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August 29, 2014

The Honorable John D. Rockefeller IV
Chairman
The Honorable John Thune
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Henry Waxman
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC) entitled "Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions" (FCC 14-50). We received the rule on June 24, 2014. It was published in the *Federal Register* as a final rule on August 15, 2014. 79 Fed. Reg. 48,442.

The final rule adopts rules to implement the broadcast television spectrum incentive auction. The central objective of the incentive auction is to harness the economics of demand for spectrum in order to allow market forces to determine its highest and best use, which will benefit consumers of telecommunications services.

Enclosed is our assessment of FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that FCC complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Blaise Scinto
Chief, Broadband Division
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"EXPANDING THE ECONOMIC AND INNOVATION OPPORTUNITIES
OF SPECTRUM THROUGH INCENTIVE AUCTIONS"
(FCC 14-50)

(i) Cost-benefit analysis

The Federal Communications Commission (FCC) is not required to prepare, and did not prepare, a cost benefit analysis.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

FCC prepared a final regulatory flexibility analysis under the Act for the final rule. FCC determined that nearly every category of business governed by the final rule, including television broadcasting, cable television distribution, cable and other subscription programming, among many others, has a majority of small businesses. FCC also determined that the reporting, recordkeeping, and other compliance requirements resulting from the final rule will apply to all entities, including small entities, in the same manner. FCC believes that applying the same rules equally to all entities in this context promotes fairness, and that the costs and/or administrative burdens associated with the final rule will not unduly burden small entities. In addition, FCC stated that the revisions adopted by the final rule should benefit small entities by giving them more information, more flexibility, and more options for gaining access to valuable wireless spectrum. Additionally, the reverse auction included in the final rule should benefit small entities that participate by providing a substantial infusion of income in exchange for spectrum usage rights, which broadcasters can use for new content and services. Similarly, by allowing unlicensed use in certain parts of the repurposed 600 MHz Band, FCC believes that it will provide certainty and allow small entity equipment manufacturers to offer new services.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, FCC is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On November 21, 2012, FCC published a notice of proposed rulemaking in the *Federal Register*. 77 Fed. Reg. 69,934. FCC responded to comments on the proposed rule in the final rule. 79 Fed. Reg. 48,442.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The final rule contains new or modified information collection requirements subject to the Paperwork Reduction Act. FCC stated in the final rule that it will submit the requirements to the Office of Management and Budget (OMB) for review under the Act. FCC invites OMB, the general public, and other federal agencies to comment on the new or modified information collection requirements contained in the final rule.

Statutory authorization for the rule

The final rule is authorized by sections 6402 and 6403 of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112–96, 125 Stat. 156 (2012).

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, FCC is not subject to the review requirements of the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, FCC is not subject to the Order.