

May 22, 2009

***Via Electronic Filing***

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re : *Notification of Ex Parte Presentation***  
***WT Docket Nos. 08-166 & 08-167; ET Docket Nos. 02-380 & 04-186***

Dear Ms. Dortch:

On behalf of Verizon Wireless, Don Brittingham, Assistant Vice President, and Adam Krinsky, outside counsel, met with Renee Crittendon, Chief of Staff and Senior Legal Advisor to Commissioner Jonathan Adelstein, and together with Bryan Tramont, outside counsel, met with OET Chief Julius Knapp and OET members Ira Keltz, Alan Stillwell, Walter Johnston, Karen Ansari, Hugh Van Tuyl, and Robert Weller on May 21, 2009 and with WTB Chief Jim Schlichting and WTB members Chris Moore, Paul D'Ari, Brenda Boykin, Monica DeLong, and Bill Stafford on May 22, 2009.

The DTV Transition will end in just one month's time, but the Commission has yet to adopt a decision requiring wireless microphones and other LPAS device operations to vacate the 700 MHz band. Verizon Wireless intends to deploy next-generation, wireless broadband services in the 700 MHz Upper C Block, and noted that numerous public safety deployments are already underway in the narrowband 700 MHz public safety spectrum. Verizon Wireless reiterated the pressing need for action to promptly eliminate wireless microphone operations in the 700 MHz band.

The Commission issued the *700 MHz Wireless Microphone NPRM* in August 2008 and tentatively concluded that all wireless microphones and other LPAS devices must cease operations in the 700 MHz band by the DTV Transition date – at the time, February 17, 2009 – *six months from issuance of the NPRM*.<sup>1</sup> Today, there remains ample justification to set the hard date at the DTV Transition date, or June 12, 2009. As the Commission stated, “it is incumbent on the Commission to take all steps necessary to make this spectrum effectively

<sup>1</sup> *Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band, et al.*, Notice of Proposed Rulemaking and Order, 23 FCC Rcd 13106 ¶ 15 (2008).

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available both to public safety and commercial licensees at the end of the DTV transition.”<sup>2</sup> Full power TV station operations were required to vacate the band by a fixed DTV transition date so that “new wireless licensees will be able to provide unencumbered services in the 698-806 MHz band.”<sup>3</sup> Yet the record indisputably demonstrates that ongoing wireless microphone operations in the band will result in interference to first responders, to wireless broadband consumers, and even to wireless microphone users.<sup>4</sup> A hard date of June 12, 2009, moreover, is consistent with actions by both manufacturers and the user community, in response to the NPRM and the DTV Delay Act, to inform wireless microphone users that they should be prepared to vacate the 700 MHz band by June 12, 2009.<sup>5</sup>

Verizon Wireless would prefer that wireless microphones and other LPAS devices cease operations in the 700 MHz band at the end of the DTV Transition but recognizes that the Commission may seek to provide some additional period to allow such operations to vacate the band. Verizon Wireless supports the position taken by Association of Public-Safety Communications Officials (APCO), National Emergency Number Association (NENA), National Public Safety Telecommunications Council (NPSTC), and CTIA—The Wireless Association®: adoption of a limited extension but under no circumstances should continuing operations in the band extend beyond February 18, 2010.<sup>6</sup> A February 18, 2010 hard date would be a full year after the Commission’s tentative conclusion in the NPRM and it would provide for nine months of notice from date of an order, if adoption occurs quickly.

Verizon Wireless also reiterated the importance of comprehensive action that will result in wireless microphone operations migrating out of the 700 MHz band. The Commission must not only set a hard date for wireless microphone operations to cease in the band, it must also

<sup>2</sup> *Id.* ¶ 1.

<sup>3</sup> *Id.* ¶ 9.

<sup>4</sup> *See, e.g.*, Letter from V-COMM LLC, to Marlene H. Dortch, FCC, WT Docket Nos. 08-166 & 08-167 (Apr. 17, 2009) (providing analysis demonstrating “that public safety licensees, commercial licensees, and wireless microphone users will all be substantially harmed by continued operation of LPAS devices at 700 MHz.”).

<sup>5</sup> *See, e.g.*, Sennheiser, “700 MHz Rebate Program for Wireless Systems,” available at [http://www.sennheiserusa.com/media/pdfFiles/Pro\\_700MHz\\_Range\\_Rebate.pdf](http://www.sennheiserusa.com/media/pdfFiles/Pro_700MHz_Range_Rebate.pdf) (“On June 12, 2009 all full power analog TV transmission is scheduled to cease. Digital TV broadcasts will be consolidated below channels 52. Channels 52-69 (698 – 806 MHz), generically called the 700 MHz band, will be reallocated to public emergency broadcast and telecom companies. We anticipate the FCC will prohibit the use of wireless microphones in this range in the near future.”); Behind the Mixer, “The FCC Ruling Simplified: What It Means For You,” available at <<http://www.behindthemixer.com/print/329>> (“In short, after June 12, 2009, those wireless microphones can no longer be used.”).

<sup>6</sup> *See* Letter from Association of Public-Safety Communications Officials (APCO), CTIA—The Wireless Association®, National Emergency Number Association (NENA), and National Public Safety Telecommunications Council (NPSTC), to Marlene H. Dortch, FCC, WT Docket Nos. 08-166 & 08-167, at 2-3 (Apr. 7, 2009).

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clearly establish that wireless microphone users may lawfully and immediately operate in alternative spectrum. That spectrum can only be the TV Bands – the only band with sufficient spectrum and readily available equipment for a wireless microphone transition. Absent clear direction, Commission action will serve only to inform wireless microphone users that they are operating unlawfully with a fixed date to cease operations, *without providing any solution to remedy their predicament*. Such action risks continued operations in the 700 MHz band and may result in significant public concern by wireless microphone users who know they have to move but remain immobilized by unfinished policymaking.

Finally, Verizon Wireless urged release of an FCC Consumer Advisory that would: announce the hard date for wireless microphones to migrate out of 700 MHz; alert wireless microphone users that as of June 12, 2009, they may experience increased interference if their devices operate in the 700 MHz band; and establish with certainty that wireless microphone users may lawfully and immediately operate in the TV Bands.

In accordance with Section 1.1206(b) of the Commission's rules, this letter is being filed electronically with your office. Please contact the undersigned if you have any questions.

Sincerely yours,

/s/

Adam D. Krinsky

cc: Renee Crittendon  
Jim Schlichting  
Chris Moore  
Paul D'Ari  
Brenda Boykin  
Bill Stafford  
Julius Knapp  
Ira Keltz  
Alan Stillwell  
Walter Johnston  
Karen Ansari  
Hugh Van Tuyl  
Robert Weller