

August 20, 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)  
WT Docket No. 08-167 (Wireless Microphones)  
ET Docket No. 04-186 (TV White Spaces)

Dear Ms. Dortch:

On Thursday, August 19, 2010, Michael Calabrese and Benjamin Lennett of the New America Foundation; Harold Feld and John Bergmayer of Public Knowledge; Bob Williams of Consumers Union; Chris Riley of Free Press; and Matt Wood of Media Access Project (collectively, the “Public Interest Representatives”) participated in two separate meetings to discuss the TV White Spaces (“TVWS”) proceeding and related matters with Commission staff.

Attendees at the first meeting included Julius Knapp, Chief of the Commission’s Office of Engineering and Technology (“OET”); and Geraldine Matisse, Chief, OET Policy & Rules Division. In attendance at the second meeting were Rick Kaplan, Chief Counsel and Senior Legal Advisor to Chairman Julius Genachowski; and Jennifer Flynn, Legal Advisor to the Chairman. The substance of the Public Interest Representatives’ presentations summarized below was the same in both meetings.

In both meetings, the Public Interest Representatives first emphasized that expedient implementation of TVWS rules – and resolution of any remaining issues delaying such action – could not plausibly create a new category of incumbents in the TV band. Because of the frequency-agile nature of devices that will make use of this band for mobile wireless broadband use, the operation of such multi-band cognitive radio devices will depend neither on the presence of any particular TV band frequency in a database of available channels nor on the availability of a set amount of TV band spectrum in a particular market. Instead, mobile TV Band devices will utilize existing licensed and unlicensed spectrum on a dynamic basis, relying (for example) on WiFi connectivity or other access methods in addition to TVWS as and when different frequencies become available to such radios for opportunistic use.

Therefore, the absence of particular TV band frequencies or particular amounts of TVWS bandwidth would not deter use of TV band devices by consumers. The frequency and channel selection of the device at any particular moment would be of little import or interest to the majority of users, provided that those users obtain connectivity through one of the multiple access mechanisms such radios will incorporate. Public Interest Representatives expect that the TVWS database would be updated continually and in real time to remove or redefine the availability for TV band devices of any channels that might eventually be auctioned or otherwise

reassigned for mobile broadband use on a licensed basis. Users of TV band devices would not be left stranded in such situations, however, because of the nature of their frequency-hopping radios.

In fact, the prospects for use of such devices only should improve over time as the Commission continues to explore opportunistic use of “white spaces” in other under-utilized federal and commercial bands – eventually adding new bands, frequencies, or time and operating power parameters to the TVWS database (or another such database), and thereby expanding and “re-stocking” the inventory of available spectrum that cognitive devices could use on an opportunistic basis in various geographic markets. Such shared-use mechanisms will enable the Commission to meet the administration’s and the National Broadband Plan’s spectrum goals, while reliance solely on clearing and reallocating currently held spectrum for new exclusive or licensed uses would make attainment of such goals extremely difficult.

For all these reasons, the Public Interest Representatives urged to Commission to proceed with resolution of pending petitions for reconsideration of TVWS rules, related wireless microphone matters, and the TVWS database manager selection process, even if the Commission is considering in the long run a re-purposing of the TV band. Such a long-term reallocation of the band will occur if at all on a much different and much longer timeframe than the nearer-term, final development and deployment of TVWS devices. As described above, any such reallocation would not be hindered by the need to relocate, clear, or otherwise account for any purported TV band portable device “incumbents.” Moreover, the Commission must conclude the TVWS proceeding successfully, and on a near-term horizon, in order to encourage continued investment in cognitive radio technologies, as well as low-cost production at scale of next-generation cognitive radios. The Public Interest Representatives explained that engineering activity and research around further development of cognitive radios has been keyed to TVWS implementation ever since the announcement of the Commission’s November 2008 order. Proceeding to implement that order will avoid unsettling the expectations of device and application manufacturers who have expended significant amounts of time and money on innovations and investments projecting the availability of such TVWS spectrum.

The Public Interest Representatives second main point of emphasis in each meeting was that the predicted channel availability for mobile TV band devices in major markets is not as dire as some preliminary forecasts may have suggested. A more careful, manual analysis of Commission data used to populate TVWS databases should show some channel availability in even the largest metropolitan markets, while other major U.S. cities continue to show a relative abundance of potential white space channels available for TV band device use.

Of course, while there would appear to be at least *some* availability in areas within even the largest markets, the Public Interest Representatives reiterated the need to make *more* channels available in order to spur the development of national markets and nationwide demand for mobile broadband devices. The Public Interest Representatives thus suggested that the Commission undertake a common-sense, cost-benefit analysis of the parameters for TVWS use,

Marlene Dortch  
August 20, 2010  
Page 3

balancing the legitimate need for protecting actual and local TV service from harmful interference against the need to promote more robust mobile broadband availability in urban and rural areas across the country.

Looking to specific outcomes that changes to the final TVWS and wireless microphone rules could engender, the Public Interest Representatives discussed a range of suggestions for utilization of protection zones and contours that would adequately protect actual local broadcasting service without over-reliance on excessively mechanical and cautious limitations for very low power mobile TV band devices. Finally, the Public Interest Representatives discussed in brief various wireless microphone issues. They stressed once more that the Commission should not afford new Part 74 licenses to wireless microphone users, nor otherwise prioritize wireless microphones over mobile broadband TV band devices through the use of technical rules, because TV band devices and microphones can co-exist on an unlicensed basis in the band.

We submit this letter 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.

Respectfully submitted,

/s/ Matthew F. Wood

Associate Director  
Media Access Project

cc: Julius Knapp  
Rick Kaplan  
Geraldine Matise  
Jennifer Flynn