

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
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	)	
Media Bureau Seeks Comment on Updates To Catalog of Eligible Reimbursement Expenses	)	MB Docket No. 16-306
	)	

**COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)<sup>1</sup> submits these comments in response to the Commission’s Public Notice seeking comment on updates to its catalog of expenses eligible for reimbursement from the TV Broadcaster Relocation Fund established by the Spectrum Act.<sup>2</sup>

**I. THE UPDATES TO THE COST CATALOG MORE ACCURATELY REFLECT REPACKING COSTS**

In an effort to assist repacked broadcast television stations following the successful close of the ongoing broadcast spectrum incentive auction, the Commission delegated authority to the Media Bureau to compile a catalog of representative eligible expenses

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<sup>1</sup> The National Association of Broadcasters is a nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

<sup>2</sup> *Media Bureau Seeks Comment on Updates to Catalog of Reimbursement Expenses*, Public Notice, MB Docket No. 16-306, GN Docket No. 12-268, DA 16-1164 (Oct. 13, 2016) (Public Notice).

associated with a station's transition to new channels.<sup>3</sup> The costs reflected in the Commission's previous catalog are nearly three years old, and much has changed in the intervening years. In many cases, costs have risen, and in some cases previous categories of costs are no longer applicable due to technological advancements. Recognizing this, the Bureau has sought to update its catalog to more accurately reflect the eligible expenses broadcasters will likely incur during the post-auction transition.<sup>4</sup>

NAB commends the Bureau for taking this positive step to ensure that the cost catalog serves as a useful tool for repacked broadcasters. The updated cost ranges in the catalog generally appear more up to date, and will better serve broadcasters who elect to rely on the cost ranges set forth in the catalog to prepare cost estimates, or who simply seek to use the catalog as a guide in evaluating proposed costs.

## **II. THE COMMISSION SHOULD MAKE MINOR MODIFICATIONS TO THE COST CATALOG**

The Commission has repeatedly stressed that the cost catalog is in no way meant to represent an exclusive list of expenses eligible for reimbursement.<sup>5</sup> While many costs may be common across repacking projects, other costs will be unique to individual stations. Any legitimately incurred expenses associated with repacking should be reimbursable, regardless of whether or not they are reflected in the cost catalog.

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<sup>3</sup> Public Notice at 1; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, 29 FCC Rcd 6567, ¶ 619 (2014) (Auction R&O).

<sup>4</sup> As NAB has previously noted, the Commission's own expert report on repacking concluded that it could take 41 months for some stations to complete the transition, even assuming perfect conditions and without factoring in the pressure of over a thousand other stations moving at the same time. Widelity, Inc., Response to the Federal Communications Commission for the Broadcaster Transition Study Solicitation – FCC13R0003, DA 14-389A2 at 44 (Dec. 30, 2013). Remarkably, the Commission continues to insist that 39 months is an achievable deadline.

<sup>5</sup> See, e.g., Public Notice at 1; Auction R&O at ¶ 611; *Media Bureau Finalizes Reimbursement Form for Submission to OMB and Adopts Catalog of Expenses*, 30 FCC Rcd 11701, 11702 (2015) (“As stated above, the cost catalog is not intended to be exhaustive of the expenses eligible for reimbursement.”)

NAB appreciates the Commission's flexibility in this regard. However, there are some cost elements not currently reflected in the catalog or the Commission's reimbursement form that are likely to be sufficiently common that the Bureau should consider including them in its cost catalog and/or as line items in the form. Among these are internal costs associated with repacking incurred by station employees. The Commission has determined that documented internal costs are reimbursable in previous transitions it has overseen. For example, relocated licensees were eligible for reimbursement for internal labor costs during the reconfiguration of the 800 MHz band.<sup>6</sup> NAB assumes that such expenses will be reimbursable during repacking, and it may be useful for the catalog, the reimbursement form and other Commission guidance to reflect this.

Similarly, some commenters, including NAB, recommended that the Commission consider providing stations with the flexibility to engage in voluntary temporary channel sharing during repacking.<sup>7</sup> If the Commission determines that it will permit voluntary channel sharing during repacking, the cost catalog should reflect potential expenses associated with such sharing.

The cost catalog should also reflect information regarding leased equipment. The Commission's reimbursement form, which the Commission made available for testing by broadcast licensees and other interested parties, has a number of options for entering costs associated with leased equipment. For example, the form provides options for leased transmitters and antennas. However, the cost catalog contains no guidance regarding the

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<sup>6</sup> See, e.g., *County of Charles, Maryland and Sprint Nextel Corporation*, Memorandum Opinion and Order, 27 FCC Rcd 11476, ¶ 31 (2012); *City of Manassas, Virginia and Sprint Nextel*, Memorandum Opinion and Order, 22 FCC Rcd 8526, ¶¶ 8-17 (2007).

<sup>7</sup> See, e.g., Comments of the National Association of Broadcasters at 10-11, MB Docket No. 16-306, GN Docket No. 12-268 (Oct. 28, 2016) (NAB Repacking Comments); Comments of T-Mobile USA, Inc. at 9, MB Docket No. 16-306, GN Docket No. 12-268 (Oct. 31, 2016).

ranges of costs and the lease period. The Commission should consider including this information in the cost catalog.

The Commission should also provide guidance to broadcasters, either in the cost catalog or the instructions associated with its reimbursement form, as to how they should account for shared costs at sites shared by numerous repacked broadcasters. For example, if tower work is required at a site where more than one station is being repacked, should a single broadcaster submit those costs, or should broadcasters split those costs and each seek a portion of the total?

Finally, NAB notes that the Commission proposes to allow increased interference to repacked stations, on a temporary basis, of up to two percent. In the event that temporary increased interference to which a station is subject prevents a station from delivering a good-quality signal to an MVPD, NAB has urged the Commission to clarify that temporary alternative delivery systems, such as a fiber feed or a microwave link, are eligible for reimbursement.<sup>8</sup> If the Commission determines that it will allow temporary increased interference up to two percent, the cost catalog should reflect expenses associated with such alternative arrangements.

### **III. THE BUREAU SHOULD CONTINUE TO UPDATE THE COST CATALOG AS THE TRANSITION UNFOLDS**

As discussed above, NAB commends the Bureau for updating its cost catalog, and generally believes the updates more accurately reflect the costs repacked broadcast television stations are likely to incur during the transition. Going forward, the same factors that gave rise to the need to update the catalog, including vendor price increases and

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<sup>8</sup> NAB Repacking Comments at 14-15.

technological advancements, are likely to warrant further adjustments to the costs set forth in the revised catalog.

As a general matter, NAB supports the Bureau's proposal to update the baseline costs set forth in the cost catalog based upon the Producer Price Index annual average as calculated by the Bureau of Labor Statistics.<sup>9</sup> However, NAB urges the Bureau to continue to take a proactive approach to updating costs during the transition period. While the Bureau's proposal will allow the Bureau to take into account national inflationary factors that are likely to affect pricing, in reality, costs in the broadcast equipment and service market may well increase more rapidly than suggested by national averages.

While the record of this proceeding reflects some disagreement concerning the availability of certain resources needed for repacking broadcast television stations, the Commission itself has acknowledged that there will be some constraints on the availability of at least some resources.<sup>10</sup> With as many as 1,100 or more television stations needed to move to new channels in a short period of time, it is likely that the laws of supply and demand will lead to price increases as the transition unfolds.

The Bureau should continue to monitor prices, both by examining actual submissions and invoices from repacked broadcasters and by communicating directly with vendors, as the transition progresses. If some or all repacking costs increase more quickly than the national PPI average, the Bureau should adjust its cost catalog to ensure that the catalog remains a useful tool for both the Bureau and broadcasters throughout the transition.

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<sup>9</sup> Public Notice at 3.

<sup>10</sup> *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Scheduling Plan*, Public Notice, Appendix A at 16-20, MB Docket No. 16-306, GN Docket No. 12-268, DA 16-1095 (Sept. 30, 2016)

#### IV. CONCLUSION

NAB appreciates the effort the Media Bureau has put into updating its catalog of reimbursable expenses. The cost ranges reflected in the new catalog generally appear more up to date than those reflected in the previous catalog. The Bureau should consider revising its cost catalog to account for additional expenses that may be common during the repack. In any event, we urge the Bureau to continue to monitor repacking costs as the transition unfolds in order to ensure that the catalog reflects both the categories and levels of real-world repacking costs.

Respectfully submitted,

**NATIONAL ASSOCIATION OF  
BROADCASTERS**

1771 N Street, NW  
Washington, DC 20036  
(202) 429-5430



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Rick Kaplan  
Patrick McFadden

Bruce Franca  
Alison Neplokh  
Robert Weller

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