

July 27, 2009

Via Electronic Filing

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

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

Dear Ms. Dortch:

Verizon Wireless, by counsel, hereby responds to MSTV's recent *ex parte* presentation urging the Commission to allow wireless microphone operations to continue in the 700 MHz band for 2½ more years, until February 17, 2012, except in any market where a public safety or commercial licensee will begin service prior to that date and notifies all affected authorized wireless microphone users.¹ The proposal is deeply flawed. For all practical purposes, it would do away with a nationwide date certain for wireless microphones to vacate the 700 MHz band and instead would create a splintered, market-by-market transition as public safety entities and commercial wireless providers across the country are engaging in and preparing for deployments well in advance of February 2012. The ensuing confusion and resulting interference will not serve the public interest.

The record demonstrates that continued wireless microphone operations in the band (whether users are currently authorized or unauthorized) will result in interference and disruption of service to First Responders, broadband consumers, and wireless microphone users themselves. Verizon Wireless has sought to offer constructive solutions that will enable wireless microphone operators to continue to deliver value to the public while avoiding interference events.

Specifically, Verizon Wireless proposed the following: (1) wireless microphone users be required to vacate 700 MHz frequencies no later than February 18, 2010 – a compromise date first proposed by public safety and commercial wireless representatives in light of the existing and near-term deployments in the band; (2) enable unauthorized wireless microphone users to

¹ Letter from MSTV to FCC, ET Docket Nos. 02-380 & 04-186 and WT Docket Nos. 08-166 & 08-167 (filed July 8, 2009) (“*MSTV Ex Parte*”).

July 27, 2009

Page 2

gain the right to operate lawfully by transitioning out of 700 MHz and into the TV Band; and (3) initiate a follow-on proceeding to address interference protection rights, to be concluded well before TV Band devices are introduced into the marketplace.² This is but one proposal; there may be others that warrant Commission consideration, but MSTV's isn't one of them. Below Verizon Wireless identifies three specific concerns.

First, MSTV asserts that its proposed 2012 deadline would meet the "reasonable expectations" of existing wireless microphone licensees, because they "had no reason to believe that the Commission might hastily require cessation of all operations in the 700 MHz band."³ This is unfounded. It is worth noting, for example, that in 2007 the Commission stated that "[i]t is incumbent on the Commission to take all the steps necessary to make this [700 MHz] spectrum effectively available to both public safety as well as commercial licensees as of the end of the DTV transition."⁴ Almost a year ago, the Commission acknowledged the risks of interference from continued wireless microphone operations in the band and initiated the *700 MHz Wireless Microphones* proceeding.⁵ It tentatively concluded that such operations should cease by the end of the DTV transition, February 17, 2009 – within six months of issuance of the Notice. Thus, it is hard to understand how wireless microphone users could assert they have not had any expectation of a near-term hard date no later than February 18, 2010 – a full 18 months from issuance of the Notice.

Second, MSTV's proposal to license currently unauthorized users to operate on 700 MHz frequencies would undermine the DTV transition goal of clearing the band for new public safety and commercial wireless operations, in conflict with Congress' direction in the DTV Act. Further, it would be a step backward that would increase the risk of interfering operations in the band beyond the cut-off date. Verizon Wireless' proposal, in contrast, identifies a path that would allow these unauthorized users to obtain lawful status by transitioning out of the 700 MHz band, consistent with the DTV transition, and into the TV Band.

Third, MSTV is misguided in suggesting that a market-by-market band clearing approach is preferable. A market-by-market approach would forego the benefits associated with a nationwide message on band clearing. It would severely hamper Commission efforts to engage in a 700 MHz wireless microphone education campaign, as the agency would be unable to notify the user community of a date certain by which operations in the band must cease. Further, this approach would create confusion with a cut-off date that would be a moving target even within a single market. One can easily imagine a scenario where multiple new 700 MHz licensees in a market begin providing service to different portions of the market at different times with

² Letter from Verizon Wireless to FCC, WT Docket Nos. 08-166 & 08-167 and ET Docket Nos. 02-380 & 04-186 (filed June 8, 2009).

³ *MSTV Ex Parte*, Attachment at 1-2.

⁴ See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064, 8066 ¶ 2 (2007).

⁵ *Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band*, Notice of Proposed Rulemaking and Order, 23 FCC Rcd 13106 ¶ 1 (2008).

July 27, 2009

Page 3

corresponding Commission notices, creating conflicting messages to the user community even within a given market. The ensuing confusion would likely result in continued operations, thereby increasing the risk of interference.

A hard date no later than February 18, 2010 strikes an appropriate balance between the interests of those wireless microphone users with 700 MHz devices and new 700 MHz licensees deploying systems in the band for First Responders and broadband consumers. Wireless microphone users increasingly have become aware of the 700 MHz interference issues, and a near-term hard date is consistent with statements by both manufacturers and the user community alerting users to be prepared to vacate the 700 MHz band soon.⁶ Further, new licensed deployments are underway. Public safety has already deployed networks in 40 plus markets, with many more on the way.⁷ Commercial operators are also ready to begin the aggressive deployment that the FCC worked so hard to promote in crafting its 700 MHz rules.⁸ Verizon Wireless is testing LTE in its licensed 700 MHz spectrum and plans to launch commercial service in 25 to 30 markets in the middle of 2010. Pre-launch testing and network optimization requires that the spectrum be cleared well in advance of that date.

Verizon Wireless thus urges the Commission to establish a near-term, nationwide hard date no later than February 18, 2010. Further, the Commission should issue a Consumer Advisory that would accomplish the following:

- Announce a date no later than February 18, 2010 as the hard date for wireless microphones to vacate the 700 MHz band;
- Alert the wireless microphone user community that, with the DTV Transition deadline passed, they may experience increased interference if their devices operate in the 700 MHz band;
- Establish that wireless microphone users may lawfully operate in the TV Band and encourage them to purchase and immediately make use of wireless microphone equipment operating on frequencies below 700 MHz; and

⁶ See, e.g., Sennheiser, “700 MHz Rebate Program for Wireless Systems,” available at 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.”).

⁷ See Comments of Motorola, Inc., WT Docket Nos. 08-166 & 08-167, at 3 (Oct. 3, 2008).

⁸ See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands et al.*, Second Report and Order, 22 FCC Rcd 15289, ¶¶ 153-177 (2007).

July 27, 2009

Page 4

- Announce that the FCC will promptly consider interference protection issues in the TV Band spectrum in a follow-on proceeding.

With these steps, the Commission will set forth an orderly resolution to the 700 MHz wireless microphone conundrum.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced dockets.

Respectfully Submitted,

/s/

Adam D. Krinsky

cc: Bruce Gottlieb
Rick Chessen
Paul Murray
Angela Giancarlo
Ruth Milkman
Jim Schlichting
Renee Crittendon
John Leibovitz
Chris Moore
Julie Knapp