



April 3, 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<sup>1</sup> 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 April 2, 2019 Michael Calabrese, representing the Open Technology Institute at New America (OTI), met by telephone with Martha Heller, Hillary DeNigro and Sarah Whitesell of the Media Bureau concerning the above-listed proceedings.

I reiterated the position that OTI, Consumers Union and Public Knowledge detailed in comments and reply comments in response to the Commission's ATSC 3.0 Further Notice.<sup>1</sup> Our groups believe the Commission should reject the vacant channel spectrum giveaway proposal put forward by ONE Media. 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, derail efforts to use vacant TV White Space channels 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 who, unlike broadcast licensees, paid for their spectrum at auction.

I 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. It also comes at a high cost, as rural broadband providers, Wi-Fi innovators, wireless microphone makers, cable MVPDs, and other stakeholders described in their comments.

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<sup>1</sup> Reply Comments of Consumers Union, Open Technology Institute and Public Knowledge, *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142 (March 20, 2018); Comments of Open Technology Institute and Public Knowledge, GN Docket No. 16-142 (Feb. 20, 2018).

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 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, I 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*.<sup>2</sup>

Respectfully submitted,

/s/ *Michael Calabrese*

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cc: Martha Heller  
Hillary DeNigro  
Sarah Whitesell

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<sup>2</sup> *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).