Possible Resolutions to
Twilight and Other Non-Compliant Towers
OVERVIEW

• Background on non-compliant towers

• Benefits of resolving

• Need to recognize harms they have caused

• Key elements of any path forward

• Discussion of possible approaches
Since 2001, thousands of towers built by and for licensees without Section 106 review

- “Twilight towers” built 2001-2005 – more than 4,200 nationwide
- By definition, Twilight Towers have been in place for at least 10 years
- Additional towers since 2005, mostly not by major carriers or tower companies
• Collocation not currently permitted without post-construction review
  – Post-construction review of every tower presents major logistical challenges
  – Resource constraints on Tribal Nations, SHPOs, local preservation interests, FCC
  – Impossible to identify properties that are already destroyed
IMPORTANCE OF FINDING A RESOLUTION

• Public benefit to making existing towers available for collocation
  – Less intrusive – for environment and historic/cultural sites – than new towers
  – Vast majority likely have no adverse effects
  – Enabling collocation facilitates wireless and wireless broadband coverage nationwide
  – Congress directed FirstNet to leverage existing infrastructure
RESOLUTION MUST RECOGNIZE HARMS

• Identify and acknowledge harm to historic and cultural properties caused by towers with adverse effects

• Recognize harm to review process from past non-compliance for all of these towers

• Recognize commercial/competitive advantages gained from noncompliance

• Ensure incentive to comply going forward
ELEMENTS OF RESOLUTION

• Identify and Address “Problem” Towers
  – Towers with adverse effects would not be automatically available for collocation
  – Challenge is to devise efficient and effective process for identifying them
  – Companies must commit to working with Tribal Nations, SHPOs, and local interest groups to address effects
ELEMENTS OF RESOLUTION

• Preservation/compliance support
  – Funding commitment by parties that built in violation of rules
  – After support provided, towers without adverse effects would be available for collocation
  – Details TBD, but aim for an objective approach
ELEMENTS OF RESOLUTION

• Ultimate vehicle may be program alternative under ACHP regulations
LET’S DISCUSS POSSIBLE APPROACHES

• We are offering 3 approaches for discussion only
  – FCC doesn’t endorse or support any of these in particular
  – Offered only to move the conversation forward

• We welcome your views on these ideas

• We encourage you to suggest additional approaches

• We are making similar presentations to other stakeholders
APPROACH 1: Tribal/SHPO Review of Tower Lists

• Tower owners make lists available to FCC, Tribal Nations, SHPOs, and local interests
  – All-or-nothing: tower owners may not pick and choose which to list
  – Tribal Nations, SHPOs, and local interests review and flag those with adverse effects
  – Owners identify towers for which they have received objections in the past
  – Towers without objections are cleared, others subject to further review

• Tower owners fund a preservation/compliance support program
  – Preservation/compliance support details TBD, but aim for an objective approach
APPROACH 1: Tribal/SHPO Review of Tower Lists

• Possible benefits
  – Preservation/compliance support
  – Tribal Nations, SHPOs, and local interests have access to lists of towers

• Possible challenges
  – Substantial time needed for review
  – Challenge to implement effective preservation support program
  – Difficult to objectively assess towers subject to objections
APPROACH 2:
Tribal/SHPO Identification of Problem Towers Based on Existing Knowledge

• Objections made without lists from tower owners
  – Tribal Nations, SHPOs, and local interests given defined time period to identify any existing towers that they believe have adverse effects
  – FCC and Owners also identify towers about which they have received objections in the past
  – Towers without objections are cleared, others subject to further review

• Tower owners fund a preservation/compliance support program
  – Preservation/compliance support details TBD, but aim for an objective approach
APPROACH 2:
Tribal/SHPO Identification of Problem Towers Based on Existing Knowledge

• Possible benefits
  – Preservation/compliance support
  – Faster process
  – Lower review burden

• Possible challenges
  – Tribal Nations, SHPOs, and local interests do not receive lists of towers prior to making objections
  – Tribal Nations, SHPOs, and local interests lack information to determine when towers were built and whether review completed
  – Difficult to objectively assess towers subject to objections
APPROACH 3: Existing Section 106 Process (NPA) Format

• Use the existing § 106 process format to review non-compliant towers individually
  – Review would cover the underlying tower as well as collocation
  – Would require assurances that Tribal Nations and SHPOs would perform reviews even though towers already built. Participate in the same way they do for proposed towers.

• Tower owners fund a preservation/compliance support program
  – Preservation/compliance support details TBD, but aim for an objective approach
APPROACH 3:
Existing Section 106 Process (NPA) Format

• Possible benefits
  – Utilizes familiar process
  – Ensures individual review of each tower

• Possible challenges
  – Substantial time and resources needed to complete
  – Delay may impact public safety and could result in new builds rather than collocations
  – Some SHPOs/Tribal Nations may decline to review
  – Challenging to ensure that tower owners identify all towers for review
PRESERVATION/COMPLIANCE SUPPORT

• Issues to resolve
  – What form(s) should it take?
    • Support for individual Tribal Nations, SHPOs, local interests?
      – If so, how to allocate?
    • Support for broad, in-depth compliance training initiative to improve compliance going forward?
    • Support for a comprehensive third-party assessment of towers’ aggregate impacts?
PRESERVATION/COMPLIANCE SUPPORT

– Provide support via a “suite” of options? Examples:
  • Robust compliance training requirements for tower industry
  • Survey work
  • Analysis of site eligibility for National Register listing
  • Physical mitigation (e.g., signage, plantings, etc.)
  • Direct financial support for Tribal preservation work
  • Comprehensive analysis of towers’ aggregate impacts

– Use preservation support to address towers with adverse effects?
DISCUSSION

• Reactions to these approaches

• Additional ideas

• Questions

• Next Steps
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