

EX PARTE

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January 23, 2008

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

FILED/ACCEPTED

JAN 23 2008

Federal Communications Commission
Office of the Secretary

Re: **Notice of Ex Parte Communication**
MB Docket No. 07-148

Dear Ms. Dortch:

On Friday, January 18, David K. Rehr, Marcellus Alexander, Jane E. Mago, and the undersigned of the National Association of Broadcasters (NAB) met with Commissioner Robert M. McDowell and Cristina Pauzé to discuss broadcasters' efforts to ensure that the public is educated about the upcoming transition to digital television broadcasting. The key points we made at the meeting are summarized on the attached sheet.

Please direct any questions to the undersigned.

Respectfully submitted,

Erin L. Dozier
Associate General Counsel
Legal and Regulatory Affairs

Attachment

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DTV Transition Education – Safe Harbor Plan

- Broadcasters have developed a comprehensive plan to reach virtually every American adult with sufficient frequency to alert and educate them of the impending transition to all digital broadcasting.
- The FCC should establish a “safe harbor” recognizing that stations that participate in the broadcaster plan are meeting the needs of their communities for information about the DTV transition.
- Because it was developed by experts drawing upon the extensive marketing experience of our industry, the broadcaster plan will be more effective than any government mandated plan.
- The plan will engage consumers via television (with differing approaches including on-air “action spots” that will air in all day parts, 30 minute educational programs and informational messages), online resources, community events and outdoor advertising. See plan description attached to December 29, 2007 filing.
- Broadcasters will evaluate and adjust the plan as needed to ensure effectiveness.
- 1,476 commercial and non-commercial television stations (84% of all full power stations) are currently committed to the plan. We will continue to work toward 100% participation.
- Broadcasters will document their efforts on a quarterly basis and provide reports to the FCC. See draft form attached to December 29, 2007 filing.
- The FCC can create the safe harbor simply by stating that any broadcaster that participates in the plan and submits quarterly reporting forms will be deemed compliant with its obligations to inform the public about the upcoming DTV transition. The FCC has ample precedent. For example, the Commission recognizes a “substantial service” safe harbor for wireless build-out requirements. See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to provide Spectrum-Based Services*, 19 FCC Rcd 19078, 19119 -21 (2004).
- The Communication Assistance for Law Enforcement Act (CALEA) also provides precedent. Section 107(a)(2) of CALEA provides that a telecommunications carrier will be deemed to be in compliance with the requirement that their facilities enable law enforcement officials to intercept and access call information if the network meets certain technical standards established by the industry association.