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June 18, 2009

VIA ELECTRONIC FILING

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

RE: *Ex Parte* Presentation of
The Coalition of Wireless Microphone Users
in WT Dockets Nos. 08-166 and 08-167 and
in ET Dockets Nos. 04-186 and 02-380

Dear Ms. Dortch:

On June 17, 2009, the undersigned of this Firm, on behalf of the Coalition of Wireless Microphone Users ("CWMU"),¹ met separately with Paul Murray of Acting Chairman Copps' office and Renée Crittendon of Commissioner Adelstein's office to discuss the above-captioned proceedings.

¹ CWMU is an informal organization of entities that use wireless microphones and other equipment operating on frequencies assigned to Low Power Auxiliary Stations under Part 74, Subpart H of the Commission's rules. Members of CWMU include The Broadway League; The Shubert Organization; Theatre Communications Group, Inc.; The Alliance of Resident Theatres/New York, Inc.; The Educational Theatre Association; League of Off-Broadway Theaters and Producers, Inc.; League of Resident Theatres; the African Methodist Episcopal Church; Sports Video Group, LLC; National Basketball Association; National Football League; National Hockey League; Major League Baseball; ESPN, Inc.; and News Corporation.

We discussed various issues related to the television "White Spaces" proceeding currently before the Commission, including license eligibility, the protection of existing Wireless Microphone users,² and relevant definitions. As it has expressed to the Commission before, CWMU believes that eligibility for Part 74 Subpart H licenses should be extended to include producers of live performing arts, cultural presentations (including religious presentations), professional or amateur sporting events, conventions or trade shows, or the owners or operators of venues where such events take place; or government or educational entities.

We also discussed proposals put forth in these proceedings by Verizon Wireless and the Public Interest Spectrum Coalition ("PISC"). Specifically, I reiterated CWMU's members' commitment to vacate the 700 MHz band, and explained that CWMU members already have incurred, and are continuing to incur, substantial expense in eliminating operation in that band. CWMU members appreciate the importance of clearing the 700 MHz band of Wireless Microphone use, and have purchased new equipment to do so. Given this commitment and expense, it would be manifestly unfair for the Commission to adopt Verizon Wireless' or PISC's proposals to reduce interference protection by rendering Wireless Microphones only co-equal with TV Band devices ("TVBDs") or else relegating them to operation under Part 15 of the Commission's Rules. Moreover, I explained that failure to protect Wireless Microphones would be a reversal of the FCC's position in the White Spaces order, which made clear that Wireless Microphones could be included in the database and protected against interference from TVBDs.³

Treating Wireless Microphones as co-equal to TVBDs would essentially provide no protection at all from the technology most likely to interfere with Wireless Microphone performance. Parties with equal status must negotiate interference with one another. Because temporary interference would not have the same devastating on TVBDs that it would have on Wireless Microphones, TVBD operators would begin any interference negotiation with much less to lose and thus a significant advantage. Likewise, the Part 15 regime would make Wireless Microphones co-equal with everything from garage door openers to home-built

² CWMU defines "Wireless Microphones" to include IFB systems and other wireless cue and control systems.

³ *See In re Unlicensed Operation in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3GHz Band*, ET Docket Nos. 04-186 and 02-380, FCC 08-260 (rel. Nov. 14, 2008), at ¶¶ 89, 151 (noting that the FCC "will allow the operators of event and production facilities where low power auxiliary devices such as wireless microphones are regularly used to register those sites in the database" and that "it is in the public interest to preserve spectrum in the TV bands that is available for [Wireless Microphones] use").

radio-controlled airplanes. Parties operating Part 15 devices have no vested or recognizable right to the continued use of any frequency, cannot cause interference to any authorized frequency use, and must accept interference from any authorized radio station or other Part 15 device. In short, I explained that placing Wireless Microphones on equal footing with TVBDs or Part 15 devices would make it impossible to secure investor backing for high-quality Broadway productions while simultaneously subjecting communications at major sporting events, churches and college classrooms to untenable interference.

CWMU has proposed a limited 60-day amnesty period during which existing Wireless Microphone users could apply for licenses to cover their grandfathered uses of the television broadcasting spectrum. Following the termination of the amnesty period, the Commission could issue additional authorizations by waiver to ensure that only those entities that need Wireless Microphones using Part 74 spectrum are licensed, while reserving spectrum resources for use by TVBDs.

I also noted that the concentration of theatres in the Broadway area of New York is a unique and important economic and cultural aspect of this country. In addition, I discussed the use of Wireless Microphones by religious and educational institutions in American cities. Although there are many religious and educational institutions in this country, not all of them use Wireless Microphones, those that do may not use them every day, and they don't use as many as large theatre productions or major sporting events. Wireless Microphones must be protected from TVBDs to avoid disruption to theatrical productions, sporting events, and other presentations. CWMU believes that the best way to provide this protection is through a database, with attributes such as those described in CWMU's "Opposition" of May 8, 2009, in ET Dockets 04-186 and 02-380.

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CWMU remains eager to discuss the White Spaces issues with any party and to assist the Commission in developing rules and procedures that will protect existing Wireless Microphone users in their provision of services to the public.

Sincerely,

/s/

Antoinette Cook Bush
Counsel to
The Coalition of Wireless Microphone Users

cc: Paul Murray
Renée Crittendon