



Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW | Washington, DC 20037-1122 | tel 202.663.8000 | fax 202.663.8007

Clifford M. Harrington  
tel 202.663.8525  
clifford.harrington@pillsburylaw.com

October 24, 2008

**VIA HAND DELIVERY**

**FILED/ACCEPTED**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW, TW-A325  
Washington, DC 20554

JAN - 5 2009

Federal Communications Commission  
Office of the Secretary

**Re: ET Docket No. 04-186**  
**ET Docket No. 02-380**

Dear Ms. Dortch:

Attached are Comments from a number public interest and public policy leaders and organizations to Chairman Kevin D. Martin. The letter requests that the Commission postpone its scheduled November 4, 2008, vote on the adoption of new rules regarding the operation of unlicensed devices in the so-called "white spaces" between television channels, and instead issue a Notice of Proposed Rulemaking to permit all interested parties to comment.

A copy of the attached Comments are being submitted to the Office of the Chairman, with copies to the office of each Commissioner.

Very truly yours,

Clifford M. Harrington

Attachment  
533070-0000000

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October 24, 2008

The Honorable Kevin J. Martin  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Chairman Martin:

We are very concerned that the Federal Communications Commission is abandoning its decades-old practice of opening a proposed rulemaking for public comment prior to the adoption of new rules. According to media reports ("Broadcasters Seek to Slow Efforts to Open Vacant TV Airwaves," *Wall Street Journal*, October 20, 2008) the FCC will vote on the adoption of new rules regarding the operation of unlicensed devices in the so-called "white spaces" between the television channels.

This coalition is not currently taking a position on any proposed rules regarding white spaces use; however, the undersigned organizations are concerned about the process by which the FCC is contemplating the adoption of new rules. Federal regulatory agencies, such as the FCC, should be completely transparent in consideration of new rules, particularly those that impact every household in America that owns a television set. To not allow affected and interested parties to review and comment on proposed rules is irresponsible.

We believe it is imperative the FCC postpone its scheduled November 4<sup>th</sup> vote on the white spaces matter and issue a "Notice of Proposed Rulemaking" that would permit all interested parties to comment.

Sincerely,

American Legislative Exchange Council  
Kit Bromley, CEO, Background Checks Intl., Inc.  
Susan A. Carleson, Chairman, American Civil Rights Union  
Mark P. Cohen, Executive Director, Government Accountability Project  
Eli Gold, Chairman, The Harbour League  
Colin A. Hanna, President, Let Freedom Ring  
Derek Hunter, Executive Director, Media Freedom Project  
J. Bradley Jansen, Director, Center for Financial Privacy and Human Rights  
George Landrith, President, Frontiers of Freedom  
Andrew Langer, President, Institute for Liberty

Jim Martin, Chairman, 60 Plus Association  
Jim Martin, Chairman, National Defense Council Foundation  
Iain Murray, Senior Fellow in Energy, Science and Technology  
Competitive Enterprise Institute  
James Murtagh, Co-Chair, International Association of Whistleblowers  
Grover Norquist, President, Americans for Tax Reform  
Michael Ostrolenk, National Director, Liberty Coalition  
Tim Phillips, Americans for Prosperity  
Scott Pullins, Esq., Pullins Law  
Terrence Scanlon, President, Capital Research Center  
William Shaker, Rule of Law Committee  
Ann E.W. Stone, Republicans for Choice

Copy to:

Commissioner Michael J. Copps  
Commissioner Kenneth S. Adelstein  
Commissioner Deborah Taylor Tate  
Commissioner Robert M. McDowell