

October 25, 2019

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, MB Docket No. 16-142

Dear Ms. Dortch:

On October 17, 2019, Microsoft Corporation submitted an *ex parte* presentation in the above-referenced docket urging the Commission to prohibit television stations from using vacant in-band channels, where available, to assist in the transition to Next Generation TV.<sup>1</sup> Microsoft's letter mischaracterizes the nature of this proposal as well as its implications.

First, Microsoft claims that allowing broadcasters to use available television channels would constitute "granting a second channel to every licensee in the country" and "doubling the spectrum holdings of every broadcaster in the nation."<sup>2</sup> Microsoft is acutely aware of the inaccuracy of this claim because it knows all too well that, following the broadcast television spectrum incentive auction, there is insufficient television spectrum available to "double the spectrum holdings of every broadcaster in the country." Scarcity of available television channels is, after all, precisely the reason Microsoft opposes this proposal and continues to seek access to a set-aside channel for television white spaces (TVWS).

Second, in claiming that the use of available channels "is unnecessary to the transition," Microsoft misses the point. The question is not whether additional channels are "necessary." Rather, the relevant question is whether temporarily allowing television stations to take advantage of unused television channels – to which Microsoft has no licensed claim – would ease the transition and help minimize potential disruption to consumers. The answer is very obviously yes. In fact, allowing broadcasters to use vacant, in-band channels where available remains the single most helpful step the Commission

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<sup>1</sup> Letter from Paul Margie to Marlene H. Dortch, GN Docket No. 16-142 (October 17, 2019) (Microsoft Letter).

<sup>2</sup> Microsoft Letter at 1-2.

could take to minimize consumer disruption during the transition. There is no legal or policy reason to prevent broadcasters from using available television channels, on a temporary basis, to improve free local television service.

NAB has worked closely and productively with Microsoft to agree on a set of proposed rule changes the Commission could pursue to facilitate the use of TVWS technology in rural areas without disrupting television service. We look forward to continuing to work with Microsoft and the Commission in this regard. In the meantime, the Commission should promptly conclude this proceeding and confirm that broadcasters may use vacant channels to facilitate the transition to Next Generation TV.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick McFadden", with a long horizontal flourish extending to the right.

Patrick McFadden  
Associate General Counsel,  
National Association of Broadcasters

cc: Evan Baranoff  
Mark Columbo  
Martin Doczkat  
Kevin Harding  
Barbara Kreisman  
Evan Morris  
Brendan Murray  
Hugh van Tuyl