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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Service Rules for the 746-764 and ) WT Docket No. 99-168  
776-794 MHz Bands, and )  
Revisions to Part 27 of the )  
Commission's Rules )

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REPLY COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS

The National Association of Broadcasters ("NAB")<sup>1</sup> submits this reply to certain comments on the Commission's *Notice of Proposed Rulemaking* in this proceeding.<sup>2</sup> In the *Notice*, the Commission requested comment on whether service rules for the 746-764 and 776-794 MHz bands should permit licensees to use this spectrum for a variety of services, including fixed, mobile and broadcasting. Specifically, the Commission proposed to allow licensees to determine which services they will provide, and tentatively found that making the spectrum available for flexible commercial use is in the public interest. *See Notice*, at ¶¶ 10, 12. Comments submitted in response to this *Notice* make widely varying proposals regarding the types of services that should be permitted on the 746-764 and 776-794 MHz bands, as well as the appropriate size of the spectrum blocks and service areas that should be established for the permitted services. In this reply,

<sup>1</sup> NAB is a nonprofit incorporated association of radio and television stations and broadcast networks. NAB serves and represents the American broadcasting industry.

<sup>2</sup> *Notice of Proposed Rulemaking* in WT Docket No. 99-168, FCC 99-97 (rel. June 3, 1999) ("*Notice*").

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NAB wants to emphasize that any new licensees in these bands -- regardless of the types of services they may offer -- must fully protect both analog and digital television operations during the digital transition period. NAB will also briefly address two sets of comments concerning the types of services to be provided on these spectrum bands.

**I. Incumbent Broadcast Operations Must Be Fully Protected During The Digital Transition Period.**

As the Commission has already clearly established, all analog television and digital television (DTV) operations in the 746-764 and 776-794 MHz bands are to be fully protected during the DTV transition period.<sup>3</sup> Thus, any new licensees in these bands will have to protect both analog television and DTV operations from interference.<sup>4</sup> NAB reemphasizes here that, regardless of the types of services that new licensees in the 700 MHz bands will ultimately be permitted to offer pursuant to this proceeding, these licensees must be required to protect the analog and digital operations of incumbent broadcast licensees throughout the DTV transition period. Other commenters in this proceeding have similarly stressed the importance of fully protecting analog and digital television operations, and NAB strongly supports them.<sup>5</sup>

In its comments, Harris Corporation supported the Commission's proposal to require new commercial licensees in these 700 MHz bands to attenuate the transmitted power (P) by a factor of at least  $43 + 10 \log_{10}(P)$  or 80 dB, whichever is less, for any

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<sup>3</sup> See *Sixth Report and Order, Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, 12 FCC Rcd 14588, 14626-27 (1997).

<sup>4</sup> See *Notice of Proposed Rulemaking, Reallocation of Television Channels 60-69, the 746-806 MHz Band*, 12 FCC Rcd 14141, 14148 (1997).

<sup>5</sup> See, e.g., Comments of The Walt Disney Company at 5-6; Association of America's Public Television Stations at 3-4.

emission on all frequencies outside the licensee's authorized spectrum.<sup>6</sup> While this level of out-of-band suppression may be sufficient for land mobile type services, NAB does not agree that this one-size-fits-all emission mask will, in every case, be adequate to protect incumbent DTV and analog broadcast stations.<sup>7</sup> Indeed, NAB believes that the proposed out-of-band emission mask will likely be useful only in the case where the authorized service is low power (*e.g.*, radiated power less than 50 watts peak). NAB stresses that, whatever final technical rules are adopted by the Commission for the new services authorized in the 746-764 and 776-794 bands, these rules must protect incumbent analog and DTV stations to the full extent provided for in the previous DTV allocation orders.<sup>8</sup>

## **II. Spectrum Blocks Of Six Megahertz Will Enable New Licensees To Provide A Broad Array Of Services, Including Broadcast.**

In response to the Commission's request for comment on the amount of spectrum to be provided for each licensee in the two spectrum bands at issue, The Walt Disney Company ("Disney") argued that six megahertz blocks are the most appropriate. Because both analog and digital television broadcasters use six megahertz spectrum blocks, Disney stated that adoption of any other size of spectrum block would disfavor, if not effectively prevent, broadcasting as a potential use of the 746-764 and 776-794 MHz

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<sup>6</sup> See Comments of Harris Corporation at 2.

<sup>7</sup> Harris Corporation also asked the Commission to extend the out-of-band emission limits proposed in this proceeding to all digital television broadcast transmitters, even those operating on channels 2-59. Such a request is clearly beyond the scope of this proceeding.

<sup>8</sup> See *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, 14 FCC Rcd 1348 (1998), and other orders cited therein.

bands. Moreover, licensing these spectrum bands in six megahertz blocks would accommodate, according to Disney, both fixed and mobile wireless services. Disney thus urged the adoption of a licensing plan based on six megahertz blocks so as to facilitate the provision of a wide array of services on the two bands at issue.

If the Commission, as proposed in the *Notice*, determines to permit the provision of a variety of services including broadcast on the 700 MHz bands, NAB agrees with Disney that licensing these bands in six megahertz blocks is appropriate. Although spectrum blocks of one or two megahertz may be sufficient to provide paging and other messaging services, broadband services require larger spectrum blocks. Thus, NAB agrees with Disney that awarding licenses in six megahertz blocks will best accommodate the provision of both narrowband and broadband services (including broadcast) within these spectrum bands.<sup>9</sup> NAB notes that other commenters in this proceeding have, for similar reasons, supported licensing the 700 MHz bands in six megahertz blocks.<sup>10</sup>

### **III. Designation Of These Spectrum Bands Exclusively For A New Digital Mobile Audio And Data Service Would Not Serve The Public Interest.**

In its comments, the Consumer Electronic Manufacturers Association (“CEMA”) urged the Commission to designate the 746-764 and 776-794 MHz bands exclusively for

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<sup>9</sup> In this regard, the Commission has proposed to allow licensees in these two spectrum bands to partition their service areas and to disaggregate their spectrum. *Notice*, at ¶ 36. If six megahertz blocks are larger than needed to provide certain narrowband services, then licensees providing these types of services may disaggregate their spectrum. It should be easier for a narrowband licensee to disaggregate unneeded spectrum than for a prospective broadband service provider to acquire multiple small spectrum blocks. *See Notice*, at ¶ 19. The Commission could also cluster licensees providing similar narrowband services within single six megahertz blocks.

<sup>10</sup> *See, e.g.*, Comments of KM Communications, Inc. at 2-3; Association for Maximum Service Television, Inc. at 8.

a newly-created terrestrial “Mobile Multimedia Broadcast Service” (“MMBS”), which would provide digital audio, information and data services. NAB does not believe that designating these spectrum bands exclusively for another digital audio service would promote the public interest.

As an initial matter, CEMA’s proposal to designate the entire 36 MHz of spectrum at issue to a single new digital mobile service is contrary to the Commission’s proposal to allow licensees “to provide a variety or combination of fixed and mobile, common carrier and non-common carrier, and broadcast services.” *Notice*, at ¶ 24. The comments submitted in this proceeding demonstrate an interest in using the 700 MHz bands to provide a number of services, including private wireless, broadcast, and a variety of commercial fixed and mobile wireless services. CEMA has shown no compelling reason to justify the foreclosure of all these other potential uses and the exclusive reservation of 36 MHz of spectrum for a new service for which market demand has yet to be demonstrated.

NAB also strongly believes that designation of the entire 746-764 and 776-794 MHz bands to provide a digital audio and data service would constitute an inefficient use of the public’s spectrum resources. The Commission has already allocated spectrum for the provision of a digital audio satellite service.<sup>11</sup> In addition, the Commission has stated its intention to launch a rulemaking proceeding on in-band/on-channel (“IBOC”) digital audio broadcasting (“DAB”).<sup>12</sup> As previously stated in pleadings before the Commission, NAB supports exploration of IBOC DAB technology and a Commission

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<sup>11</sup> See *Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, 12 FCC Rcd 5754 (1997).

<sup>12</sup> See *Order, Creation of Low Power Radio Service*, FCC 99-112 (rel. May 20, 1999).

rulemaking on the subject.<sup>13</sup> Because implementation of IBOC DAB technology would not require the allocation of any additional spectrum in order for FM and AM broadcasters to provide digital service, the Commission should thoroughly explore IBOC DAB technology before even considering the allocation of any scarce spectrum for another digital audio service, such as the proposed MMBS. Given the Commission's previous allocation of spectrum for a digital audio satellite service and existing plans to examine IBOC DAB technology for providing terrestrial digital radio services, the proposed designation of 36 MHz of spectrum exclusively for the establishment of another digital audio and information service must be regarded as an inefficient use of a limited spectrum resource. Thus, adoption of CEMA's proposal regarding use of the 700 MHz spectrum for MMBS would not advance the public interest.<sup>14</sup>

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<sup>13</sup> In October 1998, USA Digital Radio, Inc. filed a petition for rulemaking asking the Commission to permit existing FM and AM licensees to upgrade their analog broadcasts to digital using IBOC DAB. In its comments on this rulemaking petition, NAB favored the conducting of a rulemaking on this technology.

<sup>14</sup> See 47 U.S.C. § 309(j)(3)(D) (in identifying classes of licenses to be issued by competitive bidding and in specifying eligibility and other characteristics of such licenses, Commission shall promote the "efficient and intensive use of the electromagnetic spectrum").

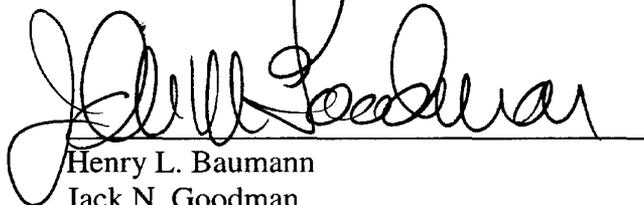
#### **IV. Conclusion**

In the *Notice*, the Commission proposed to allow licensees in the 746-764 and 776-794 MHz bands to provide a variety of services. NAB emphasizes that, regardless of the types of services for which these spectrum bands may in the future be licensed, any new licensees must fully protect incumbent broadcasters. If the Commission does ultimately permit a variety of fixed, mobile and broadcast services to be offered in these bands, NAB agrees with other commenters that licensing the bands in six megahertz blocks would be appropriate. Finally, NAB finds that adoption of a proposal to designate both 700 MHz bands exclusively to a new digital mobile audio and data service would be ill advised and contrary to the public interest.

Respectfully submitted,

**NATIONAL ASSOCIATION OF  
BROADCASTERS**

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A handwritten signature in black ink, appearing to read "Jack N. Goodman", written over a horizontal line.

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August 13, 1999

## CERTIFICATE OF SERVICE

I, Stacey M. Nelson, Legal Secretary for the National Association of Broadcasters, hereby certifies that a true and correct copy of the foregoing Reply Comments of the National Association of Broadcasters was sent this 13<sup>th</sup> day of August, 1999, by first-class mail, postage prepaid, to the following:

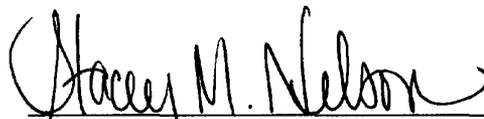
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