BEFORE
THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In re Draft Programmatic	)	
Assessment of the Antenna	)	WT Docket 08-61
Structure Registration Program	)	WT Docket 03-187

NTCH, INC.'S COMMENT ON
DRAFT PROGRAMMATIC ENVIRONMENTAL ASSESSMENT

NTCH, Inc. has already commented substantively and at length at the last stage of the Commission's development of an environmental policy regarding birds and towers. See Comments filed April 28, 2011 in WT Dockets 08-61 and 03-187. Following up on those comments, NTCH offers these brief thoughts on the Draft PEA:

1. Nothing in the Draft PEA recognizes the positive effects of towers on bird well-being. As NTCH noted, it constructs and has constructed scores of towers around the United States, and it has found no evidence of any bird fatalities from such towers. On the other hand, it frequently finds that birds have nested in the towers – a development that complicates tower maintenance in a number of respects. Any assessment of the effects of towers on birds must take into account both the positive and negative effects of hindering or delaying tower construction. The Draft PEA looks only at the negatives.

2. As previously explained by NTCH, the main thrust of the Court's remand to the FCC was that there needs to be a procedural means whereby bird advocates can be made aware of proposed tower construction that might adversely affect birds and have a chance to object, if appropriate. NTCH demonstrated that the procedures contemplated by the Commission, including 'local" publication and multiple filings of Form 854's was serious overkill. While

NTCH had suggested abbreviating the comment period to 20 days rather than the 30 now contemplated, the important thing is that the Commission not complicate the approval process with unnecessary procedures that serve no real purpose but simply hold up construction. As a practical matter, the vast majority of all towers constructed will cause not problem and will be unobjectionable. There is no reason to seriously impede those thousands of projects in deference to the handful that may require further assessment.

The Commission's usual notice procedures (periodic releases published regularly in the Federal Register) have worked for all other types of FCC action that are proposed and there is no reason to believe that this tried-and-true process is not completely adequate for tower issues as well. The key here is simply to be sure that the public has reasonable notice of proposed constructions and a reasonable time to comment. Nothing more is needed, and anything more would actually be counterproductive.

We must stress that in WC Docket 11-59 the Commission is currently striving to find ways of *accelerating* tower construction in view of the increasingly urgent need for more towers. A mistake in this PEA in an over exuberant effort to protect birds could completely undercut the objectives and initiatives being considered in that other Docket.

3. It remains unclear from a factual and scientific standpoint that the harm the Commission is trying to guard against even exists. Certainly the estimate of 5 million migratory birds being killed as a result of towers is not proven and is highly suspect. Before proceeding with measures that will be costly, time-consuming and contrary to the acknowledged public imperative to get new towers constructed as quickly as possible, the Commission should have solid evidence that there is a problem that needs solving. That evidence has not yet been produced.

NTCH therefore recommends that the Commission adopt either the No Action Alternative, or Alternative 1 or Alternative 2(Option C). These alternatives limit the proposed remedial measures in ways that would not be unduly disruptive to most tower construction. Although it is still not clear that even Alternatives 1 and 2(C) do any good, they limit the harm to a minimum. Under any of the alternatives, the Commission should simplify and streamline the 30 day notice and comment procedure as outlined in NTCH's earlier comments.

Respectfully submitted,

NTCH, Inc.

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