

June 15, 2017

**Ex Parte**

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

*Re: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; 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, and Amendment of Part 74 of the Commission's Rules for Low Power Auxiliary Stations in the Repurposed 600 MHz Band and 600 MHz Duplex Gap, Amendment of Parts 15, 73 and 74 of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band For Use By White Space Devices and Wireless Microphones, GN Docket No. 12-268, ET Docket No. 14-165, MB Docket No. 15-146*

Dear Ms. Dortch:

On June 13, 2017, Paula Boyd and Paul Garnett of Microsoft Corporation, and Paul Caritj and myself of Harris, Wiltshire & Grannis, LLP, met separately with Erin McGrath, Legal Advisor to Commissioner O'Rielly; Daudeline Meme, Legal Advisor to Commissioner Clyburn; and the following representatives of the Office of Engineering and Technology and the Incentive Auction Task Force: Jean Kiddoo (Chair, IATF), Sasha Javid (IATF), Brian Smith (IATF), Ira Keltz (OET), Geraldine Matisse (OET), Paul Murray (OET), Jamison Prime (OET), Mark Colombo (OET), and Martin Doczkat (OET).

In these meetings, we discussed the importance of the Commission's proposal to preserve one UHF white space channel in each market after the transition phase and the post-auction repack of broadcasters. The record is clear that this white space channel is critical to ensuring that the United States has the minimum three white space channels needed to support investment by semiconductor and device makers and to enable broadband Internet access for rural and underserved Americans. White-spaces technology is already in use to connect rural communities, improve the competitiveness of American farmers, and improve wireless broadband. But without regulatory certainty, innovators like Microsoft and its partners cannot increase investment, produce equipment at scale, and drive down prices to levels that allow pervasive nationwide availability of white spaces devices, technologies, and broadband access.

We discussed a new Microsoft study, detailed in the slides attached, which confirms that preserving a single UHF white space would have virtually no impact on low-power broadcasters or translators. Microsoft's analysis took into account the actual outcome of the Incentive Auction—the 84 MHz recovered, the specific stations that will be leaving the VHF and UHF bands, and the channel reassignments announced for the full power and Class A stations that will remain. Microsoft conservatively focused on the markets that the National Association of Broadcasters had predicted would be severely affected: New Mexico, Utah, and the Tennessee/North Carolina border. The study determined the number of low power and translator stations that may be affected by preserving a single white space as a percentage of the total number of such stations serving a given market today.

LPTV companies anticipate that the repack of the full-power and Class A stations will adversely affect the ability to accommodate low power stations in the repacked broadcast band. Therefore, it is important to distinguish the impact of preserving a white space channel from the far-different impact of the Congressionally mandated repack of the full-power and Class A broadcast stations. We urged the Commission to disregard submissions that conflate the effect on low-power broadcasters of preserving a white space channel and the effect of repacking full-power and Class A stations below 600 MHz. Any analysis that fails to distinguish these two factors is fatally flawed.

There is no need to wait before adopting rules to protect a single white space channel in each market. The Commission need not preserve the *same* white space channel nationwide, so there is no need to delay until final TV assignments for all parties are in place. Acting now is important because the Commission's proposed rule would provide the certainty needed to support white-spaces investment that has suffered from regulatory uncertainty.<sup>1</sup> Indeed, the record makes clear the need for quick action to promote certainty and investment and overwhelmingly demonstrates that the Commission may take this step immediately without affecting a single broadcaster throughout the vast majority of the country.

Sincerely,



Paul Margie  
*Counsel for Microsoft Corporation*

Encl.

cc: meeting participants

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<sup>1</sup> *Amendment of Parts 15, 73 and 74 of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band for Use By White Space Devices and Wireless Microphones*, Notice of Proposed Rulemaking, 30 FCC Rcd. 6711, ¶¶ 41-43 (2015).