

## Reclaiming Over-the-Air TV Spectrum for Wireless Broadband Use - What Will the Budget Super Committee Decide?

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October 17, 2011

The battle over the reclamation of television spectrum for wireless broadband rages on, and some in the television industry fear that the future of over-the-air television may be sacrificed to Congressional attempts to reduce the Federal deficit. The current Congressional “Super Committee” that is attempting to find billions of dollars in spending reductions to lower the Federal deficit is reportedly considering “finding” potentially 20 billion dollars or more from the proceeds of an auction of spectrum reclaimed from television broadcasters. Various Congressional proposals have been submitted for the committee’s consideration, essentially to authorize the FCC to conduct “incentive auctions” to reclaim some TV spectrum. But, the National Association of Broadcasters and others have claimed that broadcast television service to a number of markets, particularly those in areas near the Canadian border and in urban, densely populated northeast corridor between Boston and Washington, will be particularly hard hit – imperiling the continued existence of free over-the-air service to some markets, including Detroit. In other markets, broadcasters fear there will be a lessening of the protections from interference that stations currently enjoy, or a repacking of the spectrum that will put stations on new and potentially inferior channels, without reimbursement of the costs of relocation.

The proposal for the reclamation of television spectrum was first advanced in the Commission’s **Broadband Report**, where the FCC committee that drafted the report [suggested that as much as 120 MHz of television spectrum be reclaimed for use for wireless broadband](#) – 20 television channels from 32 to 51 on the TV dial. With tablets and smartphone usage growing quickly, and the ever-increasing demands for wireless spectrum to deliver video, audio and other rich internet content, the Commission fears a spectrum shortage – especially in certain urban markets. As over-the-air viewing rates have been falling over the last two decades as more people sign up with multichannel carriers, the Report suggested that the TV band could be shrunk, with some of the spectrum being redistributed to wireless. TV stations could be incentivized to surrender their spectrum for wireless use or to share channels, an option that the proponents of reclamation claim is very feasible, as digital technologies now allow one television channel to rebroadcast multiple streams of programming.

Television broadcasters have fought back, claiming that, while the digital transition does allow for more channels in the same spectrum, they are just now rolling out new uses of that spectrum – including new programming streams and, soon, mobile video targeted to smartphones and other digital devices. An article in [one newspaper](#) last week reviews some of the new ways for over-the-air TV viewers to get access to additional video programming to augment over-the-air programs, allowing some consumers to “cut the cord” – eliminating their multichannel video subscriptions. Some studies have suggested that such cord-cutting opportunities, combined with the recent economic turmoil, has actually increased the amount of over-the-air television viewing in the last few years, reversing or slowing the trend of decreasing broadcast TV viewership.

The most fundamental issue for broadcasters is how deeply any channel cuts would go. NAB statements have indicated some flexibility in working with Congress and the FCC to allow for some spectrum reclamation – if it does not materially impair the current service provided by TV broadcasters. In a recent study highlighted in the [Washington Times](#), and discussed with various groups in Washington and across the country, the NAB has looked at spectrum usage and what would happen to TV service if 20 television channels were reclaimed by the FCC, as suggested in the Broadband Report. By compacting existing stations into a smaller television band, and because of the limitations imposed by television uses in Canada (where the digital television transition is not yet complete), NAB claims that there simply would not be enough TV channels in some markets for all of the current broadcast television stations to continue to operate. In Detroit, there would be room for none of the current stations, and in many areas near the Canadian border and in the Northeast, more than half of the television stations would disappear. (See our prior article on this study, [here](#)).

The FCC has not responded officially to this study, nor has it released details of its plan for “repacking” TV stations into whatever spectrum is left after any spectrum reclamation that may occur (see [NAB statement](#) on the issue here). There have been many statements by FCC officials that such a plan cannot be developed until it is determined how many television stations will survive after “incentive” auctions are held. These auctions are planned to pay some stations to turn in their spectrum, or to enter into arrangements to share spectrum with other stations, freeing some channels for broadband use. Broadcasters, on the other hand, are concerned about how any such auction would really work. Questions include whether the auctions would truly be “voluntary” (as there have been recent reports that the Obama administration is favoring some sort of spectrum tax that would apply to broadcasters that don’t voluntarily turn in their channels) and whether there will be enough spectrum bidders, especially in rural areas, to compensate stations that may cease operations. Even in rural areas where the demand for wireless spectrum is far less than in urban centers, there are questions

about whether stations will have to change channels, so the same spectrum will be available for wireless users across the country. The question of who would pay for channel relocation is also unanswered. As many smaller, rural stations are still struggling with the costs of their DTV transition in 2009, being forced to pay for further channel changes could be financially disastrous.

All these questions and more (see, e.g. [our article on the question of whether VHF channels are still adequate for broadcast use](#) – as those channels 2-12 would have to be used in some areas were the FCC to reclaim the portions of the current TV band in which the FCC has indicated interest) are currently being debated in the halls of Congress. Broadcasters have asked why the government should assist one industry (the wireless providers) take spectrum from another, especially as some TV operators have claimed the ability to provide some broadband service of their own (see our article [here](#)), and as the new services offered through wireless would require subscription payments, while TV is free to the user. Other [studies](#) have questioned the reality of the spectrum shortage. Wireless advocates, on the other hand, dispute those studies (with evidence of dropped calls and slow wireless service in certain urban areas as evidence of their need for more spectrum), and claim that TV broadcasting is an outdated technology that should move out of the way to allow wireless to become an engine of economic growth.

Thus far, Congress seems to be pursuing different paths on this issue, with the Senate draft bills providing the FCC maximum flexibility to craft incentive auctions, while the discussion in the House seems to be looking to provide broadcasters protections from significant new interference and ways to pay for any spectrum repacking. But suggestions from all sides have gone to the Super Committee for consideration, and that committee's decision could preempt the actions that would normally be taken in the House and Senate committees. With the budget Super Committee supposed to deliver its report before Thanksgiving, and with Congress to vote on it before Christmas, the future of free TV may soon be decided. Stayed tuned for more developments.

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