



November 17, 2016

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

Re: Notice of Ex Parte Communication, ET Docket Nos. 16-56, 14-165; GN Docket No. 12-268

Dear Ms. Dortch:

On November 16, 2016, Alison Neplokh, Bruce Franca and the undersigned, all of NAB, met with Commission staff to discuss ongoing issues with the Commission's Television White Spaces (TVWS rules). FCC attendees are listed below.

The Commission should either amend its current Television White Spaces (TVWS) rules to make those rules effective and enforceable, or it should eliminate those rules and abandon the failed TVWS experiment. The Commission's current approach – allowing TVWS operations in the face of the documented failure of its rules and ongoing noncompliance with those rules – is incoherent.

Nearly two years ago, the National Association of Broadcasters filed a petition for rulemaking asking the Commission to amend its TVWS rules to eliminate the so-called "professional installation" option for determining the location of fixed TVWS devices.¹ Since that time, NAB has repeatedly demonstrated the insufficiency of professional installation as a method for accurately determining the location of TVWS devices.² To this day, the TVWS database continues to reflect errors and inaccuracies.³

¹ Emergency Motion for Suspension of Operations and Petition for Rulemaking, RM-11745 (March 19, 2015).

² See, e.g., Letter from Patrick McFadden to Marlene H. Dortch, RM-11745, ET Docket No. 14-165 (June 25, 2015); Letter from Patrick McFadden to Marlene H. Dortch, ET Docket No. 16-56 (July 15, 2016).

³ Attachment.

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The Commission's inaction on this matter is perplexing, particularly because the Commission's own staff itself helped broker the solution. Exactly 16 months ago, NAB, together with TVWS manufacturers responsible for the vast majority of TVWS devices currently available, submitted a compromise proposal to eliminate location accuracy issues NAB identified by requiring fixed TVWS devices to incorporate an automatic geolocation capability or be under the control of a device with such capability.⁴ Finally, more than seven months after these parties submitted a solution based on the urging of Commission staff, the Commission issued a brief Notice of Proposed Rulemaking that would amend the Commission's rules to reflect this cross-industry compromise.⁵

Nearly nine months have passed since the released of that NPRM, yet Commission staff have told NAB they do not believe an order will be forthcoming until the next administration. The Commission should act expeditiously to resolve this matter rather than allowing a well-documented problem to continue to fester. If the Commission has not yet acted because only a handful of TVWS devices are currently operating years after the current rules were enacted and the Commission considers TVWS operations so trivial as to be irrelevant, the Commission should simply eliminate its rules permitting such operations.

Similarly, the Commission currently has in place fast approaching deadlines for compliance with rules which TVWS device manufacturers and database providers do not appear prepared to meet. On August 6, 2015, the Commission amended its rules to require, among other things, that TVWS database administrators have the capability to "push" updated available channel lists to white spaces devices and that TVWS devices have the ability to accept these updated channel lists.⁶ For the avoidance of doubt, the Office of Engineering and Technology (OET) issued guidance regarding compliance with these rules. That guidance plainly states, "All [TVWS] devices imported and marketed after September 23, 2016, must

⁴ Letter from Haiyun Tang, Adaptrum, Inc.; James Carlson, Carlson Wireless Technologies, Inc.; Larry W. Koos, Koos Technical Services, Inc.; Jordan Du Val, MELD Technology, Inc.; and Rick Kaplan, National Association of Broadcasters, to Julius P. Knapp, Chief, Office of Engineering and Technology, RM-11745 (filed Jul. 17, 2015).

⁵ *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).

⁶ *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; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 30 FCC Rcd 9551, ¶ 280 (2015).

comply with the ‘push’ notification.”⁷ To date, no TVWS device complies with the Commission’s push notification requirement, yet TVWS device manufacturers continue to market non-compliant devices.

The OET guidance also provides that any device “that does not comply with the ‘push’ notification must cease operation after December 23, 2016.”⁸ There are currently no industry standards for implementing the push notification requirement and, to NAB’s knowledge, TVWS database administrators and TVWS device manufacturers have taken no steps to comply with this requirement. In the event that TVWS database administrators and TVWS device manufacturers are not in compliance with these rules by the Commission’s rapidly approaching deadline, the Commission should not wait two years to take action.

NAB has sought to enable spectrum sharing in broadcast spectrum as long as such sharing is based upon policies and procedures that reliably prevent interference. We have identified serious issues with the TVWS database and at the Commission’s urging worked with the TVWS industry to develop a viable solution to those issues. The Commission should either adopt and enforce effective rules that will allow TVWS devices to coexist with licensed operations, or it should eliminate or suspend TVWS operations.

Respectfully Submitted,



Patrick McFadden
Associate General Counsel,
National Association of Broadcasters

cc: Julius Knapp
Ira Keltz
Matthew Hussey
Hugh Van Tuyl
Paul Murray
Jamison Prime
Chris Gao

⁷ FCC, Office of Engineering and Technology, “Certification Test Procedures For White Space Devices Authorized Under Subpart H of the Part 15 Rules,” 10 (Dec. 22, 2015) available at: https://apps.fcc.gov/kdb/GetAttachment.html?id=f7UKqx6KQJuTNdIY31S4wg%3D%3D&desc=416721%20D01%20White%20Space%20Test%20Procedures%20v03&tracking_number=50929

⁸ *Id.*