



April 1, 2019

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Authorizing Permissive Use of the Next Generation Broadcast Television Standard, GN Docket No. 16-142; Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Bands, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37, ET Docket No. 14-165*

Dear Ms. Dortch:

On March 28, 2019 Jonathan Schwantes, representing Consumer Reports, and Michael Calabrese, representing the Open Technology Institute at New America (OTI), met with Kate Black, Media Policy Advisor to Commissioner Jessica Rosenworcel, concerning the above-listed proceedings.

The public interest advocates reiterated our position that the Commission should reject the vacant channel spectrum giveaway proposal put forward by ONE Media and pending in the ATSC 3.0 Further Notice.¹ Awarding broadcast licensees either temporary or permanent access to vacant channels to facilitate their commercial interests in an ATSC 3.0 transition would violate the Communications Act, harm the public interest, derail efforts to use TV White Space to bridge the rural digital divide, and impose costs on other parties (e.g., low power TV, wireless microphone and cable operators) to subsidize the broadcasters' ambition to compete with mobile carriers that paid for their spectrum at auction.

We opined that doubling a station's free spectrum assignment may hasten the rollout of certain fee-based "Next Gen TV" offerings that compete with mobile carriers and other ISPs, but it is not necessary at this time to protect consumers and it comes at a high cost, as rural broadband providers, Wi-Fi innovators, wireless microphone makers, cable MVPDs, and other stakeholders described in their comments.

Further, we reiterated our view that any determination about whether local broadcast licensees should be granted either "temporary" or permanent exclusive use of a second six megahertz channel is at best premature. ONE Media's proposed spectrum giveaway has nothing whatsoever to do with continued transmission of the ATSC 1.0 primary programming stream to viewers. For at least the initial five-year

¹ *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard, Report and Order and Further Notice of Proposed Rulemaking, GN Docket No. 16-142 (2017) ("Further Notice" or "FNPRM").*

period authorized in the Commission's 2017 Order, no viewers will lose their current DTV service (ATSC 1.0). The Commission's Order requires local broadcast licensees to fulfill their most basic public interest obligation and continue to broadcast their current primary DTV programming stream in at least standard definition *whether or not* they voluntarily choose to experiment with ancillary ATSC 3.0 offerings.

Finally, with respect to progress on leveraging TV White Spaces for rural broadband, we expressed our view that the Commission should as soon as possible adopt a Further Notice that resolves the long-delayed issue of allowing TV Bands Databases to use real-world GIS data to determine what protection distances and power levels are *actually needed* to protect WMTS operations on Channel 37. OTI also strongly supports consideration of the additional technical improvements to the TVWS rules proposed by Microsoft in its Oct. 2, 2018 *ex parte*.²

Respectfully submitted,

/s/ *Michael Calabrese*
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cc: Kate Black
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² *Ex Parte* Letter from Paula Boyd, Microsoft, to Marlene H. Dortch, FCC, *Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Bands, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37*, ET Docket No. 14-165 (Oct. 2, 2018).