



June 8, 2018

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

Re: Notice of *Ex Parte* Communication, MB Docket Nos. 17-318, 17-317 & 17-105 and
GN Docket Nos. 17-183, 18-122

Dear Ms. Dortch:

On June 7, the undersigned of the National Association of Broadcasters met with Alison Nemeth, Kevin Costello and Justin McCuen of Chairman Pai's office to discuss the national TV ownership rule and other issues. Consistent with NAB's comments,¹ I reiterated that the Commission should, in effect, maintain the status quo. If the Commission continues to employ a 39 percent national TV cap, it should determine compliance with it by accounting for all TV stations at 50 percent of their theoretical audience reach.

More specifically, I explained that the premise underlying the national audience reach cap – that stations reach all the TV households in the DMAs in which they are located – is a fiction. This presumption of 100 percent reach significantly exaggerates the competitively effective reach of TV station groups whose actual audiences and advertising revenues have been fragmented by competition from a wide range of multichannel and online video providers. NAB's proposal to account for both UHF and VHF stations at half their theoretical audience reach still overstates their actual marketplace reach and therefore would be a conservative method of attributing stations under a 39 percent national cap. This approach also would be simple and straightforward to apply and would obviate the need for the FCC to address thorny questions about grandfathering and the transferability of grandfathered station groups.²

I stressed that the record before the Commission does not show any actual harms caused by the current levels of TV station ownership nationwide. To the contrary, today's video marketplace offers an unprecedented – and still growing – abundance of choices for

¹ Comments of NAB, MB Docket No. 17-318 (Mar. 19, 2018) (NAB Comments); Reply Comments of NAB, MB Docket No. 17-318 (Apr. 18, 2018) (NAB Reply Comments).

² See NAB Comments at 25-34.

consumers and options for advertisers.³ In this competitive video market, the Commission would have no factual or legal basis for rolling back the existing levels of TV station ownership.⁴

In addition, I discussed NAB's position in the pending carriage election proceeding. I reiterated NAB's proposal to change the cable default election from must carry to retransmission consent and to allow broadcasters to satisfy the notice requirement by placing election notices in their online public files.⁵ I also expressed NAB's continued opposition to a cable industry proposal that the FCC should change the carriage election rules so that broadcasters would be required to file one election notice per cable operator using an email address provided by the operator, as this proposal does not satisfactorily reduce the burdens and associated risk broadcasters face when making their elections under the current system.⁶

Finally, concerning use of the 3.7 to 4.2 GHz band, I argued that the FCC should waive or adjust registration fees to encourage the registration of receive-only earth stations. As NAB pointed out previously, the FCC's refusal to waive registration fees places an undue and unfair burden on licensees and may discourage users from registering all earth stations, leading to inaccurate or incomplete information.⁷

Respectfully submitted,



Rick Kaplan
General Counsel and Executive Vice President
Legal and Regulatory Affairs

cc: Alison Nemeth, Kevin Costello and Justin McCuen

³ See NAB Comments at 11-19 and Attachments A-E.

⁴ See NAB Comments at 22-25; NAB Reply Comments at 14-20.

⁵ See Comments of NAB, MB Docket Nos. 17-317, 17-105 (Feb. 15, 2018).

⁶ See NAB Written *Ex Parte* Communication, MB Docket Nos. 17-317, 17-105 (May 21, 2018); Reply Comments of NAB, MB Docket Nos. 17-317, 17-105, at 3-4 (Mar. 2, 2018).

⁷ See NAB Notice of *Ex Parte* Communication, GN Docket Nos. 17-183, 18-122 (May 22, 2018).