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April 12, 2011

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation
ET Docket No. 10-235

Dear Ms. Dortch:

On April 11, Rick Kaplan, Chairman Genachowski's Chief Counsel and Senior Legal Advisor, and Amy Levine, Special Counsel to the Chairman, met with Brian Lawlor of the E.W. Scripps Company, Michael Fiorile of the Dispatch Broadcast Group, and Marla Drutz of Post-Newsweek Stations, Inc., all of whom are on the board of the NBC Television Affiliates; with Scott Blumenthal of LIN Television Corp., Christopher Cornelius of Barrington Broadcasting Group LLC, and Todd Schurz, of Schurz Communications, Inc., all of whom are on the board of the CBS Television Network Affiliates Association; and with Jonathan Blake and Gerard Waldron of Covington & Burling LLP, counsel for the NBC Television Affiliates and the CBS Television Network Affiliates Association.

The participants discussed with Mr. Kaplan and Ms. Levine the Commission's broadband and spectrum policies, including the issues implicated by the Commission's Notice of Proposed Rulemaking on "Innovation in the Broadcast Television Bands."¹ They pointed out that FCC policy needs to take into account two groups of broadcasters: those who wish to continue to broadcast and innovate with their full 6 MHz channels and those who might be willing to relinquish spectrum. These groups have different concerns. The first group is concerned about preserving broadcasters' ability to continue to use their spectrum assignments to

¹ *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, Notice of Proposed Rulemaking, ET Docket No. 10-235, 25 FCC Rcd 16498 (rel. Nov. 30, 2010).

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serve viewers and to provide innovative new services. Broadcasters in this group are concerned about forced repacking, including the prospect of diminished service areas, disruptive site changes, increased interference, inferior channel assignments (especially in the VHF spectrum band), and viewer disruptions; the threat of additional future spectrum reallocations that deter investment and innovation); and receiving prompt and full compensation for the many direct and indirect costs associated with repacking. They also noted that many of the harms associated with a repacking would be serious, widespread, and difficult or even impossible to quantify in terms of compensable damages. The broadcaster representatives expressed the view that these kinds of harms, which many broadcasters and viewers experienced during the digital transition, would be similarly devastating during another repacking. Broadcasters in this group also are concerned about the prospect of burdensome new spectrum fees, which would impair broadcasters' ability to finance local programming and newsgathering and to provide innovative new services to the public. Broadcasters in the second group primarily are concerned that the process of relinquishing spectrum be voluntary in all respects, and not, *e.g.*, coerced by threats of burdensome spectrum fees or other harms.

Meeting participants pointed out the value of the public's broadcast television service. Broadcasting's one-to-many distribution architecture is highly efficient. Mobile DTV, which is being rolled out nationwide, is a spectrally efficient and reliable means of distributing popular video programming and emergency information, as was shown recently in the aftermath of the earthquake and tsunami in Japan, when cellular networks went down and the power went out. Consumers increasingly are "cutting the cord" on pay-TV service, and many pay-TV households have second and third television sets that are not hooked up to pay-TV service. Moreover, in certain markets and in certain groups, such as certain minority groups and the elderly, reliance on over-the-air television is much higher. In any event, virtually all viewers rely on the journalism provided by local broadcasters, regardless of how they receive that information (such as through over-the-air antennas, retransmissions by cable, satellite, or telco providers, or through the Internet). Broadcasting's spectrally efficient architecture is complementary to the one-to-one architecture of wireless broadband, and mobile DTV service soon will offer a competitive service to mobile video offerings.

The representatives of the NBC Television Affiliates and the CBS Television Network Affiliates Association stated that there should be no assumptions or predetermined answers, and the FCC should consider all connected issues, alternatives, and trade-offs, including trade-offs implicating the public interest in a robust, competitive, and innovative broadcast service.

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Any questions may be directed to the undersigned.

Respectfully submitted,

/s/

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cc: Rick Kaplan
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