



September 11, 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. 17-317, 17-264, 17-105, 05-6;
ET Docket No. 16-56

Dear Ms. Dortch:

On September 10, 2018, Erin Dozier, Patrick McFadden, Emmy Parsons and the undersigned of the National Association of Broadcasters (NAB) met separately with Erin McGrath and Kagen Despain of the Office of Commissioner O’Rielly and Evan Swarztrauber of the Office of Commissioner Carr to discuss two proceedings arising from the Commission’s media modernization initiative—application notices and carriage election notices—as well as the white spaces geolocation proceeding.

At the meeting, NAB reiterated its support for elimination of the Commission’s rules requiring broadcast licensees to provide public notices of the filing of various license applications.¹ As detailed in our comments, these notices are superfluous and simply do not result in public comment.² Accordingly, the current rules place unnecessary burdens on broadcasters without providing a corresponding public interest benefit.

¹ See Comments of National Association of Broadcasters, MB Docket Nos. 17-264, 17-105, 05-6 (Dec. 29, 2017) (NAB Comments). See also Letter to Marlene H. Dortch, Secretary, FCC from Erin L. Dozier of NAB, MB Docket Nos. 17-264, 17-105, 05-6 (Apr. 13, 2018) (NAB April 13, 2018 Ex Parte); Letter to Marlene H. Dortch, Secretary, FCC from Erin L. Dozier, NAB, MB Docket Nos. 17-264, 17-105, 05-6 (Mar. 5, 2018) (NAB March 5, 2018 Ex Parte).

² NAB Comments at 8-9. NAB reviewed the 389 full power television license renewal applications filed in 2012 using the FCC’s Consolidated Database System and found that only six applications – or 1.5 percent – were the subject of any public comment (drawing seven total filings). See Petition to Deny License Renewals of Citizens for Responsibility and Ethics in Washington, FCC File Nos. BRC DT–20120531AKE/AKK/AJL (Aug. 22, 2012); Letter from Bradley Snow re: FCC File Nos. BRC DT–20120531AKE/AKK/AJL (Aug. 28, 2012) (Snow Letter); Letter from Bob Terpstra re: FCC File Nos. BRC DT–20120531AKE/AKK/AJL (Sept. 6, 2012) (Terpstra Letter); Informal Objection of Bright House Networks, FCC File No.

We stated that, as an alternative to eliminating broadcaster-generated notices, NAB has urged the FCC to eliminate its newspaper notice requirements and permit broadcasters to make brief on-air announcements that refer audiences to websites with additional information.³ In designing an online notice standard, the Commission could rely on its successful adoption of online disclosure requirements for material terms relating to broadcast contests.⁴ We observed that although a small number of licensees may be unable to provide on-air announcements because they don't originate programming (i.e., translators, boosters, new stations and stations changing community of license), the record in this proceeding cannot support retention of the print newspaper requirement with regard to any stations or applications.⁵ Stations that cannot generate on-air notices should either be permitted to place notices online or be exempt from the requirement.

NAB also discussed the Commission's proceeding to modernize its rules governing the carriage election notices that broadcasters are required to send to MVPDs. NAB reiterated that the Commission should update its rules to provide much-needed certainty that notice

BRCDT-20120927AKV (Sept. 23, 2013); Letter from Bob Campbell, Mayor of DuFuniak Springs, FL to William T. Lake, Chief, Media Bureau, FCC, FCC File No. BRCDT-20120927AKV (Sept. 30, 2013); Letter from J. Gordon Bengston re: FCC File No. BRCDT-20120530AIF (May 16, 2012); Letter from Herbert Max Bradley re: FCC File No. BRCDT-20120730AFS (Aug. 5, 2012) (Bradley Letter). Those who did file likely did not rely on broadcaster-generated notices to learn of the applications (e.g., filings by a Washington, D.C.-based watchdog group, a major cable provider, and a mayor supporting the cable operator's position). Even comments filed by the general public appear to rely on Internet information sources. Of the four comments filed by individuals, two included references to the FCC file numbers associated with the applications, rather than merely identifying the stations' call letters (Snow Letter, Terpstra Letter), and one included a printed page from the FCC's website within instructions on how to file petitions to deny, informal objections and comments (Bradley Letter). Thus, to the extent that filers are not corporations or non-profit organizations with Washington, D.C. offices staffed by attorneys/lobbyists who frequently appear before the FCC and other government entities, such filers also are comfortable using the FCC's website to learn about and address broadcast applications.

³ NAB Comments at 10-11, *citing Amendment of Section 73.1216 of the Commission's Rules Related to Broadcast Licensee-Conducted Contests*, Report and Order, 30 FCC Rcd 10468 (2015) (Contest Order). See also Letter from Erin L. Dozier, NAB to Marlene H. Dortch, Secretary, FCC, MB Docket Nos. 17-264, 17-105, 05-6 (Mar. 5, 2018) (NAB March 5 Ex Parte) at 1-2; Letter to Marlene H. Dortch, Secretary, FCC from Erin L. Dozier of NAB, MB Docket Nos. 17-264, 17-105, 05-6 (Apr. 13, 2018).

⁴ *Id.*

⁵ See Letter from Rick Kaplan, NAB to Marlene H. Dortch, Secretary, FCC, MB Docket Nos. 17-264, 17-105, 05-6 (August 16, 2018) at 2-3.

was properly executed, and to reduce the time and financial burdens imposed on broadcasters under the current regime.⁶

Finally, NAB urged the Commission to conclude the white spaces automatic geolocation proceeding promptly, to ensure that the TV white spaces database functions as intended.⁷

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rick Kaplan', with a long horizontal line extending to the right.

Rick Kaplan
General Counsel and Executive Vice President,
Legal and Regulatory Affairs
National Association of Broadcasters

cc: Erin McGrath, Brooke Ericson, Kagen Despain, Evan Swarztrauber

⁶ See, e.g., Comments of the National Association of Broadcasters, MB Docket Nos. 13-317, 17-105 (Feb. 15, 2018).

⁷ *Amendment of Part 15 of the Commission's Rules for Unlicensed White Space Devices*, Notice of Proposed Rulemaking and Order, 31 FCC Rcd 1657 (Feb. 26, 2016).