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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Redevelopment of Spectrum To )  
Encourage Innovation in the )  
Use of New Telecommunications )  
Technologies )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

ET Docket No. 92-9

TO: The Commission

JOINT COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS,  
RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION,  
THE CABLE-SATELLITE PUBLIC AFFAIRS NETWORK,  
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.  
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EXECUTIVE SUMMARY

The Joint Parties uniformly applaud the Commission's decision, in its Notice of Proposed Rule Making, not to propose reallocation of the 1.99-2.11 GHz band now used heavily -- for electronic newsgathering ("ENG") and other video production purposes -- by the industries and companies represented by the Joint Parties. This decision had been recommended by the Commission's expert, staff study on reallocation of 2 GHz frequencies.

The information supplied in these Joint Comments, in addition to the record in Gen. Docket No. 90-314 (exploring spectrum and other options for the proposed Personal Communications System ("PCS")) and the record developed in conjunction with the Commission's December 5, 1991, en banc hearing on PCS, shows heavy use of, and significant existing congestion in, these television auxiliary frequencies. The Joint Parties point out the public's reliance on the services provided via these frequencies, the impracticality of using other bands for these services, and the fact that successful implementation of PCS or other new technologies is not dependent on the reallocation of the 1.99-2.11 GHz band.

For these reasons, the Joint Parties urge the Commission, if it is to reallocate spectrum for implementation of new telecommunications technologies, to

maintain its position of not including within any reallocated or shared spectrum the frequencies 1.99-2.11 GHz currently employed heavily for ENG and related video production activity.



Broadcasting System, Inc. ("Turner")<sup>5</sup> ("Joint Parties") provide their combined response to the Commission's Notice of Proposed Rule Making ("Notice") in the above-captioned proceeding.<sup>6</sup> These comments also respond to the Commission's staff report on providing spectrum for new technologies.<sup>7</sup>

The Joint Parties' primary focus in these comments is the Commission's decision, in the Notice, not to include the 1.99-2.11 GHz band in the agency's set of proposals for possible reallocation of spectrum to accommodate new telecommunications technologies.<sup>8</sup> The Joint Parties uniformly applaud the FCC's specific exclusion of these

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(footnote cont.) broadcast system.

<sup>5</sup> Turner Broadcasting System, Inc. is a diversified entertainment company operating four cable networks (CNN, Headline News, TNT and SportSouth), a broadcast station (TBS SuperStation), and engaged in program syndication and licensing as well as operation of professional sports teams and real estate holdings.

<sup>6</sup> See Notice of Proposed Rule Making in ET Docket No. 92-9, 7 FCC Rcd 1542 (1992). By Order Extending Time for Comments and Reply Comments in ET Docket No. 92-9 (DA 92-398, released April 1, 1992), the Commission had extended the comment and reply deadline in this proceeding to June 5, 1992, and July 6, 1992, respectively. The agency's Order Denying Request to Defer Comments Dates in ET Docket No. 92-9 and RM-7981 (DA 92-694, released June 4, 1992), consistent with Section 1.46 (b) of the Commission's Rules, has adjusted the comment date in this proceeding to today, June 8, 1992. The ET Docket No. 92-9 reply comment date now is July 8, 1992.

<sup>7</sup> See Creating New Technology Bands for Emerging Telecommunications Technology ("OET Report"), FCC Office of Engineering and Technology, January, 1992.

<sup>8</sup> Notice, supra note 6 at ¶¶ 18-19.

frequencies, used heavily by the Joint Parties for mobile electronic newsgathering ("ENG") and television program transmission, from the 2 GHz frequencies which have been offered as possible sites for new technology, including the proposed Personal Communications Service ("PCS"). In these comments the Joint Parties urge the Commission not to depart from its initial decision not to reallocate these frequencies.<sup>9</sup>

Three of the Joint Parties, NAB, RTNDA and C-SPAN, jointly filed comments, on January 9, 1992,<sup>10</sup> on many of these matters which were raised in testimony offered at the PCS en banc hearing held before the Commission on December 5, 1991.<sup>11</sup> In these comments the three organizations, while stating their support for the general concept of PCS, strongly opposed the (1) reallocation of any portion of the 1.99-2.11 GHz band for PCS use; and (2) any shared allocation use among existing band users and PCS. The Joint

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<sup>9</sup> The Joint Parties note that, because the Commission specifically has proposed in the Notice not to reallocate the 1.99-2.11 GHz band, it would be a violation of the Administrative Procedure Act for the agency to make such a reallocation in this proceeding, or any other, absent a further proceeding initiated by a new rulemaking notice. It is the Joint Parties' view, as further discussed, infra, that such a further proceeding should not be initiated.

<sup>10</sup> See Joint Comments of NAB, RTNDA and C-SPAN in Gen. Docket No. 90-314, filed January 9, 1992. A copy of that joint filing is included in today's filing as Attachment A and its contents are incorporated here by reference.

<sup>11</sup> See FCC Public Notice "Commission to Hold Hearing on Personal Communications Services (PCS)," issued November 21, 1991.

Parties filing these comments today, representing a larger group of heavy users of the 1.99-2.11 GHz band, also strongly oppose any band reallocation to, or sharing with, PCS and/or the other proposed communications services addressed in the Commission's Notice.<sup>12</sup>

**II. THE 1.99-2.11 GHZ BAND IS CURRENTLY USED BY THE JOINT PARTIES FOR DELIVERY OF VITAL INFORMATION TO THE PUBLIC.**

As submitted into the record of the Commission's en banc hearing and its inquiry on PCS,<sup>13</sup> it is more than clear that the 1.99-2.11 GHz band is used heavily for mobile news gathering and program transmission by both broadcast stations and cable television programmers. As one example, we refer the Commission to the Comments NAB filed in Gen. Docket No. 90-314 on October 1, 1990 (copy also attached to these Joint Comments). There NAB demonstrated that broadcasters use this frequency band for studio-to-transmitter links ("STLs"), intercity relays ("ICRs") and mobile remote pickup operations, the latter usually taking the form of ENG.<sup>14</sup> NAB observed further that there has been a steady increase in the number of these auxiliary

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<sup>12</sup> See Notice, supra note 6 at ¶ 4.

<sup>13</sup> See Notice of Inquiry in Gen. Docket No. 90-314, 5 FCC Rcd 3995 (1990).

<sup>14</sup> See Comments of NAB in Gen. Docket No. 90-314, filed October 1, 1990, at 3.

facilities, resulting in more difficult frequency coordination among these 2 GHz TV auxiliary band users.<sup>15</sup>

In support of its position, NAB submitted, as an attachment to its October 1, 1990, filing, an NAB report titled "Television Auxiliary Frequency Usage Surveys," dated June 23, 1989. This report showed that TV auxiliary facilities were in heavy use, with the 2 GHz auxiliary band being used the most heavily. RTNDA also has documented the difficulties of ENG frequency coordination under existing spectrum conditions.<sup>16</sup> Additional representatives of video programmers, including Joint Parties C-SPAN and Turner, that currently qualify for shared use of these frequencies, also are finding that the 2 GHz auxiliary band is used heavily for their purposes, and is subject to demanding frequency coordination responsibilities with other qualified users.

The Joint Parties further note the comments filed in Gen. Docket No. 90-314 by the Society of Broadcast Engineers, Inc. ("SBE"). The SBE comments included additional evidence of the heavy use of these frequencies for television auxiliary purposes and the significant investment by broadcasters in this equipment and the

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<sup>15</sup> Id.

<sup>16</sup> See RTNDA "Statement in Partial Opposition to Petition for Rule Making" (RM-7175), filed December 18, 1989; see also Reply Comments of RTNDA in Gen. Docket No. 90-314, filed January 15, 1991.

impracticability of shifting these activities to other bands.<sup>17</sup>

Each day television viewers throughout the United States receive the benefits of broadcast auxiliary spectrum use. As Joint Party NAB explained in materials submitted in advance of the PCS hearing,<sup>18</sup> without spectrum for ENG, local television news, as we know it, would cease to exist. Moreover, all video production reliant on 2 GHz facilities would either be halted or severely crippled were there a reallocation of such frequencies to PCS or other "new technologies".

Contemporary testimony regarding the heavy use of the 2 GHz frequencies for electronic newsgathering is found in Attachment B to these Joint Comments, a letter submitted by Mr. Richard A. Rudman. Mr. Rudman is Chairman of the 2 GHz Subcommittee of the Southern California Frequency Coordinating Committee. He reports, with significant and persuasive detail, the extensive use being made of 2 GHz ENG frequencies in Southern California, with particular emphasis on the public interest use of these frequencies during the recent civil unrest in Los Angeles.

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<sup>17</sup> See Comments of the Society of Broadcast Engineers in Gen. Docket No. 90-314, filed January 9, 1992.

<sup>18</sup> See "Statement of the National Association of Broadcasters Regarding Spectrum Allocation Considerations for Proposed New Personal Communications Systems," ("NAB Statement") filed in Gen. Docket No. 90-314 on November 22, 1991.

Also, the advent of advanced television later this decade<sup>19</sup> is expected to enhance the need for these 2 GHz frequencies. Were the 2 GHz ENG band to be reduced or eliminated, video programmers would have to meet the larger demands of advanced television within only the 7 and 13 GHz bands, rather than with the three bands currently employed. The Joint Parties note, as discussed below, that the Commission's OET Report also has concluded that, in view of current high use, and especially in light of the future implementation of HDTV, "it would not be desirable" to propose the reallocation of the 1.99-2.11 band.<sup>20</sup> That is an important, compelling observation.

The FCC's OET Report describes a study which focuses on spectrum usage in the 1 to 3 GHz region. The study concludes that it would be difficult to relocate the 2 GHz broadcast auxiliary operations, due in part to the fact that during major news events, such as the recent unrest in Los Angeles, the demand for ENG frequencies often exceeds the available 2 GHz capacity.

The study recognizes that the frequencies assigned for broadcast auxiliary operations in both the 2 and 7 GHz bands are presently only marginally adequate. In fact, the demand by broadcasters for this spectrum so greatly exceeds

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<sup>19</sup> See Second Report and Order/Further Notice of Proposed Rule Making in MM Docket 87-268, 57 Fed. Reg. 21,744 and 21,755 (1992).

<sup>20</sup> See OET Report, supra note 7, at §3.3.2.

the supply that real-time frequency coordination is a necessity during periods of heavy use.

Furthermore, with the introduction of HDTV, the demand for these broadcast frequencies may increase. Even though future video compression techniques may tend to promote more efficient use of the spectrum, the OET study accurately concludes that the future requirements of broadcast auxiliary services for operating spectrum are not known. Therefore, it is not desirable to consider relocation of broadcast auxiliary services.

The NAB applauds the Commission for its diligence in researching broadcast auxiliary usage of the 2 GHz and 7 GHz bands. The conclusion that these frequencies are essential for ENG operations and that real-time frequency coordination provides a very efficient method of controlling this very congested spectrum agrees with NAB's findings and confirms the claims presented in our previous filings.

**III. USE OF OTHER AUXILIARY BANDS FOR ENG AND OTHER VIDEO OPERATIONS IS IMPRACTICAL.**

As was discussed in many of the filings submitted in Gen. Docket No. 90-314, including the joint filing of NAB, RTNDA and C-SPAN, ENG operations are not capable of simply being shifted to other frequency bands. The 7 GHz (6.425-7.125 GHz) and 13 GHz (12.7-13.6 GHz) bands, which contain primarily "fixed" links, are thoroughly congested in most markets, with no room in these markets -- and these

frequency bands -- for the addition of migrating ENG operations.

The laws of physics also militate against reallocation. Higher degrees of beam diffraction occur with 2 GHz signals. The 2 GHz signals break apart into multiple beams, when reflected, retaining sufficient signal strength to be useable at a distant receiver. On the other hand, signals at higher frequencies, such as the 7, 13, and 40 GHz bands, tend to scatter randomly when they encounter a reflecting structure, resulting in very little usable signal at the receiver.

Also, the absorption of 2 GHz signals is far less than 7, 13, and 40 GHz signals. Transmissions in the 2 GHz range are more likely to reflect off buildings or other flat surfaces without being absorbed by metal objects on or within the building. Moreover, longer transmission paths can be achieved with 2 GHz signals than with 7, 13, or 40 GHz signals, assuming the same power level. This phenomenon is due to lesser absorption and more efficient reflection of 2 GHz signals.

Broadcasters and other programmers routinely rely on bouncing signals off reflecting objects in order to get a usable signal out of a shadowed area. This reflecting technique, an integral part of ENG operation in urban areas, involves aiming a transmitting antenna toward a reflecting surface at a 90 degree angle to the receiver and bouncing

the signal out of an otherwise "dead" area. Signals in the 2 GHz band are the only way of using this bounce mechanism effectively.

Additionally, if the Commission were to alter its course and force TV broadcasters and other video programmers to relocate to another frequency band, the majority of the 2 GHz equipment currently used would be rendered obsolete. This is because, in general, it is not practical to modify 2 GHz transmitters and receivers to operate at other frequencies.

**IV. SUCCESSFUL IMPLEMENTATION OF PCS AND OTHER NEW TELECOMMUNICATIONS TECHNOLOGIES SHOULD BE BASED ON RATIONAL COMMUNICATIONS POLICY AND IS NOT DEPENDENT UPON REALLOCATION OF THE 1.99-2.11 GHZ BAND.**

The records of the Commission's en banc PCS hearing and its Gen. Docket No. 90-314 proceeding contain many comments submitted by PCS proponents. For those that did address specifically the portion of the 2 GHz band most acceptable for reallocation, the vast majority did not suggest that the ENG frequencies be reallocated. Indeed, most observed that reallocation of the 1.99-2.11 band was infeasible, for several public interest reasons.<sup>21</sup> For a further discussion of these positions, see Joint Comments, supra, note 10.

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<sup>21</sup> See Statement of J. Barclay Jones, Vice President for Engineering, American Personal Communications, filed in Gen. Docket No. 90-314 on November 21, 1991.

Indeed, last week's testimony before the Subcommittee on Communications of the Senate Committee on Commerce, Science and Transportation also is instructive. Several of those testifying, by suggesting spectrum reallocation techniques reliant on frequencies other than those used by the Joint Parties, offered further substantiation for the view that providing spectrum for new technology need not involve reallocation of the 1.99-2.11 GHz band.<sup>22</sup>

The position of the Joint Parties that there should be no reallocation of the 1.99-2.11 GHz band is further supported by many of the findings in the Commission's OET Report, discussed above. NAB is gratified that the Commission based its Notice, vis-a-vis the 1.99-2.11 GHz band, on the findings in the OET Report.

In this regard, the Joint Parties wish to address the Petition for Rule Making (RM-7981) filed March 31, 1992, by the Utilities Telecommunications Council ("UTC"). UTC asks, inter alia, for a suspension of the instant rule making and the inauguration of a separate one designed to afford a specific allocation plan for minimizing the impact of reallocation on existing services targeted for

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<sup>22</sup> See, e.g., "Statement of Thomas A. Stroup, President, Telocator," June 3, 1992; see also "Statement of FCC Chairman Alfred C. Sikes," June 3, 1992.

displacement from the 2 GHz band.<sup>23</sup> Similarly, the Commission has received, and placed on public notice,<sup>24</sup> a related petition for rule making (RM-8004) filed by Alcatel Network Systems, Inc. Alcatel also urges the Commission to establish a clear reallocation plan for those fixed private and common carrier microwave users that are proposed for displacement from the 2 GHz band.

The Joint Parties have no objection to the notion of the Commission developing a clear plan for minimizing the impact of spectrum reallocation on parties such as Alcatel and the licensees represented by UTC. Indeed, development of such a plan would constitute rational and useful communications policy. However, the Joint Parties would object strenuously to any revisitation -- in a new proceeding or elsewhere -- of the basic judgment that the

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<sup>23</sup> The Commission, by Public Notice (Mimeo No. 22934) of May 1, 1992, noted the relevance of the UTC petition to ET Docket No. 92-9 but asked that comments on the petition be filed separately and by June 1, 1992. This June 1 deadline was adjusted to today, June 8, by the Commission's Order Denying Request to Defer Comment Dates, supra note 6. The Joint Parties, electing to address the UTC petition in these ET Docket No. 92-9 comments, have served UTC a copy of today's joint filing and have submitted copies of today's filing into the record of RM-7981.

<sup>24</sup> See Public Notice (DA 92-705), released June 2, 1992. The Joint Parties are serving Alcatel a copy of these Joint Comments and are filing copies in the Commission's RM-8004 file.

1.99-2.11 Ghz band employed by the Joint Parties not be targeted for reallocation.<sup>25</sup>

**V. CONCLUSION**

For the reasons stated herein and in the above-referenced filings already submitted into the record of the PCS en banc hearing and Gen. Docket No. 90-314 proceeding, it is respectfully requested that the Commission, if it chooses to reallocate spectrum for implementation of new telecommunications technologies, not include within any reallocated or shared spectrum the frequencies 1.99-2.11 GHz currently employed for ENG and related video production activity. We applaud the Commission's decision not to propose reallocation of this 1.99-2.11 GHz spectrum in the Notice and urge the FCC and other agencies of government to maintain this stance as they examine other portions of the

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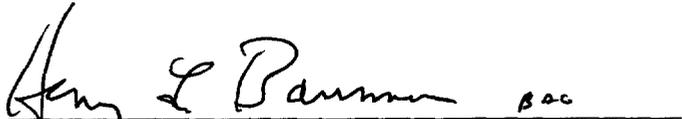
<sup>25</sup> The Joint Parties note that UTC already has asked the Commission to initiate such a further rulemaking proceeding. However, the May 1, 1992, UTC "Petition for Issuance of Further Notice of Proposed Rule Making" -- which the Commission rightfully has not placed on public notice -- is both procedurally and substantively defective.

The UTC conjures up several illusory "defects" in the Commission's Notice to base its claim that the agency somehow currently cannot ask for rulemaking comment on the reallocation of spectrum for new technologies. However, the Commission's Notice meets all relevant procedural standards, including those governing rulemaking specificity and clarity, and is based on the Commission's reasoned, expert judgment. The Commission's proposals in this proceeding properly are founded on, inter alia, the OET Report and the records developed in the PCS en banc hearing and in Gen. Docket No. 90-314. Simply stated, this latest UTC petition is without merit and should be dismissed.

spectrum -- government and non-government -- for possible  
reallocation.

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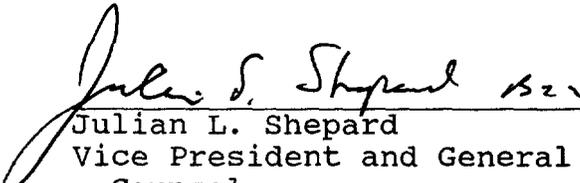
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CERTIFICATE OF SERVICE

I, Judith L. Gerber, do hereby certify that a true and correct copy of the foregoing "JOINT COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS, RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION, THE CABLE-SATELLITE PUBLIC AFFAIRS NETWORK, THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC. AND TURNER BROADCASTING SYSTEM, INC." in ET Docket No. 92-9 was sent, via first class mail, on this date, June 8, 1992, to the following:

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ATTACHMENT A

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Amendment of the Commission's ) General Docket No. 90-314  
Rules to Establish New Personal ) RM-7140  
Communications Services ) RM 7175

**JOINT COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS,  
RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION  
AND THE CABLE-SATELLITE PUBLIC AFFAIRS NETWORK**

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January 9, 1992

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APPENDIX A: COMMENTS OF NAB IN GEN. DOCKET NO. 90-314,  
FILED OCTOBER 1, 1990

APPENDIX B: "REPORT ON THE NAB 2 GHZ TV AUXILIARY  
FACILITIES SURVEY," JANUARY 7, 1992

EXECUTIVE SUMMARY

The Joint Parties, which represent heavy users of the 1.99-2.11 GHz band for electronic news gathering ("ENG") and other video production and transmission, oppose the concept of reallocating these frequencies -- on either an exclusive or shared basis -- with the proposed personal communications service ("PCS").

These frequencies are currently employed for significant programming efforts enjoyed by television viewers. Parties employing these frequencies have invested heavily in 2 GHz equipment that would be rendered useless under any reallocation or sharing scheme. Additionally, ENG operations are not capable of being shifted to other auxiliary bands, due to both the unique propagation characteristics of the 2 GHz band and the ongoing, heavy use of other auxiliary bands. Moreover, the record already established in this proceeding provides ample evidence that domestic introduction of PCS is not dependent on reallocation of the 1.99-2.11 GHz band.

Thus, rational spectrum allocation policy militates against any reallocation of these frequencies so essential to ENG and related video production and transmission. The Joint Parties urge the Commission to reject the notion of such spectrum reallocation.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
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Amendment of the Commission's ) General Docket No. 90-314  
Rules To Establish New Personal ) RM-7140  
Communications Services ) RM-7175

**JOINT COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS,  
RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION  
AND THE CABLE-SATELLITE PUBLIC AFFAIRS NETWORK**

**I. INTRODUCTION AND SUMMARY**

In these Joint Comments, the National Association of Broadcasters ("NAB"),<sup>1</sup> the Radio-Television News Directors Association ("RTNDA")<sup>2</sup> and the Cable-Satellite Public Affairs Network (C-SPAN)<sup>3</sup> ("Joint Parties") provide their combined response to the matters raised in testimony offered at the Personal Communications Services ("PCS") en banc hearing held before the Commission on

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<sup>1</sup> NAB is a nonprofit, incorporated association of radio and television broadcast stations and networks. NAB serves and represents America's radio and television stations and all the major networks.

<sup>2</sup> RTNDA is the principal professional organization of journalists who gather and disseminate news and other information on radio and television in the United States.

<sup>3</sup> C-SPAN is the cable television public affairs programming service delivered to over 56 million U.S. households by the National Cable Satellite Corporation, a non-profit corporation. The corporation also operates a companion programming service C-SPAN 2, which is available to over 26 million U.S. households.