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

September 3, 2008

Re: Notice of *Ex Parte* Presentation

RE: ET Docket 04-186; ET Docket 02-380

Dear Ms. Dortch,

This letter is to advise you, in accordance with Section 1.1206(b) of the Commission's rules, that on September 3, 2008, Ben Scott and Josh Silver of Free Press met with Commissioner Robert McDowell and three of his legal advisors.

We discussed the status of the aforementioned proceedings regarding the so-called broadcast "white spaces." We reiterated our position that the Commission should move forward—based on data from testing—with an Order confirming that the white spaces should be unlicensed and used by both fixed and mobile wireless broadband services. We discussed the history of the proceeding dating back to 2004, recalling the rationale at the time was to promote new opportunities for broadband competition. We noted that the competition with DSL and cable modem services the Commission once predicted would emerge from new technologies has not materialized—leaving the marketplace in the hands of a duopoly.

The broadband competition problems that exist in the market today remain an urgent problem for the Commission to address to promote social and economic progress for the nation. We urged the Commissioner to keep this in mind as he reviews this proceeding in the coming weeks.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Scott", with a long horizontal line extending to the right.

Ben Scott, Policy Director
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