



June 6, 2002

The Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: ET Docket No. 95-18

Dear Mr. Chairman:

The initial meeting of the Commission's Media Security and Reliability Council emphasized once again the crucial role of local television stations in keeping the public informed in times of crisis. An essential component of television news-gathering is the spectrum at 2 GHz that stations use for coverage from the locations where events are happening. Without the ability to transmit pictures and sound from news events, the immediacy and vibrancy of news coverage would suffer greatly, burdening other communications networks as citizens turn to them to keep informed.

By this letter, we are asking the Commission to take immediate action to prevent disruption to the vital news services that broadcasters provide using 2 GHz spectrum by suspending the relocation schedule that places deadlines on broadcasters, but no one else.

The Commission has been considering plans to reallocate some of the spectrum broadcasters use at 2 GHz for more than a decade.<sup>1</sup> It adopted a relocation plan in August 2000, which called for the Broadcast Auxiliary Service to shrink from 120 MHz to 85 MHz in two phases, with stations in different sized markets changing to new band plans in several steps during each phase. The Commission adopted this complex relocation plan, recognizing that it "will work hardships upon the incumbents in order to minimize relocation costs to MSS licensees."<sup>2</sup> The Commission established a mandatory two-year negotiation period for relocation of broadcasters in the 30 largest television markets. That mandatory negotiation period will expire on September 6, 2002, three months from today.

---

<sup>1</sup> *Allocation of 2 GHz for MSS (Second Report and Order and Second Memorandum Opinion and Order)*, 15 FCC Rcd 12315 (2000), *petitions for reconsideration pending*.

<sup>2</sup> *Id.* at 12353 (¶ 111).

Despite the Commission's efforts to ease entry for MSS providers, there has been little progress towards BAS relocation. NAB surveyed stations in the 30 largest television markets – the markets involved in the first phase of relocation – to find out the status of relocation negotiations.<sup>3</sup> Only two stations have had any contact with an MSS licensee beyond receipt of a routine request for information. To our knowledge, 21 months into the two-year mandatory negotiation period, there have been no substantive relocation negotiations undertaken by any MSS licensee.

There can be little doubt why the MSS licensees have made no efforts to clear the band. ICO, the MSS licensee closest to providing service, told the Commission in March 2001 that poor MSS signal coverage is “a crippling impediment for the industry,” and that “capital markets have simply lost confidence” in MSS.<sup>4</sup> Recently, the Creditors Committee of Globalstar reiterated that “[t]he revenue generating capabilities of MSS systems . . . are grossly insufficient to justify any further capital expenditures in the MSS sector.”<sup>5</sup>

In response to this conceded inability of MSS licensees, the Commission has asked for comments on several different proposals to either allow MSS licensees to use the spectrum for terrestrial services, or to reallocate part of the MSS spectrum to other wireless services.<sup>6</sup> If the use for this spectrum does change – as all interested parties seem to agree it should – then the relocation plan adopted to facilitate the original MSS allocation must be changed as well.

While virtually all other activities in this band have ceased while the Commission considers these requests for change, the time periods set in the relocation plan continue in effect. After September 6, broadcasters will be subject to involuntary relocation by MSS licensees, with the high risk of disruption to ongoing news operations. While the Commission has said that it would be available to deal with complaints about inadequate replacement facilities, it would not be realistic to assume that those complaints could be addressed quickly enough to avoid disruption to news services.

---

<sup>3</sup> Gunzerath, *2 GHz Spectrum Relocation Negotiations Survey* (Feb. 21, 2002), submitted with NAB & MSTV *ex parte* notices in ET Docket No. 95-81 on March 26, April 25, May 3 & May 17, 2002.

<sup>4</sup> ICO *Ex Parte Notice*, IB Docket No. 99-81 (March 8, 2001) at 5, 4.

<sup>5</sup> Globalstar Creditors *Ex Parte Notice*, IB Docket No. 01-185 (May 10, 2002) at 6 (emphasis in original).

<sup>6</sup> *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band*, IB Docket No. 01-185, 66 Fed. Reg. 47621 (adopted Aug. 9, 2002); *Introduction of New Advanced Mobile and Fixed Terrestrial Services; Use of Spectrum Below 3 GHz*, ET Docket No. 00-258, 66 Fed. Reg. 47618 (adopted Aug. 9, 2001); *Improving Public Safety Communications*, WT Docket No. 02-55 (adopted March 14, 2002).

The Honorable Michael Powell  
June 6, 2002  
Page 3

Last October, NAB and MSTV asked the Commission to suspend the relocation process pending a decision on whether the MSS spectrum would be reallocated.<sup>7</sup> At that time, there were 11 months remaining in the mandatory negotiation period; now there are less than three. MSS does not appear to be progressing towards service in the 2 GHz band, and the MSS licensees should not be permitted to use their decision to delay progress to reduce their obligations to compensate incumbent broadcasters for clearing the spectrum, or to threaten essential news services of local stations.

We ask that the NAB/MSTV motion be granted forthwith.

Respectfully submitted,



Edward O. Fritts  
President & CEO  
National Association of Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036



David L. Donovan  
President  
Association for Maximum  
Service Television, Inc.  
1776 Massachusetts Ave., N.W.  
Washington, D.C. 20036

cc: The Honorable Kathleen Abernathy  
The Honorable Michael Copps  
The Honorable Kevin Martin  
Edward Thomas, Chief, Office of Engineering Technology  
Donald Abelson, Chief, International Bureau  
Thomas Sugure, Chief, Wireless Competition Bureau  
Ken Ferree, Chief, Media Bureau

---

<sup>7</sup> Motion for Stay of Mandatory Negotiation Period, ET Docket No. 95-18 (filed Oct. 22, 2001).