The Walt Disney Company

Susan L. Fox
Vice President
Government Relations

October 28, 2008

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TWB204
Washington, DC 20554

Ex Parte Presentation in ET Docket No. 04-186

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, an original and one copy of this letter are being filed as notice that a meeting was held on October 27, 2008 between Wayne Leighton and the following: Ed Durso (EVP, ESPN), Tatia Williams (VP, Business Affairs, NBA), Jeff Willis (Coordinating Technical Manager, ESPN), Tom Hankinson (ABC), and Susan Fox (VP, Disney).

The proceeding at issue is not restricted and therefore presentations are permitted, but must be disclosed. During the presentation, the parties raised the points in the attached documents.

Sincerely,

Susan L. Fox
Vice President, Government Relations

cc: Wayne Leighton

1150 17th Street, NW, Suite 400 / Washington, DC 20036 / 202-222-4780 / Fax 202-222-4799 / susan.fox@abc.com

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October 24, 2008

VIA ELECTRONIC FILING

Chairman Kevin J. Martin
Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Deborah Taylor Tate
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Comments of **Major League Baseball (MLB), the National Association for Stock Car Auto Racing (NASCAR), the National Basketball Association (NBA), the National Collegiate Athletic Association (NCAA), the National Football League (NFL), the National Hockey League (NHL), the PGA TOUR,** and **The Sports Video Group (SVG)** as members of the **SPORTS TECHNOLOGY ALLIANCE**

Introduction of Unlicensed Devices in the "White Spaces"
ET Docket No. 04-186

Dear Chairman Martin and Commissioners Adelstein, Copps, McDowell and Tate:

We write in response to the October 15, 2008 announcement that the Commission plans to vote at its November 4th meeting on an order that, as we understand is currently proposed, represents a huge leap backwards in modern sports broadcasting and production using wireless technology (including wireless microphones, intercoms, etc.) Since this technology is a part of the conduct of many sporting events themselves, this decision also threatens to disrupt the actual performance of these events as well. These outcomes are unacceptable to us, our many sponsors, and, most important, to the millions of American viewers that are devoted sports fans.

As mentioned below, we do believe that there are reasonable steps that the Commission could take to allow new equipment to operate in the TV frequencies without disrupting sporting events, but strongly urge the Commission not to proceed with the order as announced.

First, the Commission has announced that it will authorize spectrum sensing technology that is clearly not ready for prime time. The Commission's own engineers and data fail to demonstrate that the technology works better than 50% of the time in a real-world environment and in many cases failed miserably. We therefore request that the Commission not authorize the demonstrably unreliable technology of spectrum sensing as a basis for permitting the production of potentially millions of interference generating devices.

Second, the Commission appears to be rushing toward a decision based on the results of field tests, including field tests at the NFL Fed Ex facility. We strongly believe that the Commission should allow interested parties an adequate opportunity to review, analyze and comment on this important report and conclusions drawn from its laboratory and field testing before it brings its proposed order to a vote before the Commission.

Third, we believe that it is possible to protect wireless microphones and related wireless technology from interference by requiring all new devices to be geolocated and managed by a dynamic database that identifies protected wireless microphone frequencies in each local television market and on a per event basis. To this end, we support the approach outlined by Shure Incorporated, that endeavors to find a balanced means of protecting wireless microphone operations while allowing new devices to share the same spectrum. Although this approach will also require significant changes for our productions and competitions, it offers critical protection that is imperative for the coverage and conduct of modern American sporting events.

If the Commission is committed to moving forward, we urge the Commission to adopt this or a similar approach as a means to proceed.

Sincerely,

Members of the **SPORTS TECHNOLOGY ALLIANCE**

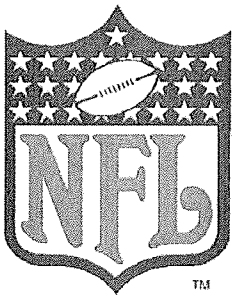
MAJOR LEAGUE BASEBALL (MLB)

NATIONAL ASSOCIATION FOR STOCK CAR AUTO RACING (NASCAR)

NATIONAL BASKETBALL ASSOCIATION (NBA)

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA)

NATIONAL FOOTBALL LEAGUE (NFL)



NATIONAL HOCKEY LEAGUE (NHL)

THE PGA TOUR

THE SPORTS VIDEO GROUP (SVG)

White Spaces
Interference to Broadcast and Wireless Mikes
October 27, 2008

The FCC Is Acting Prematurely

- No Public Comment on Test Results. The FCC is not seeking public comment on hundreds of pages of test results. The FCC should put the test results out for public comment before using those test results as a basis for new rules.
- DTV Transition Yet to Come. The Commission should wait until the DTV signal issues are resolved before creating additional interference and confusion for viewers.

The Proposed Order is Directly Contrary to the FCC's Own Test Results

- The TV Channel Sensing Devices Failed the FCC Tests. Failure rates of the devices designed to sense television signals range up to 85 percent, with specific failure rates for each device being: 40% (I2R); 49% (Adaptrum); 52% (Motorola); and 27% (Philips).
- Some of The FCC Laboratory Tests Provide Best Device Performance Results, but Don't Replicate Real-World Experiences. The FCC report shows that the range of signal levels that the devices could detect varied from -116 dBm to -126 dBm depending on the manufacturer. However, the only time that the devices demonstrated that they could accomplish this was in the environment of the FCC's laboratory. In this test, the DTV test transmitter was connected by coaxial cable directly to the whitespace device. No antenna was involved in this pristine test. Clearly a laboratory test and not a real world one. Once the devices were subjected to the real world environment with an antenna, their sensing capabilities were impaired.

- The Wireless Mike Sensing Devices Failed the FCC Tests. OET's test results concluded:
    - Wireless microphone sensing tests were performed with the I2R and Philips devices at 2 locations. The tests were conducted first with microphones off, and then turned on, in pre-determined channels to determine if the devices could sense the presence of wireless microphones. At both sites and all the test locations, the Philips device reported all the channels on which the microphones were designated to transmit as occupied whether the microphone was transmitting or not. The I2R device indicated several channels as available even when the microphones were on.

  Page 141, OET Tests.

The Proposed Order Will Cause Interference to Sports Production

- Programmers like ESPN produce lives sports on a regular basis and our experience demonstrates that at least an 8-channel set-aside is necessary to protect the quality of sports and other productions. Frequencies are used for:
    - On-air microphones (talent & effects) & Off-air communications
- ESPN regularly uses many more that two channels for TV sports productions like Monday Night Football.
    - ESPN's MNF telecast uses part 74, including as many as 155 frequencies, requiring 17.6Mhz of bandwidth or **2.7 UHF TV channels**.
    - When combined with the NFL's needs, **5.5 TV channels** required specifically for ESPN & the NFL at MNF venue.
        - Does not include local market broadcasters
        - Does not include users likely displaced from 700Mhz
- Appropriate Channel Separation Is Necessary:
    - Placing microphones and talkback frequencies within the same TV or adjacent TV channel will cause de-sensitizing of receivers.
- ESPN's Bristol Studio current Operations utilize **210**, part 74 frequencies.
    - 31.3 Mhz of bandwidth or **5.22 TV Channels**.
    - In addition, construction of a new digital center is planned
        - 148 wireless frequencies planned
        - 22Mhz of bandwidth or an additional **3.6 TV channels**

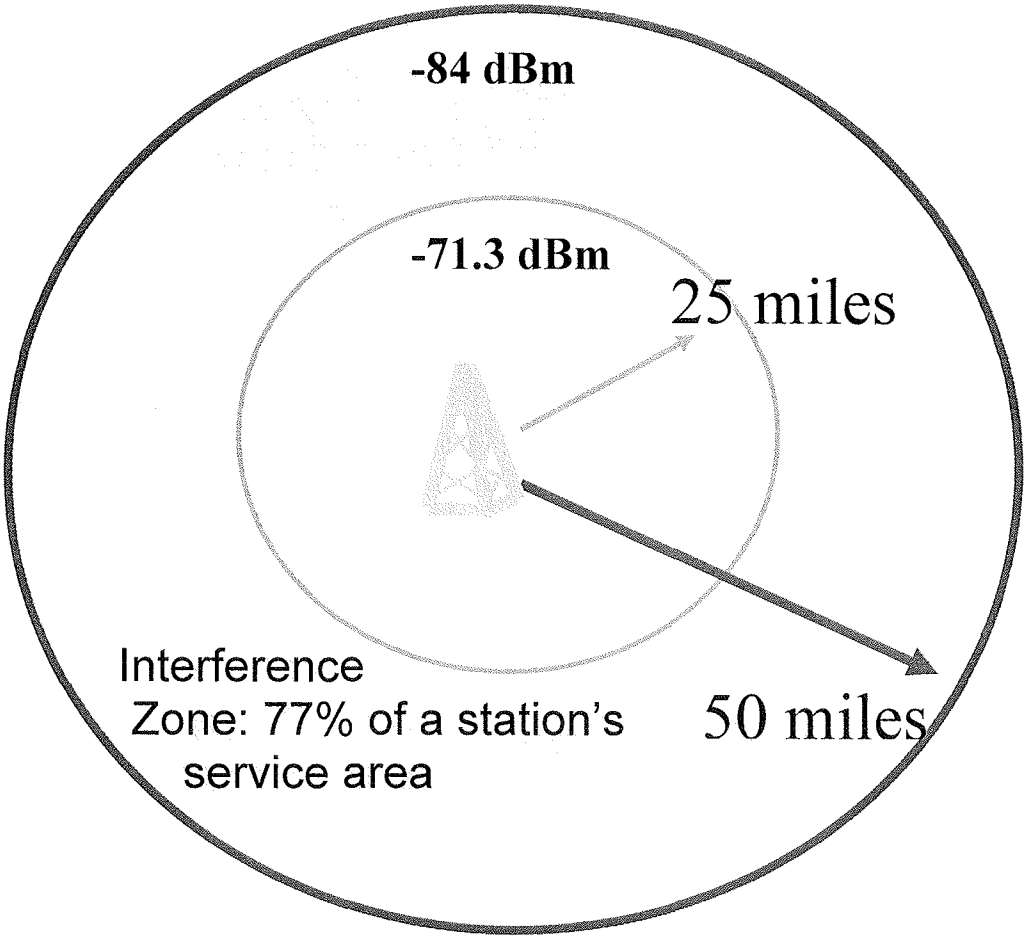
Interference to Broadcast Channels on Adjacent Channels Would be Particularly Acute

- Interference from 40 mW Devices Would be Caused Over a Wide Area. The FCC has previously found that interference created by unlicensed devices to broadcast signals occurs on television sets over one kilometer away from the unlicensed device. The FCC's own data demonstrates that 40 mW devices would cause interference to over 77% of broadcast stations' coverage areas.
- During the FCC tests, the ability of the proposed sensing devices to detect the presence of signals, either DTV or wireless mikes, was seriously degraded by the presence of an adjacent channel DTV signal. The sensing device clearly had impaired ability to detect the presence of signals in this case. If the sensing device is impaired by adjacent channel signals, the probability that it will mistakenly transmit on the DTV channel is increased dramatically.
- Spectrum-sensing unlicensed device proponents clearly anticipate operating on the first adjacent channels, especially in crowded markets, like Chicago.
- The time it takes the devices to scan channels to determine the availability of a channel makes it difficult to envision scenarios in which the whitespace devices will actually be useful for broadband communications, in part because the devices themselves will probably interfere with each other.
- The Allowable Power Level for the Unlicensed Devices is Not Based on Tests. There are no real-world test results that justify the 40 mW power level that the FCC is proposing for the unlicensed devices to operate on adjacent channels (i.e., those channels right next to an in-market broadcast channel).

Attachment 1

A 40 Milliwatt Device Operating On The First Adjacent Channel
Will Lead To Interference In Nearly 77% Of A TV Station's Coverage Area

For a television receiver of median quality, interference from operating a 40 milliwatt device on the first adjacent channel begins at about 25 miles from the TV tower. (However, interference may commence closer than 25 miles depending on the circumstances.) Interference distance from the unlicensed device to the TV set is approximately 10 meters at 25 miles from the tower and increases to 45-50 meters at the edge of the station's service area (50 miles).[1]



[1] Based on data and using the "Egli Model" contained in the FCC's DTV Receiver Report, FCC/OET 07-TR-100, 22 FCC Rcd 6616 (rel. March 30, 2007).