



January 18, 2013

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

Re: Notice of Ex Parte Communication in MB Docket Nos. 09-182, 07-294

Dear Ms. Dortch:

On January 17, 2013, Jane E. Mago, Jerianne Timmerman and the undersigned of the National Association of Broadcasters (NAB), participated in two separate telephone conferences with Elizabeth Andrion of the Office of Chairman Julius Genachowski and Bill Lake of the Media Bureau.

During each telephone conference, we emphasized NAB's support on the record for a proposal advanced by the Diversity and Competition Supporters ("DCS").¹ DCS proposed that the Commission tentatively adopt and test an overcoming disadvantages preference ("ODP")² by applying it in the context of one of DCS's proposals, such as the incubator initiative.³ We also reiterated NAB's willingness to

¹ NAB Reply Comments in MB Docket Nos. 09-182 and 07-294 (filed Jan. 4, 2013) ("NAB Data Reply Comments") at 4-5, citing Comments of DCS in MB Docket Nos. 09-182 and 07-294 (Dec. 26, 2012) ("DCS Data Comments") at 12-13.

² The ODP standard is a race- and gender- neutral definition that targets those who have overcome substantial disadvantages. The use of an ODP standard was proposed by the FCC's Diversity Committee. The FCC later issued a public notice seeking comment on whether to conduct a rulemaking proceeding to evaluate use of an ODP standard. See *Media and Wireless Telecommunications Bureaus Seek Comment on Recommendation of the Advisory Committee on Diversity for Communications in the Digital Age for a New Auction Preference for Overcoming Disadvantage*, Public Notice, 25 FCC Rcd 16854 (2010).

³ NAB Data Reply Comments at 4-5; DCS Data Comments at 13. See also DCS Data Comments at 7-8 (discussing incubator program); Comments of the National Association of Black Owned Broadcasters in MB Docket Nos. 09-182 and 07-294 (Dec. 26, 2012) at 5, n.13 (the incubator proposal could be an effective tool "if connected to a definition of eligible entity that could meaningfully promote minority ownership.").

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participate in discussions with the FCC and other interested parties about the practical steps that would be involved in implementation of such a program.⁴

During our telephone conference with Mr. Lake, we discussed the potential scope and implementation of an incubator program using the ODP standard. NAB reiterated that, while we support use of incubator programs across various media outlets,⁵ we understand that DCS has primarily focused on the use of the incubator program in the radio context. NAB stated that we would not oppose an incubator program that was initially limited to radio.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Erin L. Dozier
Senior Vice President and Deputy General Counsel
Legal and Regulatory Affairs

cc: Chairman Genachowski, Commissioner McDowell, Commissioner Clyburn,
Commissioner Rosenworcel, Commissioner Pai, Elizabeth Andrion, Erin
McGrath, Dave Grimaldi, Alex Hoehn-Saric, Matthew Berry, Bill Lake

⁴ NAB Data Reply Comments at 5.

⁵ NAB Data Reply Comments at 5, n. 15 (“... NAB supports use of the incubator program not only for waivers of the radio rule, but also for waivers of other broadcast ownership rules.”), *citing* Comments of NAB in MB Docket Nos. 06-121 and 07-294 (Jul. 30, 2008) at 4-5.