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

In the Matter of:)	Wireless Bureau
ACS Wireless License Sub, Inc.)	WT Docket No. 12-187
The Alaska Wireless Network, LLC)	File Nos. 0005257737, et al.
GCI, Communication Corp.)	File Nos. 0005259928, et al.
For Consent to Transfer Control of Wireless)	
Licenses and Authorizations and)	Media Bureau
Media Authorizations for KTVA (TV))	BALCDT-20130125ABD KTVA
and KSCT-LP)	BALTVL-20130125AAK KSCT-LP

**REPLY TO OPPOSITION
and
MOTION TO DISMISS
GENERAL COMMUNICATION INC FOR TRANSFER OF CONTROL OF LICENSES
By and For
FIREWEED COMMUNICATIONS, LLC AND JEREMY LANSMAN**

Summary

Petitioner, Fireweed Communications is a terrestrial broadcaster, and Jeremy Lansman is its majority owner. I filed on behalf on myself and Fireweed Communications on February 19, 2013, requesting the Federal Communications Commission (FCC) deny permission to transfer licenses pending expanded inquiry. Our petition is novel. It involves both media and telecommunication branches of the FCC. The captioned parties are telecommunications companies ACS and GCI plus their prospective, new joint mobile telephone operation, Alaska Wireless Network, LLC., plus three television stations, KTVA, KSCT-LD, and KATH-LD. The first three companies have been regulated by the “wireless” division of the FCC and the latter three by the “media” division.

Communication devices are becoming inter-operable and can take over each others functions. The present pace of technological change has resulted in market evolution not well understood and not yet subject to proper competitive analysis or regulation. Years ago regulators were primarily concerned that AM broadcasting did not interfere with ships at sea. We claim that from a mass media perspective, Media, Wireless, and Wireline, although still handled by different branches of the Commission, have to be considered in relationship to one another. Normally, competition between cell phone companies is analyzed in terms of lowering cell phone cost per minute or megabyte to the public. In view of media convergence, we believe the “wireline” applicants have such a significant share of the media market that approval of their applications for license transfer should not be approved without also analyzing media competition. The Oppositions requested our Petition to Deny be dismissed on procedural grounds and we also speak to that.

Reply to Oppositions

Procedural Request for Dismissal

Affiliated Media, Inc. FCC Trust (KTVA), have requested our petition be dismissed without consideration on its merits due to our failure to properly serve them. It is true that we did not serve a copy of the petition to KTVA. However, their opposition itself demonstrates that KTVA knew of our petition shortly after we filed. At the worst, our failure to adhere to proper protocol could have cost KTVA time to write their opposition and file it by deadline. However, KTVA had every opportunity to request additional time to file their opposition, yet they did not ask. As the lapse in service, we humbly suggest, is relatively minor, we request the Commission to consider our petition in regards to its merits.

General Communications Inc (GCI) and Alaska Communications Systems (ACS) stated that our petition to Deny is five months late. In their pleading, the proponents of the wireless license transfers, ACS and GCI, argue that they will not have a monopoly, that FWTV and Jeremy Lansman do not have standing due to lack of injury, that a waiver of the rules regarding timing of the petition to deny is not justified, and that for those reasons the petition should be dismissed (and if considered on its merits, the relief requested should be denied).

It should be noted that we are filing pro se. Where a pro se litigant makes a procedural error, courts have ruled that leniency is called for so long as judicial neutrality is maintained.¹ We humbly request the Commission to consider our petition on its merits².

Market Definition

As we previously said, if competition is analyzed, the market must be defined. Here we have shown that mingling mobile, wireline broadband, cable television, and broadcast into one company presents a unique but identifiable media business. On its face the Opposition utterly fails to offer a meaningful counter to our definition of the market, instead relying on some assertions about mobile, which is termed "Commercial Mobile Radio Service" (CMRS) is all there is to the market. We disagree. The Opposition let stand what we wrote about convergence melting the wall separating broadcasting and mobile telecommunications. Some within the FCC already recognize the fact of media, mobile and wireline convergence. Here is an FCC web page headline:

"A Groundbreaking Event for the Broadcast Television, Mobile Wireless, and Technology Sectors of the U.S. Economy This innovative and unprecedented process brings market forces

1 "However, recognizing that transsubstantive pleading standards do not sufficiently account for the capability differential between represented and unrepresented litigants, the Supreme Court fashioned a rule of special solicitude for pro se pleadings. Accordingly, "pro se complaint[s], 'however inartfully pleaded,' [are] held to 'less stringent standards than formal pleadings drafted by lawyers.' " PENNubra, University of Pennsylvania Law Review, Illiberal Construction of Pro Se Pleadings, by Rory K. Schneider, <http://www.pennumbra.com/issues/article.php?aid=297>

2 It was also claimed that KYES and Jeremy Lansman were not injured or would not be injured by the pending license transfer applications, and thus are KYES and Jeremy Lansman have no standing, therefore the Petition to Deny should be dismissed. In fact, the Petition and this Reply discuss economic and social injury. To deny there is no potential for injury in allowing formation of a larger media conglomerate is unrealistic.

to bear on many of the most important decisions about spectrum reallocation."?³

As we stated in our pleading, the user cares not how the packets are delivered. The user gets them via whatever signal path, to watch real time, or if they so choose to write the packets to memory for later viewing. The video may be embedded within a newspaper web page, or a network feed from Hulu⁴, or a Youtube video, or David Letterman's late show live. The main consideration for the user is what they have to choose from, and how much they pay to receive it. Any system that can transmit those packets should be considered part of the market.

The Objection states, "Fireweed cites no authority for this novel proposition which, if accepted, would wreak havoc with the Commission's application processing and competitive analysis procedures."⁵ Yes, change may tend toward a bit of chaos. However, changes in regulation driven by technology is constant. The 1920's Federal Radio Commission dealt mostly with broadcast interference to ships at sea. Yet the regulators have adapted. Allowing this FCC cross division petition to stand will not cause regulatory havoc, but instead will advance public oversight of media.

Others, besides the FCC, have recognized our proposition about media convergence. For example, the OCED, of which the Government of the United States is a member, has included both television broadcasting and mobile telephony in the concept of Information Communication Technology (ICT). (See attachment A).

Predictably, companies on a mission to increase monopoly power attempt to frame their products in such a way that they appear to be in a different market from a competitors product.⁶ That is what we see in the Opposition. For example, at page 5 the opposition states, "Fireweed is not a provider of CMRS, so is not a direct competitor of either ACS or GCI in the provision of CMRS." KYES transmits commercial radio signals that can be received on mobile devices, and is permitted to transmit directly to cell phones. How can the writers of the Opposition have the temerity to suggest that by some magical device the video and audio programs cell phone companies send are somehow different from those KYES does or might someday send⁷.

Additional Notes Regarding Competitive Analysis

It is safe to assume given an option to increase profitability, a company will do so. GCI has a cable television business. Netflix, which competes with GCI's cable TV business becomes less competitive if GCI limits internet downloads. They do. The result for surprised customers is an invoice like that

³ <http://wireless.fcc.gov/incentiveauctions/learn-program/index.html>

⁴ Hulu is a video web site owned by the larger US media companies.

⁵ Opposition Page 3, II, Motion to Dismiss.

⁶ It is common that a company defending itself against possible antitrust claims will differentiate its product. "we do not compete with so and so as their product is red, ours is blue." See Remarks of Jonathan B. Baker, Director, Bureau of Economics, Federal Trade Commission, <http://www.ftc.gov/speeches/other/bakst.shtm>

⁷ Cell phone reception of TV via conventional television signals is underway, and is seeing market penetration in other countries than the USA, mostly for technical reasons dealing with FCC technical standards, which heretofore have limited signal quality on mobile devices. This problem is being addressed by the Advanced Television Systems Committee. See <http://www.anandtech.com/show/6588/dyletv-at-ces-mobile-tv-coming-one-step-at-a-time> and <http://www.atsc.org/cms/index.php/communications/press-releases/306-atsc-implementation-teams-will-help-drive-next-generation-digital-tv-technologies-toward-marketplace-introduction> At this site cell phones that receive present standard signals are offered: <http://www.dhgate.com/atsc-digital-tv-mobile-cell-phone-ip30-3/p-ff8080812a2665d0012a297edfa8732d.html>

shown in Attachment A. This “gotcha” invoice is a good example of rapacious monopolistic profit enhancement AND demonstrates the overlap between media, internet, and legacy service offerings.

Free Press and Blocking of Content

The Opposition misleads us to believe that net-neutrality rules prevent blocking of content offered by Fireweed or others. Not quite true. The Commission's Report and Order on Net-neutrality⁸ defines reasonable network management at Paragraph 82. The rules allow, “... reducing or mitigating the effects of congestion on the network”. We think the Commission was contemplating video streams. In Paragraph 68 the Commission said, “Providers have incentives and the ability to discriminate in their handling of network traffic in ways that can harm innovation, investment, competition, end users, and *free expression*⁹.”, then adopted rules attempting to prevent it. However, discrimination can be subtle. An example: In its wired internet offering GCI has imposed a cap¹⁰, which we believe helps protect GCI's cable television business¹¹. In NBCU-Comcast the Commission noted that¹²,

“Specifically, we find that Comcast’s acquisition of additional programming content that may be delivered via the Internet, or for which other providers’ Internet-delivered content may be a substitute, will increase Comcast’s incentive to discriminate against unaffiliated content and distributors in its exercise of control over consumers’ broadband connections.”

Within Alaska, GCI has far more market control than Comcast. Should GCI acquire television stations, and control what could be a monopoly state-wide wireless system, their ability and incentive to discriminate will be enhanced.

Towards a fair and democratic ICT playing field in Alaska

KTVA states, “The Commission has long held that issues of industry-wide applicability will not be considered in license application proceedings. This well-established principle clearly applies to Fireweed’s generalized policy arguments regarding cable/broadcast cross-ownership in Alaska.” In response, we would pose the following question: How else will the field of ICT analysis and regulation in this era of accelerating technological change, evolve, other than through the contemplation and analysis of individual cases of contested interests?

GCA and ACS expend effort speaking of Verizon as if it is already a competitor. Verizon is not yet a competitor, leaving open the question; should approval of the license transfers be held until Verizon becomes an active competitor? How much time must Verizon do Alaska business before there is

8 In the Matter of Preserving the Open Internet, Broadband Industry Practices, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order Adopted: December 21, 2010

9 Emphasis added.

10 We include attachment A a copy of a residential GCI internet invoice. It amply demonstrates subtle discrimination against Netflix in favor of GCI's cable television offering.

11 Caps were mentioned in Paragraph 91. “Some commenters argue that Comcast would also have an increased incentive to set usage caps that would penalize Comcast’s broadband subscribers for viewing unaffiliated content, or for viewing content delivered by an unaffiliated OVD”

12 Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees, Docket No. 10-56, Memorandum opinion and order, Adopted: January 18, 2011, Paragraph 92

reasonable assurance it will stay? Would ACS combine in such a way with GCI as to raise the barrier to entry high enough that Verizon will leave? We noted in our initial filing that AT&T, a national player similar in size to Verizon, just packed up its wi-max business, and leaving Alaska wi-max internet customers dangling¹³. The applicants wrote quite a lot on how Alaska is different from the rest of the United States, and we agree. How can we know Verizon won't make the same decision; to pack up its CMRS gear, and go home to its more conventional and better understood "America"?

Radio Access Network (RAN) Sharing

Quite probably for the first time ever in the United States, GCI, ACS and AWN have filed with the FCC to request RAN sharing, via the AWN LLC. A simple Google search of the term "Radio Access Network Sharing" results in interesting reading. We stated that RAN sharing holds the promise to increase capital, and spectrum efficiency, and greatly benefit the public. However, the applicants have not explained how they might be prevented from taking advantage of a potentially expanded monopoly. Our petition raises the question; should GCI have greater monopoly power? The Opposition did not and cannot guarantee that after the Verizon dust settles, that there will be three competing mobile phone operators. On the other hand, if regulators open AWNs wholesale service to any competitor, and demand it be a not for profit, we believe competitors would spring forth throughout Alaska, not just in urban areas, and customers and free speech would benefit.

Continued Regulatory Havoc?

The GCI and ACS opposition states that if our petition's co-mingling of broadcast and wireless is "... accepted, would wreak havoc with the Commission's application processing and competitive analysis procedures.¹⁴" We have faith the FCC can deal with the evolution of technology, and its social impact on society.

A Viable way Forward

The GCI and ACS opposition complain that we did not suggest specific remedies. We had suggested that now, with the bundling of the television station acquisitions into a prospective converged media telecom emporium, it is imperative to open up this issue for public debate. Nonetheless, here is my personal analysis of the situation and my suggestion for a viable way forward:

AWN is described as a wholesale wireless provider. Most of Alaska is rural. Outside of urban areas, AWN will be the sole telecommunications provider. The monopoly threat of having a single provider would be mitigated if it made its services available to all retail companies at cost. Keep in mind that at present wireless is not price regulated. If AWN is left free to set prices and make profit there would be no limit to how high it might set the cost of telecommunications. As "retailers" GCI and ACS might then pass the monopoly prices on to individual customers and the federal government, while pocketing high profits from its AWN subsidiary. Monopoly pricing can be avoided without price regulation by

13 By RUSSELL STIGALL, JUNEAU EMPIRE, AT&T's WiMAX Internet service is slated to go the way of the dodo. Customers who currently receive their home Internet through the wireless blue modem will need to find alternative service by Jan. 31, 2013. http://juneauempire.com/local/2012-12-09/end-near-att-wimax-internet-service#.UTogWIF_V0y

14 Opposition at Page 3 II Motion to Dismiss

requiring AWN to reorganize as a not-for-profit, and be required to offer its wholesale services to all retail wireless customers on the same basis. Wire broadband is virtually unavailable in Alaska¹⁵. Wireless even more so¹⁶. The innovative sharing plan ACS and GCI propose can pioneer a new paradigm vastly increasing telecommunications connectivity in Alaska so long as all retailer providers are invited to participate, and if rates are not artificially increased by a profit taking monopoly. We believe it is regulators obligation to see that this great public benefit is the result.

Concluding Remarks

I cannot think of a resolution to the conflict of interest and the possible impact on free speech arising from GCI taking control of the television stations. In this specific instance, the Commission should not allow a combination of two powerful networks with a multimedia telecommunications firm having such dominance in the market. The broadcast license transfer should not be approved. The Motion to Dismiss launched in GCI and ACS's Opposition should be rejected as the potential for competitive injury is greatly enhanced by acquisition of TV broadcast stations.

Submitted by and written by Jeremy Lansman, this March 8, 2013; I declare under penalty of perjury that facts regarding Fireweed Communications LLC are drawn on his own personal knowledge, are true and complete to the best of his knowledge and belief.

Jeremy Lansman
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15 <http://www.fcc.gov/maps/broadband-availability-alaska>

16 Our opinion. Maps and studies filed in 12-187 are redacted. So we presume FCC staff can verify what we cannot.

ATTACHMENT A

SELECTION OF OCED SIC CODES AND WIKI-ANSWERS

We argued that for regulatory purposes, and because the boundaries are blurring, the market should be defined as Information Communication Technology (ICT) and that the term ICT is most relevant.

Here are selected OCED codes for Information Communications Technology.

“Standard Industrial Classification Codes (*SIC Codes*). The Organisation for Economic Co-operation and Development (OECD) defines ICT which includes the following SCIC codes

3220 – Television and radio transmitters and apparatus for line telephony and line telegraphy

3230 – Television and radio receivers, sound or video recording or reproducing apparatus, and associated goods

6420 – Telecommunications¹⁷

Wiki Answers has this:

“ICT (information and communications technology - or technologies) is an umbrella term that includes any communication device or application, encompassing: radio, television, cellular phones, computer and network hardware and software, satellite systems and so on, as well as the various services and applications associated with them, such as videoconferencing and distance learning. ICTs are often spoken of in a particular context, such as ICTs in education, health care, or libraries. The term is somewhat more common outside of the United Kingdom. Technology Knowledge is about being familiar with teaching aids such as video as well as how to access web based materials and use other digital media.”

¹⁷ <http://stats.oecd.org/glossary/detail.asp?ID=3038>

ATTACHMENT B

GCI SURPRISE RESIDENTIAL INTERNET INVOICE



Account Number

Invoice Num



Charge Detail

Payments Received

03: Pmt - Visa/MC/Diners	-\$69.98
Total Payments Received	-\$69.98

Internet Services

Account Level Charges

Internet Services

Description	Period	Total Amount
Cable Modem Access Fee	06/26/12-07/25/12	\$9.99
Xtreme Cable Modem 12 Mbps/1 Mbps Fee	06/26/12-07/25/12	\$59.99

Usage Charges

Description	Usage	Total Amount
Cable Modem	84,953 MB	\$679.79

Total Internet Services **\$749.77**

Page 1 - ATTACHMENT C

A VIEWER DOES NOT CARE HOW THE PACKETS GETS TO HIS/HER PERSONAL VIDEO RECORDER.

So long as it works.



Satellite, cable, internet-delivered, broadcast. The boxes all look about the same.



A Pace Set Top Box
Similar to One Used by GCI
It is not enabled to receive internet streams.



Page 2 - ATTACHMENT C

As the technology is similar, set top boxes COULD at little extra cost be made to receive cable, Over the Air TV, Wi-Fi, White Space¹⁸ Wi-Fi.

Text from Advertising for PVR Capable Of Receiving From RF, Internet, Wi-Fi

Buy your Universal PVR today

M6640N is a portrait of future PVR with multimedia playback capabilities. For a PVR, it has dual tuners which enable you recording two RF channels simultaneously and it supports the time-shifting which can pause the live broadcasting. You can upgrade your HDD capacity any time with just simple insertion. In addition, M6640N has an unrivaled multimedia playback capability including playback 1080p full-HD movies, high-quality audios, high resolution photos with thumbnails and lossless high-resolution music files. It also includes Wi-Fi 11n module which enables you connect your local network or internet, so you can playback all the contents on You-tube and other internet media sites, as well as your remote PC in another room.

Dual tuner HD PVR (Personal Video Recorder)

With its dual digital tuner, M6640N is able to record two different digital HD broadcastings simultaneously and to pause live broadcasting (Time-shifting). And it provides Electronic Program Guide (EPG), so you can simply select two channels to be recorded on the EPG.

Universal Jukebox That Supports Most Of The Media Formats.

By supporting superb H264 video compression & MKV container format, you can enjoy full HD videos. On top of this, oncoming HD media backup files as well as DVD backup files are supported. It functions as a universal jukebox that allows you to enjoy videos and music of ultimate quality through full HD picture and High-Quality audio output. It can also playback today's high-res photos and lossless music files.

<http://www.tvix.co.kr/ENG/products/PVRM6640N.aspx>

¹⁸ White Space is Wi-Fi or other unlicensed radio communication taking place in unused television broadcast spectrum. See 47 CFR part 15 Subpart H.

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