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December 19, 2007

BY ELECTRONIC FILING

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

Re: Written Ex Parte
MB Docket No. 87-268

Dear Ms. Dortch:

The Association for Maximum Service Television (“MSTV”) hereby submits this *ex parte* letter to summarize the main substantive and procedural flaws of proposals to reallocate certain television spectrum to FM radio.¹ The Commission should protect the public’s ability to receive free, over-the-air television programming on Channels 5 and 6, as noted in MSTV’s Opposition to these proposals.²

The reallocation proposals are without merit. Among the other flaws that MSTV cited in its Opposition, reallocating these channels would disrupt the operations of both full- and low-power television stations and would seriously jeopardize the carefully crafted DTV table of allotments. And, in addition to the hundreds of full- and low-power television stations that currently operate on these channels and/or will operate on them after the transition, the Commission is required by the Community Broadcasters Protection Act of 1999 to protect 175 new DTV allotments for assignment after the cessation of analog broadcasting.³ Many of the

¹ See Response (Dec. 3, 2007) and Further Response (Dec. 5, 2007) of Mr. Robert E. Lee, and Reply to Oppositions of Mullaney Engineering, Inc. (Dec. 14, 2007), MB Dkt. No. 87-268.

² See MSTV’s Opposition to Petitions for Reconsideration, MB Dkt No. 87-268 (Dec. 3, 2007).

³ See the Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, § 1000(a)(9), 113 Stat. 1536 (1999); see 47 U.S.C. § 336(f)(6)(B) (requiring the Commission to protect 175 additional DTV allotments created by expansion of the DTV core in 1998 to include channels 4- (continued...))

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new allotments can be created on Channels 5 and 6. Finally, the FCC should not permit radio interests to make an end-run on the rulemaking proceeding that would be required before making such a major spectrum reallocation. Indeed, Mullaney's Reply concedes that a rulemaking is required.

Sincerely,

**THE ASSOCIATION FOR MAXIMUM
SERVICE TELEVISION, INC.**

By: 

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Its Attorneys