

January 29, 2010

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554



Re: Notice of *Ex Parte* Presentation
GN Docket No. 09-191 (Preserving the Open Internet)
WC Docket No. 07-52 (Broadband Industry Practices)
WT Docket No. 08-166 (Low Power Auxiliary Stations)
WT Docket No. 08-167 (Wireless Microphones)
ET Docket No. 04-186 (TV White Spaces)

Dear Ms. Dortch:

On January 28, 2010, Michael Calabrese, Robb Topolski, and Benjamin Lennett, all of the New America Foundation; Jef Pearlman and Michael Weinberg, both of Public Knowledge; Andrew Afflerbach, Columbia Telecommunications Corporation (“CTC”); and Matt Wood, Media Access Project (collectively, the “Public Interest Representatives”), met with Julius Knapp, Chief of the Office of Engineering and Technology (“OET”); Ira Keltz, Deputy Chief, OET; Zachary Katz, Deputy Chief of the Office of Strategic Planning and Policy Analysis; Geraldine Matisse, Chief of OET’s Policy and Rules Division; Walter Johnston, Chief of OET’s Electromagnetic Compatibility Division; Karen Ansari, Chief of the Technical Rules Branch in the OET Policy and Rules Division; and Hugh L. Van Tuyl, Senior Electronics Engineer, OET.

During the meeting, the Public Interest Representatives offered their views regarding certain aspects of Commission proceedings in the above-captioned dockets. More specifically, the Public Interest Representatives provided input and brief comments on three topics: (1) the proposals submitted to the Commission in response to OET’s TV band White Spaces (“TVWS”) database *Public Notice*¹; (2) the Commission’s *Report and Order and Further Notice of Proposed Rulemaking* regarding low power auxiliary stations, including wireless microphones operating in this band²; and (3) the potential application of the Commission’s proposed open Internet rules to wireless networks.³

¹ See Office of Engineering and Technology Invites Proposals from Entities Seeking to be Designated TV Band Device Database Managers, ET Docket No. 04-186, *Public Notice*, DA 09-2479 (rel. Nov. 25, 2009).

² See Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition; Amendment of Parts 15, 74 and 90 of the Commission’s Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 10-16 (rel. Jan. 15, 2010).

³ See In the Matter of Preserving the Open Internet; Broadband Industry Practices, GN Docket No. 09-191, WC Docket No. 07-52, *Notice of Proposed Rulemaking*, FCC 09-93, ¶¶ 154-174 (rel. Oct. 22, 2009).

On the topic of the TVWS database or databases, and the Commission's selection of the entity or entities that will manage them, the Public Interest Representatives reaffirmed the need for mechanisms that will minimize burdens and costs for parties seeking to register TV band devices *and* for users of devices who ultimately will query such databases. The imposition of unduly burdensome procedures could discourage manufacture by new entrants and thus discourage robust use of this spectrum by new users. The Public Interest Representatives expressed support for the Commission to move forward simultaneously on all issues inhibiting development of the marketplace for TVWS devices, including selection of the database manager(s) and Commission action on various petitions for reconsideration filed in the TVWS proceeding.

The Public Interest Representatives then called upon the Commission to analyze carefully any overbroad claims regarding the need for protection of wireless microphone users against interference from low power TV band devices. They noted briefly the availability of solutions that would not require the Commission to sacrifice spectral efficiency or jeopardize the potential of the TVWS spectrum in order to accommodate wireless microphones.

Finally, the Public Interest Representatives and Commission staff discussed the potential application of open Internet rules to wireless networks. In particular, Dr. Afflerbach discussed CTC's report, "Any Device and Any Application on Wireless Networks: A Technical Strategy for Evolution." Copies of this report – which the Public Interest Representatives' organizations and Consumers Union initially filed on January 14, 2010, in the open Internet proceeding – were distributed at the meeting, and the report is attached hereto and re-submitted along with this *ex parte* notification. During the meeting, Dr. Afflerbach and the Public Interest Representatives called upon the Commission to apply open Internet principles and rules to wireless platforms, but acknowledged that technological adaptations and evolutions facilitating greater cross-platform interoperability would be key to fostering such openness. The Public Interest Representatives briefly discussed examples, proposed in the report, of methods that wireless broadband Internet service providers could use to manage congestion in a nondiscriminatory manner.

We submit this letter to the Secretary's office today pursuant to Section 1.1206(b) of the Commission's rules, 47 C.F.R. §1.1206(b). Please contact the undersigned should you have any questions regarding this submission.

Respectfully submitted,

/s/ Matthew F. Wood

Associate Director
Media Access Project

cc: Julius Knapp
Ira Keltz
Zachary Katz
Geraldine Matise
Walter Johnston
Karen Ansari
Hugh L. Van Tuyl