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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby
Counter TW-A325
Washington, D.C. 20554

Re: **Ex Parte Notification**
Docket No. 99-168

Dear Ms. Secretary:

On Thursday, December 23, 1999, Victor Tawil, Senior Vice President of the Association for Maximum Service Television, Inc., and the undersigned, MSTV's outside legal counsel, met with Bryan Tramont, Legal Advisor to Commissioner Furchtgott-Roth, to discuss the issues involved in this proceeding. Although the discussion reflected the positions set forth in MSTV's pleadings, we also explained that Motorola's late-filed proposal to channelize the Channel 60-69 spectrum (746-764 MHz and 776-794 MHz) into blocks of 1.5 and 5 MHz or aggregates of 1.5 and 5 MHz blocks would deter traditional and innovative broadcast television use of this spectrum. In contrast, the channelization and other proposals contained in MSTV's pleadings would be fully and fairly consistent with the Commission's allocation decision to allow broadcast, fixed and mobile use of this band by not advantaging one class of potential user of this spectrum over another.

A spectrum channelization plan for this spectrum that accommodated 6 MHz operations would facilitate new video and related services because they could be built on an established receiver and equipment base and established video technology. This would be good for consumers and good for new services. It would optimize spectrum efficiency, broaden the potential uses of this spectrum (thereby increasing interest in the auctions) and promote experimentation and innovation.

In the course of the discussion, we learned that the Motorola proposal had evolved into a plan with two 1 MHz guard bands, two 2 MHz guard bands, two paired 5 MHz bands and two paired 10 MHz bands. This proposal was also described in today's Communications Daily. Under the proposed plan, the guard bands would be licensed only to band managers who could use only a minority of this capacity for their own purposes. This would preclude broadcasters from bidding for both the 1 MHz and 5 MHz frequency blocks to aggregate them into a suitable

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6 MHz block for video-service utilization and from bidding on a 2 MHz and a 10 MHz block to obtain two 6 MHz channels.

While MSTV much prefers its original recommendations, we believe relatively small tweaks in the plan under consideration could improve it substantially. One adjustment would allow parties to bid for 6 MHz bands (5 plus 1) and 12 MHz bands (10 plus 2), while permitting the auction also to go forward on the basis of separate 5 and 1 MHz blocks and 10 and 2 MHz blocks. The high bid would win, with the separate winning bids for 5 and 1 MHz (and for 10 and 2 MHz) being added together to determine whether they exceed the single bid for the 6 (and for the 12) MHz blocks. This adjustment would have to be accompanied by a determination to allow the winning bidder to use all of the 6 MHz (or 12 MHz) capacity for itself. MSTV strongly believes that it is in the public interest, and consistent with Congressional objectives, to allow any commercial service to bid for any part of the 36 MHz, without any set-aside for private wireless uses.

Please direct any questions to the undersigned.

Respectfully submitted,

Jonathan Blake / aps

Jonathan D. Blake

Attorney for
Association of Maximum
Service Television, Inc.

cc: Bryan Tramont, Esquire
Mark D. Schneider, Esquire
Ari Fitzgerald, Esquire
Peter A. Tenhula, Esquire
Adam Krinsky, Esquire
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