

May 13, 2008

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

ET Docket No. 04-186
"White Spaces"
Ex Parte Comments

Nashville Music Requires Interference-Free Wireless Microphones

Dear Ms. Dortch:

The undersigned Nashville Music participants together represent music interests throughout Nashville and neighboring regions and are responsible for producing some of the most watched and beloved music programming in the United States. We are concerned that the proposals to introduce new devices and services into unassigned television channels, *i.e.*, "the white spaces," being considered by the Commission do not provide meaningful protection to the extensive wireless microphone audio systems that are a key part of Nashville's music and entertainment industry.

Nashville's Thriving Music and Entertainment Industry Depends on Modern Production Technology, Including Wireless Microphones¹

Nashville has long been recognized and referred to as "Music City" and evidence of the economic and cultural importance of the music industry is pervasive throughout the region. Nashville's rich music heritage can be found at its numerous Music Row businesses and live performance centers such as the Grand Ole Opry and the Ryman Auditorium. Nashville is also home to the Country Music Hall of Fame, the Schermerhorn Symphony Center, the Gaylord Entertainment Center, and the Country Music Association Music Festival. The Contemporary Christian music industry continues to grow in the Nashville area as well. In addition, all of the Big Four record labels, as well as numerous independent labels, have a major presence in Nashville.

Nashville's country music industry has a huge positive impact on the local and state economies. Nashville's music industry was recently estimated to have a total economic impact of \$6.4 billion per year and to directly contribute 19,000 jobs just in

¹ For our purposes, "wireless microphones" include microphones, as well as in-ear monitors, wireless intercoms, wireless assist video devices ("WAVDs") and wireless cueing ("IFB") systems.

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the Nashville area.² It is well-known that Nashville's music industry employs many Nashvillians as artists, writers and producers.³ Music-related tourism supports an additional 15,000 employees in the Nashville region, bringing the total direct employment impact of the music industry to more than 54,000 jobs. One of our most well-known events is the annual CMA Music festival, which last year drew a record 191,000 fans from around the country into the Nashville area⁴ and this single event is estimated to have contributed over \$19 million to the local economy in 2006.

Wireless microphones are an essential element of the production facilities in virtually every concert hall, performance center, music festival, and event in Nashville's world-renowned venues. These wireless systems are carefully coordinated by extensive teams of experienced production engineers and are absolutely necessary to achieve the high-quality professional live productions for which Nashville is known. We know all too well that there is no "second chance" to re-do a live performance. A change in the Commission's technical rules that results in interference to wireless microphone systems would wreak havoc with Nashville's signature entertainment productions.

The FCC Must Not Allow New Devices in the Broadcast Spectrum Before Equipment Manufacturers Prove That Wireless Microphones Will Be Fully Protected

We fully support and appreciate the Commission's decision to test "white space" device prototypes -- in laboratory and field environments -- to assess whether they will, in fact, prevent interference to existing spectrum users. It should go without saying that the Commission should not proceed to the next step unless those tests demonstrate that spectrum sensing or other interference protection measures being proposed can reliably protect wireless microphones and DTV. However, we are disturbed that those manufacturers anxious to produce white space devices and other interested parties are now pushing the Commission to discount -- even overlook -- the performance of the prototypes under test and adopt rules allowing them to produce devices that operate on television spectrum.⁵

² Nashville Area Chamber of Commerce, News Release "Nashville's Music Industry Worth \$6.38 Billion," (January 10, 2006).

³ Karl Dean, Nashville's Mayor, recently proclaimed the importance of the music industry to the local economy. National Association of Broadcasters, News Release, "Nashville Mayor Hails Country Radio's Value" (March 4, 2008).

⁴ Country Music Association, News Release, "2007 CMA Music Festival Breaks Attendance Record with More Than 191,000 Country Music Fans Attending" (June 11, 2007).

⁵ See, e.g., White Space Information Gathering to Continue, Wireless Innovation Alliance Fully Confident in FCC Process, Press Release, March 28, 2008 (goal of testing is not to identify one approach over another but simply to gather information that would enable the FCC to write the rules allowing new devices to use television spectrum); Ex parte Letter to Marlene H. Dortch, Secretary, FCC, from Richard

We urge the Commission to maintain its cautious approach to white space operations on television frequencies and to ensure that such devices can actually protect wireless microphones and other spectrum users from interference, based on sound scientific and engineering principles and proven results, *before* the Commission issues rules allowing them to operate on television frequencies.

Modern Productions Using Wireless Microphones Will Not Be Protected by Spectrum Sensing Devices or Proposed Beacon Systems

Some proponents are still convinced that the Commission should rely on spectrum sensing devices to protect existing users.⁶ In the first round of FCC laboratory testing, the white space prototypes failed to protect “incumbent” services including wireless microphones. The second round of FCC spectrum sensing tests apparently also have not gone well.⁷ Unless this technology can be demonstrated to be fail safe, we should not be asked to rely on these measures to protect Nashville’s extensive music and entertainment productions from major interference.

We are also greatly distressed at the news that various groups are proposing “beacons” as the ultimate solution that will protect wireless microphone operations from interference from white space device operation.⁸ This is no solution at all. First, no beacon has been developed for the music and entertainment industry and we are not aware of any plans by any company to do so. This fact has significant adverse ramifications for wireless microphone users in professional productions nationwide.

Second, even if the Commission were to specifically direct that beacons be made available to the music and entertainment industry, the beacon idea relies on spectrum sensing to avoid interference to microphones and, as mentioned above, spectrum sensing still has not been shown to reliably prevent interference. We fail to understand how so much reliance and faith can be placed in a device that cannot be tested and has no demonstrated record of successfully blocking interference.

Third, even if these beacons existed, were made available to the entertainment industry, and could be proven to work as proposed, this approach would inappropriately leave it to existing microphone users to deal with interference problems. The

Whitt, Google Inc., ET 04-186, filed March 21, 2008 9 (arguing that FCC should not worry about recent “issues” with white spaces test equipment).

⁶ See, e.g., *Ex parte* Letter to Marlene H. Dortch, Secretary, FCC, from Ed Thomas, Harris Wiltshire, & Grannis, LLP to Marlene H. Dortch, Secretary, FCC, dated February 28, 2008.

⁷ See Microsoft Statement, March 28, 2008 (announcing that prototype devices unexpectedly shut down); Microsoft “White Spaces” Prototype Shuts Down, *WashingtonPost.com*, March 29, 2008

⁸ See, e.g., *Ex parte* Letter to Marlene H. Dortch, Secretary, FCC, from Richard Whitt, Google Inc., ET 04-186, filed March 21, 2008 (arguing that beacon requirement for wireless microphones and “safe harbor” at channels 36-38 eliminates legitimate concerns of interference to wireless microphones.)

Commission should understand the practical ramifications of this “plan.” Each wireless microphone user would be required to purchase a separate beacon transmitter for each TV channel of operation thereby imposing significant additional expense (which many productions would no doubt find impossible to meet) and an operational nightmare. Given the great number of wireless microphones used at the CMA Festival, as just one example, in addition to the thousands in constant operation throughout Nashville at its various concert and performance venues, the added burden of beacons, made necessary by this plan to protect the operation of equipment already owned and operating successfully is outrageous and impractical.

The Commission Should Not Approve Portable White Space Devices

We urge the Commission not to approve portable white space devices. The prospect of thousands of portable interfering devices being permitted to operate on the same spectrum as wireless microphones without failsafe protections promises a catastrophe for Nashville’s entertainment productions. While the influx of over 190,000 additional people into the Nashville area to attend its annual music festival provides a tremendous boost to the area’s economy, interference from portable devices that they may be carrying would be devastating for the very performances those individuals are traveling to see. The impact on Nashville’s biggest annual music festival is just one example of how the Commission’s decision in this matter will determine the future success or failure of major cultural and economic events in Nashville.

Given the importance of wireless microphones to the music industry in Nashville and elsewhere in the United States, we believe that the public interest requires the Commission to do what it can to protect wireless microphones from debilitating interference. In that regard, we urge the Commission to give favorable consideration to proposals that protect both wireless microphones and television by barring new operations in the channels adjacent to TV channels.

On behalf of **Country Music Television**, a cable network viewed in over 83 million households, the **Country Music Association**, the host for the Annual Country Music Awards and the CMA Music Fest, **Fitzgerald Hartley**, the management group for country artists Vince Gill and LeAnn Rimes, the **Grand Ole’ Opry**, Nashville’s premiere country music entertainment attraction, **MTV Networks**, the groundbreaking music and pop culture entertainment company, **SGTV**, the producer for the Gospel Music Association Dove Awards, and **SeisMic Sound Engineers**, the principal audio engineer

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for the CMT Video Music Awards and the Dove Awards, we appreciate this opportunity to share our views with the Commission on this very important matter.

Sincerely,

Ritch Sublett
John Ford
Mark Shifman
Clark Smith
Jim Cinningham
Keith Durham
Mark Furnell
Jennifer Morrison
for **Country Music Television**

Tammy Genovese
for **Country Music Association**

Mark Hartley
for **Fitzgerald Hartley**

Pete Fisher
for **Grand Ole' Opry**

Shipley Landis
Tom Leis
for **MTV Networks**

Steve Gilreath
for **SGTV**

Tom Davis
for **SeisMic Sound Engineers**