

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Unlicensed Operation in the TV Broadcast Bands	)	ET Docket No. 04-186
	)	
Additional Spectrum for Unlicensed Devices	)	ET Docket No. 02-380
Below 900 MHz and in the 3 GHz Band	)	

**NCTA REPLY TO  
OPPOSITION TO PETITION FOR RECONSIDERATION**

The National Cable & Telecommunications Association (“NCTA”)<sup>1</sup> hereby submits its reply to the Opposition to NCTA’s Petition for Reconsideration filed by the Public Interest Spectrum Coalition (“PISC”) in the above-captioned TV band “white spaces” proceeding.

The Commission should not countenance PISC’s attempt to trivialize the need for enhanced security for cable broadband facilities.<sup>2</sup> There is no question that communications networks are considered “critical infrastructure” and that federal homeland security directives require greater protections for critical communications infrastructure.<sup>3</sup> Over 60 million U.S.

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<sup>1</sup> NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation’s cable television households and more than 200 cable program networks. The cable industry is the nation’s largest provider of broadband service after investing over \$170 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to more than 23 million customers.

<sup>2</sup> PISC Opposition at 3, 4, (calling NCTA’s petition variously as “overheated,” “tragic irony,” and “comic relief”).

<sup>3</sup> See NCTA Petition for Reconsideration at 4 – 6 (describing White House Homeland Security Presidential Directive 7, FCC Public Safety Homeland Security Bureau chief’s commitment to federal directives to undertake preventive measures to protect and secure vulnerable critical communications infrastructure). In addition, NCTA President & CEO, Kyle McSlarrow, has served as a member of the President’s National Security and Telecommunications Advisory Committee (“NSTAC”); cable industry representatives from Comcast, Time Warner Cable, and Cox participate in the activities of the National Communications System (“NCS”) under the U.S. Department of Homeland Security, an inter-agency group that works closely with the private sector to identify risks to communications infrastructure and design programs to address these vulnerabilities; and NCTA representatives serve on the Communications Sector Coordinating Council (“CSCC”), a private sector organization which works with federal agencies to assess threats to physical infrastructure and to improve the physical and cyber security of sector assets. Finally, senior cable industry executives serve on the FCC’s Communications, Security, Reliability and Interoperability Council (“CSRIC”), which is charged with

households rely on cable for one or more of the services the industry offers – video programming, broadband Internet, voice over IP, emergency alert messaging and other critical communications services. Therefore, as discussed in our petition, it would be inconsistent with Commission and federal policy to undermine the security of this critical communications infrastructure through provisions in the new TV band “white spaces” rules that unnecessarily expose information with respect to those cable facilities.

NCTA’s petition urged the Commission to reconsider its decision to make all information in the TV bands device database publicly available for unrestricted public browsing, including information identifying the precise geographic coordinates of cable headends and tower receive sites both of which are sensitive, critical infrastructure for the provision of cable’s offerings. As we pointed out, the headend is the point of origination and processing for most of the signals received by cable operators from external content providers, local exchange carriers, the Internet and other networks. And in most cases, the headend serves as a distribution hub for the fiber nodes closest to the headend.

PISC questions whether cable headends are “a likely target” for terrorists and saboteurs who may seek to disrupt and do harm to U.S. communications networks.<sup>4</sup> This assertion is belied by the facts: cable facilities, particularly the central processing point – the headend – are considered critical infrastructure by the government.<sup>5</sup> There is nothing to debate here. But in its attempt to make light of NCTA’s member companies’ concern, PISC goes on to assert that there are “far more critical pieces of communications infrastructure – such as larger interconnection

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developing best practices to ensure the availability of communications capacity during natural disasters, terrorist attacks, or other events that result in exceptional strain on the communications infrastructure.

<sup>4</sup> PISC Opposition at 3.

<sup>5</sup> See e.g., U.S. Department of Homeland Security, *Communications Sector-Specific Plan, An Annex to the National Infrastructure Protection Plan (NIPP)*, 2010, at 12, available at [http://www.dhs.gov/files/programs/gc\\_1179866197607.shtm](http://www.dhs.gov/files/programs/gc_1179866197607.shtm).

points – than individual cable headends and associated tower sites.”<sup>6</sup> In fact, *most* of the components of cable’s broadband infrastructure are located within the cable headend. While there may be other larger interconnection points in the communications sector, this does not diminish the fact that a significant amount of Internet traffic within the United States passes through cable operator facilities and would be at risk from promiscuous disclosure.

The main argument that PISC puts forth in opposing the need to protect cable’s critical infrastructure is that the information regarding cable headends is already publicly available. NCTA acknowledged that point in its petition, noting that “a cable operator is required to notify local broadcasters of the location of its principal headend and keep that information in its public file . . . .”<sup>7</sup> The point of the petition, however, is not that headend geographic coordinates are publicly unavailable, but that the rules would permit the *first comprehensive repository of headend and tower site information in an easily accessible one-stop online public database*. The issue is whether the Commission should take into account the increased risks to the public created by such easy access to critical network information that has been local in nature but now would be available on a national, centralized and anonymous viewing basis. We believe the answer is that the Commission should take reasonable steps to protect such information, consistent with federal mandates.

Nor is there any basis for PISC’s assertion that the petition is merely a “pretext” for limiting access to *all* information in the TV band database.<sup>8</sup> The only information in the database that cable companies seek to protect is unfettered, one-stop access to information

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<sup>6</sup> *Id.*

<sup>7</sup> NCTA Petition at 6, n. 19.

<sup>8</sup> PISC Opposition at 3.

related to the geographic coordinates of the “cable receive site” (*i.e.*, the headend), and to the extent it discloses the same information, the address of the cable system.<sup>9</sup>

NCTA’s request to amend the rules to restrict access, including access for viewing, to registered device manufacturers and operators of broadcasting and communications businesses – is completely consistent with the database’s purpose which is to serve as a frequency avoidance mechanism. Limiting access to headend information to the professional entities that would be engaged in frequency coordination and resolving interference issues is consistent with the purpose of the database.

However, in the interest of transparency, NCTA’s petition explicitly provided for the means for additional parties and organizations, vetted by the Commission, to apply for authorization to access the data and provide supplementary review subject to certain protections.<sup>10</sup> Thus, by modifying the rules to secure the data from unrestricted viewing, the Commission would not run counter to maintaining openness for all parties covered by the database and others that can show a need to access it.

Finally, PISC claims that limiting the availability of the database information to lists of channels available for devices to use “would hinder significantly or altogether preclude the provision of value-added services by database providers, manufacturers, network operators, and other parties.”<sup>11</sup> As noted above, the database’s purpose is to serve as a frequency coordination mechanism to avoid new services interfering with existing services. To the extent there is a basis for parties, beyond those authorized to access the database, to gain access to the database for so-called “value-added” services, the rules would provide a way to obtain such access. But PISC

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<sup>9</sup> 47 C.F.R. § 15.713(h)(6)(i) and (ii).

<sup>10</sup> NCTA Petition at 7.

<sup>11</sup> PISC Opposition at 5. *See also* Google Response to Petitions for Reconsideration at 5.

makes no showing to support the position that protecting vital, communications network information from unrestricted public viewing will hamper innovation and spectrum efficiency in the TV band white spaces. The Commission should reject this argument.

### **CONCLUSION**

Cable operators are simply asking that, consistent with federal policy protecting critical communications infrastructure, cable headend location information be protected from unfettered public disclosure in a one-stop online public database. NCTA urges the Commission, therefore, to reconsider its decision in the *Second Memorandum Opinion and Order* with regard to unrestricted public access to the TV bands database and to amend its rules as set forth in NCTA's Petition for Reconsideration.

Respectfully submitted,

**/s/ Rick Chessen**

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March 9, 2011

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