Congress

Beyond its policy improvements, the enduring lesson of RAY BAUM'S Act is that this Committee can lead and make meaningful differences when it works together on a bipartisan basis. Broadcasters believe that there are two significant issues worthy of your ongoing consideration entering the 116th Congress. First, this Committee should ensure that existing users of C-band spectrum (3.7-4.2 GHz) are fully protected and reimbursed should a portion of the spectrum be reallocated for mobile broadband use through an auction or other means. The C-band is vital to local broadcasters and others because it allows delivery of content to stations across the nation and their hundreds of millions of viewers and listeners. There are no feasible alternatives for radio and television broadcasters.

Second, this Committee should continue to advance policy goals that serve local communities by allowing the expiring provisions of the Satellite Television Extension and Localism Act Reauthorization (STELAR) to sunset as Congress has long intended. In particular, the distant signal license, originally intended to subsidize the nascent satellite industry, now benefits only two billion-dollar companies and runs contrary to this Committee's long-stated policy preference by incentivizing the satellite carriage of out-of-market rather than local broadcast stations. This reauthorization is no longer justified.

Conclusion

In conclusion, I would like to thank you again for allowing me to speak about the bipartisan successes of RAY BAUM'S Act and how it has benefitted countless

broadcast viewers and listeners. Local stations are extremely grateful for your hard work to pass this historic legislation and look forward to continuing to work with you on its successful implementation as well as a smooth and efficient repack. Finally, in tribute to Ray, "Thanks for coming out today!" I look forward to answering your questions.