

July 10, 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, GN Docket No. 12-268, ET Docket No. 14-165,
MB Docket No. 15-146

Dear Ms. Dortch:

More than two years ago, the Commission released a proposal that would reserve at least one “vacant” nationwide television channel for the operation of unlicensed television white spaces devices at the direct expense of licensed television services. In recent weeks, Microsoft has sought to resurrect this proposal, once again assuring the Commission that if the Commission provides a regulatory accommodation for white spaces, the technology will flourish.¹

Of course, this is not the first time Microsoft has made promises regarding white spaces technology. In 2007, Microsoft claimed that access to white spaces would “stimulate American industry innovation and benefit consumers in ways yet unimaginable.”² Few issues before the Commission, however, have exhibited a greater disparity between promises made and promises kept than white spaces.

Ten years later, here are the facts. There are only about 800 white spaces devices registered nationwide (the various database providers do not even agree on the number of devices registered, so no one can provide an exact figure). That’s 800 devices total, not 800 types of devices. Many of these devices are “test” devices, or do not actually appear to be offering any service. Moreover, one-third of the country’s states have three or fewer white spaces devices even registered, and 12 states do not have even a *single* white spaces device in operation.

¹ See, e.g., Letter from Paul Margie to Marlene H. Dortch, GN Docket No. 12-268, ET Docket No. 14-165, MB Docket No. 15-146 (June 21, 2017).

² Letter from Edmond J. Thomas to Marlene H. Dortch, Attachment at 1, ET Docket Nos. 04-186, 02-380 (July 12, 2007).

Even in those states that have double digit numbers of devices, it is not always clear that these devices are providing any meaningful service. For example, in Florida, a state with 21 million people, only 10 white spaces devices are operating in the state. Eight of these devices are registered as “tests.” Another is used for video in the Florida Department of Environmental Protection building. The remaining one has no companion devices in communications range and is thus clearly not operating.

In Thurman, New York, one of a handful of places where white spaces are actually used to provide internet access, the costs of deployment have proven grossly wasteful compared to the tangible results. While the town of Thurman has spent nearly \$270,000 on white spaces deployment, the project currently serves less than 40 households.³ That reflects an investment of roughly \$6,700 per household for a service that requires customers to pay nearly \$300 for equipment plus \$50 per month. This does not serve as a model for expanding rural broadband internet access nor is it a public interest success; rather, it serves as a cautionary tale.

Microsoft has been making promises about white spaces technology for well over a decade. Yet there remain few tangible consumer benefits associated with white spaces deployments across the U.S. At what point do we finally conclude that the white spaces project is a bust? Microsoft has simply not delivered on its lofty promises. Not even close. As the Commission considers burying white spaces forever, at the very least it should make clear is that there is no basis whatsoever for reserving additional unlicensed spectrum – at the expense of licensed television services that lack access to alternative bands – to support this floundering experiment.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick McFadden", with a stylized, flowing script.

Patrick McFadden
Associate General Counsel,
National Association of Broadcasters

³ Thom Randall, “‘White space’ grant check received by town of Thurman,” The Sun (Nov. 10, 2016) available at: <http://www.suncommunitynews.com/articles/the-sun/%E2%80%98white-space%E2%80%99-grant-check-received-by-town-of-thurman/>). See also Michael Goot, “Investigation under way in Thurman white space issue,” The Post Star, (April 27, 2016) available at: http://poststar.com/news/local/investigation-under-way-in-thurman-white-space-issue/article_c7f9dd74-79b4-5a9d-a64e-1f7c615f2bc5.html