Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DTV Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and To Promote Voluntary Agreements to Relocate Broadcast Stations from Channel 51	)	RM-11626

COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS AND
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.

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SUMMARY

The National Association of Broadcasters ("NAB") and the Association for Maximum Service Television, Inc. ("MSTV") hereby comment on a joint Petition for Rulemaking submitted by CTIA and the Rural Cellular Association ("Petitioners"). The Petition claims that licensees in the A-Block of the lower 700 MHz frequency band face technical challenges caused by potential interference from broadcast operations located on adjacent Channel 51. Petitioners accordingly ask the Commission to adopt rule changes that would essentially create a guard band on Channel 51, by prohibiting the future licensing of new TV stations on Channel 51 and by immediately freezing the processing of applications from Channel 51 TV stations to modify or improve their facilities.

As discussed in detail below, the Petition should be dismissed because the Commission fully anticipated, considered and correctly resolved all of the complaints and questions therein prior to the 700 MHz auction. The Petition does not contain any new arguments or evidence sufficient to justify a reversal of course. Nor do Petitioners offer any reasons for their apparent surprise at the existence of broadcast TV operations located on Channel 51.

In fact, on several occasions, the Commission made it abundantly clear that new licensees in the A-Block would be responsible for designing their systems in a way that accommodates broadcast operations on Channel 51. Most significantly, the Commission determined in the 2004 Second Periodic Review that use of Channel 51 for broadcast purposes should not be restricted in order to protect wireless operations in the A-Block, even if those wireless operations precede the commencement of broadcast

operations on Channel 51. The Commission's 700 MHz auction procedures further cemented the obligations of potential A-Block licensees to familiarize themselves with any technical factors and risks that might affect the use and value of 700 MHz licenses, such as operation immediately adjacent to broadcast operations on Channel 51.

Previously, the Commission specifically declined to create a guard band on Channel 52 to address interference concerns between the respective broadcast and wireless operations, instead choosing to rely on A-Block wireless licensees to deploy systems that account for broadcast operations. Petitioners now ask the Commission to change the rules of the game in mid-course and essentially introduce an informal guard band on Channel 51, for their sole benefit and at the expense of television stations and their viewers. Granting the Petition would harm the public interest in free, over-the-air television by unnecessarily restricting new TV services on Channel 51, as well as the ability of broadcasters to improve their services by modifying their existing Channel 51 facilities, or moving from another channel to Channel 51.

Wireless companies knew of the existence of TV operations on Channel 51, and of their responsibility to accommodate these services, before choosing to obtain licenses and deploy systems in the A-Block. Petitioners' request to enhance their licenses at this stage, to the detriment of millions of Americans who value the free, over-the-air services of TV stations on Channel 51, should be dismissed. Commission policy dictates that it is the responsibility of new licensees to minimize interference with existing adjacent services, and Petitioners should not be allowed to now shift this obligation.

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Rulemaking to Amend the Commission's DTV	)	
Table of Allocations to Prohibit the Future	)	
Licensing of Channel 51 Broadcast Stations and	)	
To Promote Voluntary Agreements to Relocate	)	
Broadcast Stations from Channel 51	)	

COMMENTS OF
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Pursuant to Section 1.405 of the Commission's rules,[1] the National Association of Broadcasters ("NAB") and the Association for Maximum Service Television, Inc. ("MSTV")[2] respectfully submits these comments in opposition to the above-captioned Petition for Rulemaking.[3] Petitioners contend that the Commission should freeze the licensing and modification of television ("TV") broadcast stations on Channel 51 to prevent interference to future wireless systems operating in the adjacent A-Block of the 700 MHz frequency band. Petition at 1. As discussed below, the Petition fails to

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[1] 47 C.F.R. § 1.405.

[2] NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts. MSTV is a nonprofit trade association of local broadcast television stations committed to achieving and maintaining the highest technical quality for the local broadcast system.

[3] Petition for Rulemaking and Request for Licensing Freezes by CTIA – The Wireless Association® ("CTIA") and Rural Cellular Association ("RCA") (jointly, "Petitioners"), DA 11-562, RM-11626 (filed March 15, 2011) ("Petition").

substantiate grounds for the Commission to reverse its long-standing position that broadcast services on Channel 51 should not be restricted in order to protect such wireless operations in the A-Block.[4] Granting Petitioners' request would represent an unprecedented freeze of the licensing, modification and improvement of a telecommunications service based merely on the request of another service in a neighboring frequency band. Accordingly, the Petition for Rulemaking should be dismissed as not warranting further consideration, pursuant to Section 1.401 of the Commission's rules.[5]

I. The Commission's Long-Standing Policy of Not Restricting Television Services on Channel 51 Should Be Maintained

Petitioners argue that licensees in the 700 MHz A-Block face technical challenges caused by the presence of broadcast TV services on adjacent Channel 51, primarily because there is no guard band between Channel 51 and the A-Block, and that Channel 51 broadcast services may cause interference to wireless systems deployed in the A-Block. Petition at 1-2. Petitioners assert that these circumstances have impeded the development of equipment suitable for operations in the lower 700 MHz A-Block, and hindered investment in broadband networks operable in the A-Block. *Id*., at 5-6. Petitioners therefore ask the Commission to initiate a proceeding to make rule changes that would not only forbid the licensing of new TV stations on Channel 51, but also freeze acceptance or processing of applications from broadcast stations seeking to modify or improve their existing operations on Channel 51, effective

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[4] *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, MB Docket No. 03-15, 19 FCC Rcd 18279, 18334 (2004) ("Second Periodic Review").
[5] 47 C.F.R. § 1.401(e).

immediately (including during the pendency of the requested rulemaking proceeding). *Id*., at 1.

Pursuant to Section 1.401 of the Commission's rules, the Petition should be dismissed as repetitive or not warranting consideration because the Commission fully anticipated, considered and correctly resolved all of the claims and concerns therein prior to the auction of the 700 MHz A-Block. It was accordingly incumbent upon the participants in the auction of A-Block spectrum to account for the presence of broadcast TV services on Channel 51 in their decisions whether to participate in that auction and to launch wireless services in the A-Block. Notwithstanding Petitioners' seeming surprise that TV stations exist on Channel 51, it is readily apparent that Petitioners' questions have already been asked and answered, and that the Petition contains no arguments or evidence sufficient to justify initiation of a new rulemaking aimed at reversing existing Commission policy.

The Commission has thoroughly examined the matter of potential interference between broadcast TV services on Channel 51 and A-Block licensees on multiple occasions. In 2002, the Commission first adopted allocation and service rules for the lower 700 MHz frequency band in order to reclaim and license this spectrum as part of its mandate to transition TV broadcasting from analog to digital transmission ("DTV") systems.[6] The Commission specifically adopted a flexible allocation approach for the lower 700 MHz band to "allow [wireless] service providers to select the technology they wish to use to provide new services that the market may demand." Lower 700 MHz

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[6] *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, Report and Order, GN Docket No. 01-74, 17 FCC Rcd 1022, 1023 (2002) ("Lower 700 MHz Reallocation Order").

Reallocation Order, 17 FCC Rcd at 1023. Thus, the Commission clearly informed potential A-Block licensees that flexibility would be the watchword, and that such licensees would enjoy the freedom to design systems that comply with both the laws of physics as well as supply and demand. The Commission also adopted power limits and other technical rules that would limit interference between broadcast and wireless allocations, and thereby preserve and promote "investment in communications services and systems, or technology development . . . for either broadcast or wireless applications." *Id*., at 1032.

The Commission specifically decided that it would "not adopt a guard band or other specialized mechanism to protect DTV operators on Channel 51, but will instead rely on our interference protection criteria to ensure that new licensees adequately protect core TV channel operations." *Id*., at 1033. The Commission also dismissed calls for special considerations for new licensees in the 700 MHz band, such as steps to deter the presence of wireless systems with low immunity to high-power signals. Again, the Commission opted to rely on a flexible approach that would give new wireless entrants flexibility in addressing potential interference situations when designing and developing their wireless systems. *Id*. Although the Commission was referring to interference protection of core TV broadcast services in this particular context, inherent in the Commission's overall approach was the reliance on new wireless entrants to develop and deploy systems that would accommodate potential interference between broadcast stations on Channel 51 and wireless services in the 700 MHz band, regardless of the source of interference.

Subsequently, the Commission in 2004 continued its efforts to adjust various rules and policies needed to facilitate the DTV transition, including the adoption of a channel election and repacking process and deletion of the digital simulcasting requirement.[7] The Commission refined its criteria for interference protection of TV channels 51-69 during the transition, and specifically addressed potential interference caused by TV stations on Channel 51 to wireless services in the 700 MHz band, following the auction of lower 700 MHz spectrum. *Id*., at 18333-34.

Specifically, in that proceeding, Flarion Technologies urged the Commission to adopt protection standards that are reciprocal, such that Channel 51 stations would have an equivalent obligation to protect wireless services in the 700 MHz band from interference from television operations as A-Block licensees would have to protect Channel 51 TV stations.[8] Flarion also suggested that new licensees of TV stations on Channel 51 be required to undertake frequency coordination with A-Block wireless operators within 100 miles, including providing advance notice to such wireless operators. Flarion Comments at 4. However, the Commission rejected Flarion's request for reciprocal interference protection, explaining that Channel 51 is part of the core channels reserved for broadcast use.[9] As Petitioners acknowledge, the Commission concluded: "[W]e do not believe use of channel 51 for broadcast purposes should be restricted in order to protect operations on channel 52, even if those operations predate the commencement of operations on channel 51."[10]

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[7] Second Periodic Review, 19 FCC Rcd at 18279-18282.
[8] Comments of Flarion Technologies, Inc., MB Docket No. 03-15 (filed April 21, 2003) at 4.
[9] Second Periodic Review, 19 FCC Rcd at 18334.
[10] *Id.*

The Commission thus considered and resolved the very same concerns expressed by Petitioners more than six years ago, and wireless operators in the A-Block have been well aware of their duty to account for the presence of TV stations on Channel 51 in the development of their systems for at least that period of time. In addition, the Commission further clarified A-Block bidders' obligations in setting forth procedures for the auction of 700 MHz spectrum.[11] The Commission reminded potential bidders of their responsibility to be familiar with the Commission's rules and procedures, and specifically mentioned the relevant decisions and rules governing reallocation of the 700 MHz band. 700 MHz Auction PN at ¶ 13. These decisions extensively covered all aspects of interference protection criteria, including the level of protection that 700 MHz auction winners should expect from TV operations on adjacent Channel 51, or lack thereof. Also in that Public Notice, the Commission specifically addressed the interference protection that auction winners would need to afford incumbent broadcasters on out-of-core TV channels and adjacent channels, including Channel 51. *Id*., at ¶ 35.

The Commission expressly cautioned A-Block applicants to formulate their bidding strategies based on a thorough investigation and understanding of "all technical and marketplace factors that may have a bearing on the value of 700 MHz licenses," and warned auction applicants that they would be "solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to . . . make use of licenses being offered." *Id*., at ¶¶ 39-40, 44. Presumably, potential interference from long-standing broadcast television services on

[11] *Auction of 700 MHz Band Licenses Scheduled for January 24, 2008*, Public Notice, DA 07-4171, AU Docket No. 07-157 (Oct. 5, 2007) ("700 MHz Auction PN").

an adjacent channel should have been among the most critical technical factors and associated risks to examine for their impact on the value and use of A-Block licenses, prior to any bidder finalizing its participation in the 700 MHz auction.

Petitioners now ask the Commission to reverse these earlier decisions because wireless operators currently face equipment obstacles they should have been aware of for many years.[12] Instead of designing and deploying systems that alleviate potential interference from TV stations, as repeatedly advised by the Commission, Petitioners instead urge the Commission to essentially transform Channel 51 into a guard band, for their sole benefit, and to the detriment of millions of viewers who rely on free, over-the-air television broadcast over Channel 51. We note again that the Commission previously rejected the notion of a guard band between these respective services. Lower 700 MHz Reallocation Order, 17 FCC Rcd at 1045.[13]

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[12] This is not the first time CTIA has attempted to reverse a well-reasoned decision through a post hoc request. CTIA previously asked the Commission to reconsider its entrepreneur eligibility rules for C-Block spectrum in the broadband personal communications services ("Auction No. 58."). As it should here, the Commission rejected that request because it failed to provide sufficient reasons to initiate a rulemaking to reexamine existing policies. *Eligibility Restrictions on C Block Licenses in the Broadband Personal Communication Services,* RM-11019, Memorandum Opinion and Order, 19 FCC Rcd 20321, 20327 (2004).

[13] It is axiomatic that, under the Administrative Procedure Act, "the FCC must examine and consider the relevant data and factors, 'and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made'"; moreover, if changing course, "it 'must supply a reasoned analysis' establishing that prior policies and standards are being deliberately changed." *Verizon Telephone Companies v. FCC*, 570 F.3d 294, 301 (D.C. Cir. 2009), *quoting Motor Vehicle Mfrs. Ass'n, Inc. v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43, 57 (1983). *See also FCC v. Fox Television Stations, Inc*., 129 S.Ct. 1800, 1824 (2009), Kennedy, J. concurring (explaining that an agency changing course cannot "disregard contrary or inconvenient factual determinations that it made in the past"). Certainly the Petition here does not provide the Commission with the requisite reasoned basis for changing course with regard to the treatment of broadcast operations on channel 51 vis-à-vis new A-Block licensees.

Creation of such an informal guard band by freezing Channel 51 television services also would be spectrally inefficient. More than thirty television stations are currently located on Channel 51, and many of these stations may have plans to enhance their public service by moving antenna locations or making other facility changes that would improve viewers' experience (as well as safety during times of emergency).[14] As the Commission previously found, enforcement of existing interference protection criteria and careful deployment of new wireless operations continue to remain the optimal ways to protect operations from potential interference caused by Channel 51 TV stations.[15]

To the extent an informal guard band or some other mechanism is needed, Commission policy dictates that it is the responsibility of the A-Block licensees, as the new entrants, to create such a mechanism. For example, the Commission last year adopted rules governing the use of terrestrial repeaters by Satellite Digital Audio Radio Service ("SDARS") licensees.[16] These rules enabled the deployment of SDARS repeaters in the 2.3 GHz frequency band, but gave SDARS licensees, as the new entrants into the spectrum band, the responsibility of limiting interference between their repeaters and incumbent Wireless Communications Services ("WCS") in the 2.3 GHz band.[17]

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[14] TV broadcasters operate on Channel 51 in 34 markets, including 25 of the top 100 markets, and eight of the top 20, covering millions of viewers (data extracted from the Commission's CDBS public search system, July 2010).
[15] Second Periodic Review, 19 FCC Rcd at 18334.
[16] *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*, Report and Order and Second Report and Order, 25 FCC Rcd 11710 (2010) ("SDARS Repeaters Order").
[17] *Id*. at 11788-11801.

Given all the afore-mentioned Commission findings about potential interference from broadcast services on Channel 51 to wireless operations in the 700 MHz band, and warnings to potential A-Block licensees that it would be their duty to accommodate such interference, it is difficult to understand why Petitioners only now seem to appreciate the existence of television stations on adjacent Channel 51, and the fact that Channel 51 TV stations may emanate electromagnetic interference to their services.[18] Without question, wireless licensees had to know what they were getting into when they chose to acquire A-Block spectrum. Yet, despite this awareness and A-Block licensees' long-standing obligation to design systems that would accommodate potential interference from Channel 51 TV stations, Petitioners now seek the Commission's help in shifting the responsibility to alleviate this problem to incumbent broadcasters. The Commission should reject any such approach.

II. The Commission Should Not Freeze Existing Telecommunications Services Located in a Frequency Band That Has Not Been Reallocated

Petitioners take a very aggressive position that, if the Commission initiates the proposed rulemaking proceeding, it should freeze new licensing on Channel 51 and the modification of existing stations on Channel 51 while the Commission considers the

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[18] In support of their claims, Petitioners note that some A-Block equipment vendors informed Cellular South that lower A-Block operations are "susceptible to disruptive interference from adjacent channel TV operations on Channel 51." Petition at 5-6 citing Comments of Cellular South, Inc., RM-11592, at 7-8 (March 31, 2010). However, these comments do not represent any sort of new evidence or changed circumstances that might justify a Commission reexamination of its earlier conclusions. And, while Petitioners claim that freezing television service on Channel 51 would somehow advance the Commission's recent spectrum policy goals, such argument is inappropriate in the context of a petition such as this. Petition at 8. The Commission is addressing its larger spectrum policy goals in other proceedings and Petitioners improperly seek to rely upon policy not yet fully considered, let alone adopted, by the Commission.

rulemaking proceeding. Petition at 13. Petitioners state that such an approach would be a "logical step to ensure that intervening events do not undermine the purpose of the rulemaking." *Id*.

To the contrary, granting Petitioners' request would require the Commission to largely pre-judge the outcome of the proposed proceeding before it even has an opportunity to consider the myriad of questions surrounding the proposals. Indeed, as discussed above, the Commission correctly answered the question of whether to restrict Channel 51 to protect potential adjacent wireless services more than six years ago, and Petitioners fail to provide any new arguments or evidence sufficient to justify reversal of that well-reasoned finding. Rather, they simply assert that the Commission should shift rights in their favor without any process. If the Commission were to choose to grant the Petition and its requests to immediately freeze new licensing of stations on Channel 51 or the modification of existing Channel 51 facilities, the public interest in free, over-the-air television service would be needlessly harmed if and when the Commission ultimately decides to maintain its long-standing policy that Channel 51 services should not be restricted *vis-à-vis* future wireless services in the 700 MHz A-Block. Such an approach is unwarranted and unwise.

Wireless services in the A-Block remain in flux. Contrary to Petitioners' arguments, the biggest obstacle to deployment of wireless services in the A-Block is not potential interference from television services on Channel 51, but rather the well-documented lack of equipment manufactured for use by A-Block operations caused by unrelated factors. As explained by a coalition of A-Block spectrum holders in a petition submitted in September 2009, ownership of spectrum in the A-Block is significantly

diverse and fragmented among many smaller companies, as compared to spectrum in the B- and C-Blocks of the 700 MHz band.[19] The A-Block coalition states that the two biggest winners of 700 MHz spectrum in the B- and C-Blocks (Verizon Wireless and AT&T Mobility) have taken steps to impede smaller competitors in the 700 MHz band by issuing requests to manufacturers for wireless broadband equipment that can only work in the 700 MHz band blocks the large companies acquired.[20] According to the A-Block coalition, the efforts of the large wireless providers have served to "balkanize" 700 MHz spectrum in the A-Block that has been awarded for commercial use, thereby "creating islands of isolated, potentially devalued spectrum."[21] The coalition thus urges the Commission to require that manufacturers build network equipment that works across all 700 MHz bands, in order to level the playing field.[22]

It is largely these circumstances (*e.g.*, fragmented ownership of A-Block spectrum and the alleged actions of Verizon and AT&T) that have reduced economies of scale in the manufacture of equipment designed for operations in the A-Block, and delayed the deployment of wireless systems in that portion of the 700 MHz band. At this point in time, the future of wide-scale implementation of consumer services in the A-Block remains speculative at best, and there are no significant services to supposedly protect by unnecessarily restricting free over-the-air television service on Channel 51.

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[19] Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, 700 MHz Block A Good Faith Purchasers Alliance, RM-11592 (filed Sep. 29, 2009).
[20] *Id*. at ii; *see also* Mike Dano, *Will the FCC Require All 700 MHz LTE Equipment to Interoperate?*, FierceWireless (April 19, 2011), available at http://www.fiercewireless.com/special-reports/will-fcc-require-all-700-mhz-lte-equipment-interoperate.
[21] Reply Comments of the 700 MHz Block A Good Faith Purchasers Alliance, AU Docket No. 10-248, at 2 (filed Jan. 27, 2011).
[22] *Id.*

Even if Petitioners' proposal did not require the Commission to completely reverse its long-standing, well-reasoned position that Channel 51 facilities should not be limited, the purported concerns expressed in the Petition do not justify an immediate freeze of free, over-the-air television service on Channel 51.

Petitioners also contend their proposals to immediately freeze the licensing and modification of broadcast facilities on Channel 51 are consistent with Commission actions in other proceedings, including rulemakings regarding the channel election and repacking process for assigning post-transition digital television channels[23] and the relocation of low power auxiliary stations in the 700 MHz band.[24] For example, Petitioners note that the Commission in 2004 introduced a freeze on the filing of certain requests by television stations for changes to existing DTV and analog TV service areas and channels. *See supra* note 23. Petitioners state that the Commission undertook this action "to promote stability in the television licensing environment leading up to the DTV channel election process." Petition at 13. The Petitioners characterize this freeze as a first step in advance of the DTV channel election process, and liken it to their request for a freeze of Channel 51 broadcast services.

However, the respective situations are not analogous. The Commission imposed the DTV freeze in order to (1) enable broadcasters to evaluate the technical parameters

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[23] Petition at 13, citing *Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes*, Public Notice, 19 FCC Rcd 14810 (2004) ("2004 DTV Freeze PN").

[24] Petition at 3, citing *Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band*, Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 643 (2010) ("Wireless Mics Order"); *Id*. at 16 citing *Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band*, Notice of Proposed Rulemaking and Order, 23 FCC Rcd 13106 (2008) ("Wireless Mics NPRM").

of all stations to facilitate their channel elections, and (2) prohibit new applications that may alter or conflict with future limitations the Commission may prescribe on DTV channel facilities.[25] Most importantly, the DTV freeze followed earlier Commission and Congressional mandates to reallocate approximately one-third of the analog television spectrum band. The Commission started to contemplate the DTV transition almost two decades before issuing the 2004 DTV Freeze PN, when it launched a proceeding in 1987 to foster advanced television service ("ATV") and establish the first Advisory Committee on Advanced Television Service. With respect to reallocation and channel election procedures for new DTV allotments, the Commission first addressed relevant proposals in 1992, more than 12 years before it decided to freeze analog facilities.[26] At the time of the 2004 DTV Freeze PN, there was no more speculation over whether the relevant analog TV spectrum would be reallocated, and preparations for the DTV transition were well underway.

By contrast, in the instant request, there has been no reallocation of Channel 51. More than thirty television broadcasters currently use Channel 51 to serve millions of Americans. Without any actual reallocation of Channel 51, it would be unfair and unnecessary to consider a freeze of those operations.[27] Instead of any sort of "first

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[25] 2004 DTV Freeze PN, 19 FCC Rcd at 14811.
[26] *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Second Further Notice of Proposed Rule Making, MM Docket No. 87-268, 7 FCC Rcd 5376 (1992).
[27] Petitioners cannot properly rely upon policies not yet fully considered, let alone adopted, by the Commission to justify its freeze and other requests. We further note that the Commission may not properly change its rules directly adversely affecting the rights of existing licensees on Channel 51 without sufficient notice and reasoned decision making. *See* 5 U.S.C. § 551 *et seq*.; *see also, e.g*., *Fresno Mobile Radio, Inc. v. FCC*, 165 F.3d 965, 969 (D.C. Cir. 1999) (court found that FCC failed to adequately

step" towards movement of Channel 51 operations, a freeze would merely penalize television viewers and broadcasters who may want to improve their service to the American public, while doing little to actually promote deployment of services in the 700 MHz A-Block, which, as explained above, faces much broader, complex obstacles.

Petitioners' arguments concerning the freeze on wireless microphones in the 700 MHz band are similarly lacking. They note that the Commission imposed a freeze in August 2008 on the filing of new applications seeking to operate in the 700 MHz frequency band, and a freeze on any requests for equipment authorizations of wireless microphone devices that would operate in the 700 MHz band, after the DTV transition. Petitioners state that this freeze helped to prevent applications related to wireless microphones that might hinder the Commission's goals for the proceeding, namely, to effectively clear the 700 MHz band of potential interference caused by wireless microphones to wireless services that would soon the enter the band. Petition at 16.

Petitioners again fail to draw a convincing analogy. Unlike the instant request to freeze broadcast television modifications or improvements on Channel 51, the wireless microphone proceeding and the relevant freezes in that proceeding involved spectrum that had long been reallocated. In the first paragraph of that freeze decision, the Commission referenced the firm deadline for the DTV transition that Congress had established over three years earlier.[28] The Commission also made clear that freezing wireless microphone operations in the 700 MHz band was not undertaken in anticipation of exploring whether to clear the band, since that decision had long been reached, but

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explain rules that gave new licensees who had acquired their licenses at auction a "permanent advantage over incumbent" licensees).

[28] Wireless Mics NPRM, 23 FCC Rcd at 13107 citing the Digital Television Transition and Public Safety Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006).

instead to fully implement the DTV transition. The goal of the proceeding was to provide an interference-free environment in a frequency band that had already been reallocated to public safety and commercial wireless providers. Wireless Mics NPRM at 13110-12.

Compared to the request at hand, it is clear that these other freezes cited by Petitioners are inapposite. First, there are existing television stations operating on Channel 51, including public television and Spanish language stations, with millions of viewers who rely on their continued, free, over-the-air services for entertainment, news, and public safety information. Second, these other freeze situations involved spectrum that had been the subject of final reallocation decisions. Finally, these other freezes were not introduced for the sole benefit of telecommunications providers who were well aware that interference from adjacent services was a distinct possibility before they purchased spectrum at auction. Accordingly, Petitioners' offered precedent for a freeze of new licensing on Channel 51, and modifications of existing stations on Channel 51, should be disregarded as unpersuasive.

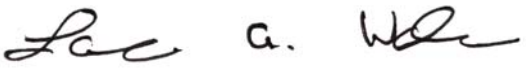
On another note, Petitioners urge the Commission to adopt accelerated procedures for relocating a broadcast television station to a new channel where a licensee on Channel 51 reaches a voluntary agreement with an A-Block licensee to relocate. Petition at 19-21. NAB and MSTV have no objections to facilitating such voluntary agreements and relocations, although we see no need for special or amended rules to cover these isolated situations. Instead, we favor the already-permitted approach of Channel 51 stations and A-Block licensees in such circumstances filing a joint request for expedited treatment, together with the broadcast licensee's Petition for

Rulemaking seeking to modify its allotted TV channel. The Commission is fully capable of accelerating its procedures on an *ad hoc* basis where appropriate.

III. Conclusion

For the reasons stated above, NAB and MSTV respectfully request that the Commission dismiss the Petition for Rulemaking jointly submitted by CTIA and RCA.

Respectfully submitted,



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