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November 4, 2003

**Notice of Ex Parte Communication**

Ms. Marlene H. Dortch  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: IB Docket No. 01-185; ET Docket No. 95-18**

Dear Ms. Dortch:

On November 3, 2003, Jack Goodman, Kelly Williams, Karen Kirsch and Larry Walke of the National Association of Broadcasters (NAB), and David Donovan of the Association for Maximum Television (MSTV), (collectively, "NAB and MSTV") met with Commissioner Kathleen Abernathy and her Legal Advisor Jennifer Manner to discuss the above-captioned proceeding.

NAB and MSTV have urged the Commission to implement a 2 GHz transition that will provide a one-phase relocation of Broadcast Auxiliary Services (BAS). Critical to the process is that any Commission approach must preserve existing electronic newsgathering ("ENG") and fixed-link BAS capabilities both during the transition, and following relocation.

Pursuant to the Commission's *Emerging Technologies* (ET Docket No. 92-9) reimbursement policies, broadcasters are entitled to compensation for their actual reasonable costs of replacing BAS equipment to accommodate MSS in the band. The Commission's long-standing policies require that incumbents be made whole -- both technologically and financially -- before the spectrum is transferred to a new entrant.

Therefore, in response to discussions with Commission staff, NAB and MSTV endeavored to determine the costs of implementing the 2 GHz BAS transition. Specifically, the Ad Hoc 2 GHz Reallocation Committee conducted a survey to ascertain the total population of 2 GHz equipment in use at television stations in the United States, and the costs to convert this equipment to digital operation.<sup>1</sup>

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<sup>1</sup> The Report is attached to ex parte letters filed by NAB/MSTV on October 16, 28 and 31, 2003.

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The Report indicates that the average full power television station has approximately six to fourteen 2 GHz transmitters, and four to nine 2 GHz receivers, depending on their market size. Using estimates of equipment replacement costs derived from manufacturers, an overall cost for transitioning 2 GHz ENG services in markets 1-210 to digital operation is projected at approximately \$397 million, and the overall cost of transitioning the entire population of 2 GHz fixed links is projected at approximately \$115 million.

NAB and MSTV believe that the reported data strengthen our view that a one-phase, fully compensated relocation of BAS is not only technically superior, but also economically reasonable given the considerable impact on the broadcasting industry and the expected value of the spectrum to MSS providers or other new entrants in the 2 GHz frequency band. That type of relocation plan would also be consistent with the Commission's *Emerging Technologies* doctrine.

Finally, NAB and MSTV understand that the Commission may seek to accelerate the impending auction of segments of the 2 GHz BAS band to support new advanced wireless services, including third generation wireless ("3G") systems. NAB and MSTV therefore addressed the potential benefits of tying the negotiation and implementation dates in the MSS-BAS relocation proceeding to the schedule of the 3G auctions. NAB and MSTV believe that such a short, temporary delay may reduce both the uncertainty of 3G bidders concerning the clearing of the auctioned spectrum, as well as the burden on MSS providers to reimburse broadcast stations for their fair and reasonable costs of relocating BAS operations.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lawrence A. Walke". The signature is written in a cursive, flowing style.

Lawrence A. Walke

cc: Jennifer Manner