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September 16, 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 Wednesday, September 15, 2010, Mr. David Donovan, for the Association for Maximum Service Television, Inc. (MSTV), had a telephone conversation with Ms. Eloise Gore, Acting Media Advisor for the Honorable Mignon Clyburn. Mr. Donovan discussed the *ex parte* notice filed by MSTV and the National Association of Broadcasters (NAB) on September 14, 2010.<sup>1</sup> Consistent with that *ex parte* filing, Mr. Donovan noted that the Commission should make its new white spaces rules effective after: (a) the Office of Engineering and Technology (OET) has disclosed its proposed requirements for the database/geolocation functions; (b) the public has had an opportunity to comment on these requirements; and (c) the Commission has reviewed the proposed OET requirements and public comments on them and has approved the

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<sup>1</sup> See Notice of Ex Parte Communication, ET Docket Nos. 04-186 and 02-380 (Sept. 14, 2010).

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requirements, and has considered whether any appropriate changes should be made to its white spaces rules.

Mr. Donovan observed that the comments filed previously in response to the FCC's Public Notice<sup>2</sup> regarding the selection of a database administrator were submitted at a time when the FCC contemplated a regulatory regime for TV Band devices that included both sensing and geolocation/database protections. Eliminating sensing as a requirement constitutes a fundamental change thereby requiring a fresh examination of the requirements applying to geolocation/database operations, by OET, by the public, and by the full Commission in light of the new white space rules to be considered by the full Commission on September 23.

Respectfully submitted,



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*Counsel for MSTV*

cc (by email):

Eloise Gore (FCC)  
David Donovan (MSTV)

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<sup>2</sup> Julius Knapp, Chief, Office of Engineering and Technology, "Office of Engineering and Technology Invites Proposals from Entities Seeking To Be Designated TV Band Device Database Managers," *Public Notice*, ET Docket No. 04-186, 24 FCC Rcd 14136 (Nov. 25, 2009).