

September 8, 2020

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

Re: Notice of *Ex Parte* Communication, IB Docket No. 20-205, GN Docket No. 18-122

Dear Ms. Dortch:

NCTA – The Internet & Television Association (NCTA) and the National Association of Broadcasters (NAB)<sup>1</sup> respectfully request that the Commission afford a limited opportunity for operators of certain earth stations not currently reflected on the International Bureau’s list of registered earth stations<sup>2</sup> to correct their filings and register to be considered incumbent earth stations only for the purpose of interference protection. We do not ask that these newly registered earth stations be entitled to reimbursement for relocation expenses.<sup>3</sup>

On July 6, 2020, the International Bureau released a preliminary list of registered earth stations that would be considered incumbent earth stations eligible for protection and reimbursement as part of the reallocation of the C-band.<sup>4</sup> On July 31, the Bureau released its final list of incumbent

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<sup>1</sup> NCTA is the principal trade association for the U.S. cable industry, representing more than 200 cable program networks as well as cable operators that serve nearly 80 percent of the nation’s cable television customers. Cable program networks reach nearly 90 million U.S. television households and have invested more than \$430 billion in award-winning news, sports, and entertainment content since 1997. The cable industry also is the nation’s largest provider of broadband service after investing over \$290 billion over the last two decades to deploy and continually upgrade networks and other infrastructure. The National Association of Broadcasters (NAB) is the nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

<sup>2</sup> *International Bureau Releases List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, Public Notice, IB Docket No. 20-205, DA 20-823 (Aug. 3, 2020) (Final List Public Notice).

<sup>3</sup> *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343 (2020) (C-band Order).

<sup>4</sup> *International Bureau Releases Preliminary List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, Public Notice, IB Docket No. 20-205, DA-703 (July 6, 2020) (Preliminary List Public Notice).

earth stations, noting that it had accepted some corrections suggested by earth station operators, but rejected several requests for changes to the list.<sup>5</sup>

We ask the Commission to allow one specific category of earth station operators to correct oversights or omissions that led to their earth stations not being included on the final list of incumbent earth stations. In particular, NAB and NCTA urge the Commission to allow earth station operators to register additional antennas collocated at the same site where one antenna is registered and was included in Bureau's final list of incumbent earth stations. Providing such an opportunity to make corrections would be consistent with the Commission's goals in the C-band proceeding, would help preserve content distribution to the public, and would in no way impair or impede the success of the auction of C-band spectrum later this year.

The Commission's overriding goals in the C-band proceeding are to expeditiously clear new spectrum for flexible use while preserving and protecting a content distribution ecosystem on which hundreds of millions of Americans rely. Accordingly, while the Commission has set aggressive deadlines for the clearing of spectrum, it has stressed that the operations of incumbent earth station and space station operators remaining in the upper portion of the band should be protected. Specifically, the Commission's order requires that "incumbent space station operators continue to be able to provide substantially the same or better service to incumbent earth station operators, and that incumbent earth station operators continue to be able to provide substantially the same service to their customers . . . compared to what they were able to provide before."<sup>6</sup> Indeed, when it comes to video service, the Commission further promised in the C-band order that, post-transition, "the video quality of the end-to-end, programmer-to-viewer chain [will be] at least as good as it is today."<sup>7</sup> At the same time, NAB and NCTA recognize the importance of promptly establishing a final list of incumbent earth stations both to provide a list upon which space station operators can rely and to ensure that there are no delays in the transition – as well as to provide certainty to potential auction bidders.<sup>8</sup>

We believe the Commission can serve both of these goals by providing a limited opportunity that would apply only to operators at sites that include an earth station that was properly registered and appears on the Bureau's final list of incumbent earth stations, but where the operator failed to individually register each antenna at that site.

In its June 2018 Public Notice addressing filing options for operators with multiple earth station antennas, in response to concerns that it could be financially or technically difficult for operators with large numbers of earth stations to register within the filing window, the International Bureau

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<sup>5</sup> Final List Public Notice at 2-5.

<sup>6</sup> C-band Order at ¶ 194.

<sup>7</sup> *Id.* at ¶ 194, n. 518.

<sup>8</sup> Final List Public Notice at 3 ("Given the importance of repurposing the 3.7-4.0 GHz band and the Commission's commitment to an expedited timeline for the transition, we cannot grant requests that could give rise to delay.")

permitted operators to register multiple antennas in a single application.<sup>9</sup> NAB and NCTA are concerned that their members, and in particular at least one prominent vendor upon whom earth station operators relied for filing in compliance with the rules, may have misinterpreted the instructions in this Public Notice and relied on the generalized statement that stations with multiple antennas at a single site could file a single application and pay a single fee. This interpretation led some of them to believe that registration of one antenna at a site would be sufficient to ensure interference protection for all of the antennas collocated at that site without individually listing or registering each antenna.

This may have stemmed in part from confusion over instructions contained in the rest of this Public Notice. The same Public Notice also waived certain of the Commission's rules to permit operators of multiple geographically *diverse* receive-only earth stations to register those stations as "networks" of earth stations.<sup>10</sup> The Public Notice then went on to describe the filing process, which included registering individual antennas at a site, but operators and their vendors may have inadvertently assumed that this requirement applied only to operators of geographically diverse earth stations, rather than the first category (multiple antennas at a single site) as well.

NAB and NCTA respectfully submit that earth station operators who mistakenly thought their individual antennas were all covered by a single site application are not seeking any windfall or undue advantage as part of this request. Rather, these are operators whose earth stations have been in operation for some time, whose earth stations are critical to the content distribution infrastructure on which consumers rely, and who in good faith attempted to comply with the Commission's filing requirements. NAB and NCTA simply seek interference protection – though not reimbursement – for these antennas. Providing a brief opportunity for operators to correct the incumbent earth station list for this limited category of antennas will not risk delaying the transition or unduly burden the Commission, and such corrections could be made sufficiently in advance of the auction and associated deadlines and decision points for potential auction bidders.

Accordingly, we ask the International Bureau to provide a further opportunity for earth station operators to register additional antennas at a collocated site solely for the purpose of interference protection. We propose to limit the scope of this request in two ways: First, the Bureau could limit additional antenna registrations at a site to those antennas located within 150 meters of a registered antenna. Second, the Bureau could limit the number of additional antennas for registration at any given site to 25 additional antennas.

We believe these limits likely would cover the great majority of cases in this class of affected earth station operators and, in combination, would ensure that additional registrations would not result in any unmanageable burdens on the Commission or undue impacts on the auction.

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<sup>9</sup> *International Bureau Announces 90-day Extension of Filing Window, to October 17, 2018, to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band; Filing Options for Operators with Multiple Earth Station Antennas*, Public Notice, 33 FCC Rcd 6115, 6117 (2018).

<sup>10</sup> *Id.*

Respectfully submitted,

/s/

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Patrick McFadden  
National Association of Broadcasters

/s/

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Danielle Piñeres  
Jacqueline Clary  
NCTA – The Internet & Television  
Association