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August 31, 2010

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

**Re: Notice of Ex Parte Communication
ET Docket Nos. 04-186 and 02-380**

Dear Ms. Dortch:

On August 30, Messrs. David Donovan, Victor Tawil, and Bruce Franca of the Association for Maximum Service Television, Inc. (MSTV); Ms. Ann Bobeck and Mr. Kelly Williams of the National Association of Broadcasters (NAB); and Ms. Jennifer Johnson of Covington & Burling LLP, met with Mr. John Giusti of Commissioner Copps's office about white spaces issues in the above two proceedings.

The MSTV and NAB representatives noted that they oppose elimination of the spectrum sensing requirement, because it serves a vital backstop function to protect against interference to the public's broadcast services and is the *only* mechanism for protecting against interference to itinerant licensed wireless microphones used for critical newsgathering purposes. In the event that the Commission was to modify or eliminate the sensing requirement, however, MSTV and NAB urged the Commission to adopt the specific compensating adjustments to the white spaces rules that MSTV and NAB described in their August 27 *ex parte* letter.¹ They also

¹ See MSTV and NAB *ex parte* letter, ET Docket Nos. 04-186 and 02-380 (Aug. 27, 2010). A copy of the August 27 *ex parte* letter was distributed at the meeting and is attached hereto as Attachment 1.

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explained the specific recommendations, many non-controversial clean-ups, detailed in their August 12 *ex parte* letter to the Chairman.²

MSTV and NAB's representatives explained how the specific fixes described in the August 27 *ex parte* filing are both cohesive and practical. They are designed to work together, and implementation of anything less than the full set of protections (or other weakening of the baseline rules designed to protect against interference to the public's television service) will result in gaps in necessary protections.

Should sensing be eliminated, the device functionality and database operation would need to be bolstered in all of the ways that MSTV and NAB have identified, in order to partially offset the risk of interference. MSTV and NAB's representatives also noted that protections already in the rules should be retained and not watered down or eliminated.

The discussion at the August 30 meeting also touched on the analogy of these white spaces issues to recent developments in the 5 GHz band. Unlicensed device operation in the 5 GHz band has resulted in serious interference problems to aeronautical radar systems. As a result, the FCC recently has supplemented the sensing requirement with a database requirement.³ The 5 GHz experience has shown the kinds of problems that can arise with unlicensed device operation (*e.g.*, device operation that does not comply with the applicable rules). Fortunately, there is a limited set of newly unlicensed operations in the 5 GHz band as well as a finite number of radar facilities with known locations. Thus, it is possible for the FCC to suggest a remedy to the interference problem. With the TV Band white spaces, however, there is a possibility of hundreds of thousands or even millions of unlicensed devices being released on the market nationwide that may interfere with tens of millions of television receivers located across the United States. Therefore, proposals to eliminate or water down key protections (such as eliminating the sensing requirement) pose a more serious threat of interference, and that threat is one that will be virtually impossible to resolve should interference occur.⁴

² See MSTV and NAB *ex parte* letter, ET Docket Nos. 04-186 and 02-380 (Aug. 12, 2010). A copy of the August 12 *ex parte* letter was distributed at the meeting and is attached hereto as Attachment 2.

³ See Memorandum from Julius Knapp, Chief, FCC Office of Engineering and Technology, and P. Michele Ellison, Chief, FCC Enforcement Bureau, to Manufacturers and Operators of Unlicensed 5 GHz Outdoor Network Equipment, Re: Elimination of Interference to Terminal Doppler Weather Radar (TDWR) (July 27, 2010). A copy of the Memorandum is attached hereto as Attachment 3.

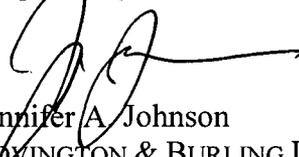
⁴ A recent Spectrum Bridge filing states that, "[t]o the extent that the broadcasters' *ex parte* suggests that the database solution depends in some fashion on spectrum sensing to avoid harmful interference to TDWR systems, this is not correct." See Spectrum Bridge Inc. *Notice of* (continued...)

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Finally, we observed that the efficacy of the interference protections provided by a geolocation/database system will depend on the selection of a database administrator and the policies pursued in the administration of the database. We urged the Commission to provide specific guidance for the selection of an administrator and operation of any database to ensure that American television viewers do not lose service due to interference.

Please call the undersigned if there are questions or if additional information is desired.

Respectfully submitted,



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Counsel for MSTV and NAB

cc: John Giusti*
* by e-mail

Attachments

Ex Parte, ET Docket No. 04-186 (June 27, 2010). This statement misconstrues MSTV and NAB's references to the 5 GHz database. We have not suggested, or intended to suggest, that any "portion of the database employed in the 5 GHz band relies on information obtained through spectrum sensing." Rather, we have pointed out that the Commission opted to employ both sensing and a geolocation/database system to prevent interference in the 5 GHz band. Given this experience, it is ironic that some would now propose to eliminate one of these protections in the present proceeding.