March 18, 2008

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Oral *Ex Parte* Presentation in OET Docket No. 04-186

Dear Ms. Dortch:

On March 14, 2008, Harold Feld of the Media Access Project, Shawn Chang of Free Press, Alex Curtis of Public Knowledge, and Michael Calabrese and Sascha Meinrath of New America Foundation, met with Wayne Leighton, wireless advisor to Commissioner Tate, on behalf of the Public Interest Spectrum Coalition with regard to the above captioned matter. PISC representatives made the following points:

- The FCC found in the initial *Notice of Proposed Rulemaking* that wireless microphones operating in the presence of white spaces devices (WSDs) would not suffer interference. The FCC has not indicated that it has altered this conclusion. Accordingly to say that WSDs have "failed" because they generate "false positives" when trying to find wireless microphones can hardly be considered a failure. Indeed, to claim that the device "failed" when the FCC had previously decided that there was no reason to detect wireless microphones would be arbitrary and capricious.

- Nevertheless, if the Commission concludes that its previous determination was erroneous and that – to protect licensed BAS operators – devices must accurately sense their presence, PISC supports the use of very low power beacons that mimic the DTV pilot signal. Because such devices would operate as "jammers" in the hands of general public, the FCC should restrict access to licensed BAS operators.

- With regard to the OET Report, PISC observed that classifying devices as "passing" or "failing" is inaccurate and misleading. These are prototypes designed for proof of concept, not release products built to specified rules. Even

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if the devices "pass" the ever increasing demands of WSD opponents, they will not be authorized for release as would be the case in equipment certification. Rather the results of the tests inform the rulemaking concept. To engage in a "bait and switch," where the FCC solicited prototypes for informational purposes and then held them to the same standard as Part 15 product certification tests, would be arbitrary in the extreme.

- PISC voiced its general opposition to the proposal by Fiber Tower. Allocation of "beachfront" property below 3 GHz for backhaul operations is profoundly inefficient, especially when there is such demand for spectrum for mobile services. Instead, Fiber Tower and others should make use of the 3.65 GHz band for backhaul use.

In accordance with Section 1.1206(b) of the Commission's Rules, 47 CFR §1.1206, this letter is being filed with your office.

Respectfully submitted,

/s/
Harold Feld
Senior Vice President

cc: Wayne Leighton