



September 13, 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. 17-289, 14-50, 04-256

Dear Ms. Dortch:

On September 11, 2018, I spoke by telephone with Brooke Ericson of the Office of Commissioner O’Rielly regarding the above-referenced proceedings. During the call, I stated that the National Association of Broadcasters (NAB) continues to oppose a proposal by a few members of the Advisory Committee on Diversity and Digital Empowerment (ACDDE) and/or the ACDDE’s Broadcast Development Working Group (the “Subgroup”)¹ to modify the incubator program order adopted at the Commission’s August meeting.² I stated that the Commission should not modify the Order to further restrict the markets in which an incubating entity can exercise its use of a reward waiver upon successful completion of an incubation relationship. As NAB previously observed, limiting the exercise of a reward waiver to markets within five market sizes of the incubation market is unduly restrictive and would inhibit participation by potential incubating broadcasters.³ This would, in turn, reduce opportunities for prospective incubated broadcasters. Contrary to the claims of the Subgroup, the issue of market definition for purposes of reward waivers was the subject of significant notice and comment during the incubator program proceeding (and in related dockets prior to that proceeding)⁴ and the proposal to narrow the definition of “comparable” markets is unsupported by any record (or other) evidence.⁵

¹ Letter from David Honig to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-289 et al. (Aug. 20, 2018) (Subgroup August Ex Parte).

² *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, Order, MB Docket No. 17-289, FCC No. 18-114 (rel. Aug. 3, 2018) (“Order”).

³ Letter from Patrick McFadden, Associate General Counsel, NAB, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-289 et al. (Jul. 26, 2018) at 5; Letter from Rick Kaplan, General Counsel, NAB, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 17-289 et al. (Sept. 4, 2018)(Comparable Markets Ex Parte).

⁴ Comparable Markets Ex Parte at 2, 4-5.

⁵ Comparable Markets Ex Parte at 3-4.

Please direct any inquiries regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Erin L. Dozier', with a stylized, cursive script.

Erin L. Dozier
Senior Vice President and Deputy General Counsel
Legal and Regulatory Affairs

cc: Brooke Ericson