

April 21, 2010

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



Re: Notice of *Ex Parte* Presentation
GN Docket No. 09-157 (Spectrum Innovation and Investment)
GN Docket No. 09-51 (National Broadband Plan)
WT Docket No. 08-167 (Wireless Microphones)
ET Docket No. 04-186 (TV White Spaces)
IB Docket No. 08-184 (SkyTerra-Harbinger Transfer of Control)

Dear Ms. Dortch:

On April 20, 2010, Michael Calabrese and Joshua Breitbart of the New America Foundation, Michael Weinberg of Public Knowledge, and Matt Wood of Media Access Project (collectively, the “Public Interest Representatives”) met with Commissioner Copps and with John Giusti, his Chief of Staff and Legal Advisor for Wireless, Public Safety and International issues. During the meeting, the Public Interest Representatives discussed generally a range of spectrum policy issues raised in the National Broadband Plan and in other proceedings currently pending at the Commission.

The Public Interest Representatives first reiterated positions set forth in their joint and individual filings in the above-captioned dockets regarding the importance of both unlicensed and opportunistic access to spectrum. In particular, the Public Interest Representatives urged the Commission to consider establishing for unlicensed use, as part of the Commission’s spectrum reallocation efforts pursuant to the National Broadband Plan, a contiguous band of substantial size located below 3 GHz. Such an allocation would permit continued innovation and investment in broadband communications technologies, generating tremendous consumer welfare akin to and potentially surpassing the value generated by WiFi.

Furthermore, the Public Interest Representatives emphasized that making more spectrum available for unlicensed and opportunistic use would ease congestion experienced by licensees and ultimate end-users of licensed spectrum. Thanks to the increasing prevalence of hybrid networks and cognitive devices, data from mobile and wireless broadband users increasingly flows over different paths from moment to moment, with “intelligent” devices dynamically choosing the best route for sending and receiving communications. The Public Interest Representatives reported that complementary “offloading” of data from major carriers’ networks already occurs today, and such offloaded data continues to rise as a proportion of total traffic. As a result, bits more and more frequently travel at low power, over short distances, and over shared spectrum into self-provisioned local area networks, rather than traveling at higher power and over greater distances to 3G and 4G infrastructure. Locating bands for unlicensed or shared

use in spectral proximity to heavily-used licensed bands will decrease chip manufacturing costs and make such hybrid networks and dynamic devices even more efficient.

The Public Interest Representatives then respectfully suggested that the Commission move expeditiously to the conclusion of various proceedings impacting use of the TV Whites Spaces (or “TVWS”), and noted as well that any elimination or reduction in the amount of TVWS spectrum resulting from TV band reconfiguration should be offset by the creation of a band or bands for unlicensed use within the reclaimed spectrum.

Under the current configuration, however, the Commission’s planned database for TVWS frequencies can and should be expanded to include unused or under-utilized government and commercial spectrum at other frequencies, which could be made available for opportunistic use in various locations and at various times until such bands may be built out or needed for a primary use in these areas. In this regard, the Public Interest Representatives suggested that the federal Spectrum Relocation Fund be expanded to provide funding not just for federal users clearing and relocating from certain bands, but also for modernization of federal users’ technology to facilitate more efficient and dynamic sharing of spectrum that might otherwise lay fallow during times of minimal use by currently authorized users.

Finally with regard to TVWS, the Public Interest Representatives reiterated the need to conclude the Commission’s wireless microphone proceeding in the near term – doing so in a manner that does not disadvantage wireless microphone users, but that also does not license or prioritize them over wireless broadband uses so vital to promoting investment and meeting growing demand for mobile and wireless data services.

Lastly, the Public Interest Representatives briefly summarized their opposition to petitions for reconsideration of the decision issued in the Harbinger-SkyTerra proceeding by the Commission’s International Bureau, Wireless Bureau, and Office of Engineering and Technology.

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: Commissioner Michael J. Copps
John Giusti