



May 14, 2013

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

Re: Office of Engineering and Technology Releases and Seeks Comment on Updated OET-69 Software, ET Docket No. 13-26, GN Docket No. 12-268, Notice of Ex Parte Communication

Dear Ms. Dortch,

On Friday, May 10, 2013, Rick Kaplan, Jane Mago and Bruce Franca of the National Association of Broadcasters ("NAB"), met with Alex Hoehn-Saric and David Goldman of the Office of Commissioner Jessica Rosenworcel.

The purpose of the meeting was to explain NAB's concerns as expressed in its comments and reply comments in the captioned proceeding relating to the Office of Engineering and Technology's ("OET") Public Notice DA 13-138 (Feb. 4, 2013), announcing a number of material changes to OET Bulletin No. 69 ("OET-69"). As in other meetings on this subject, NAB emphasized its belief that pursuing the changes to OET-69 for the upcoming incentive auction would invite unnecessary delay and create widespread uncertainty among broadcasters.

Specifically, NAB focused on two key areas related to the Public Notice:

- First, NAB's analysis indicates that the changes being made to OET-69 through the Public Notice create *less*, rather than more, accurate results.<sup>1</sup> Moreover, even if the new software changing the OET-69 methodology was indeed more accurate (which it is not), NAB queried why the Commission would use the new

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<sup>1</sup> See Reply Comments of NAB, *et al.* in ET Docket No. 13-26 and GN Docket No. 12-268 (Apr. 5, 2013), at 7-15.

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methodology only for incentive auctions and not *all* of OET-69's functions.

- Second, claims that the new software is necessary to efficiently implement the repacking element of the incentive auction are unfounded. As NAB asserted on the record in this proceeding, in comparing the use of the new and old software, there was no material difference in the efficiency with which the results were generated.<sup>2</sup>

NAB expressed its willingness to pursue other approaches to finding an efficient way to use OET-69 in the incentive auction.

In the meeting NAB also expressed concerns about the Media Bureau's April 5, 2013, freeze on the Filing and Processing of Full Power and Class A Television Station Modification Applications.<sup>3</sup> NAB noted that the freeze is having dramatic consequences even beyond negative impacts on individual stations and viewers and made points consistent with its letter of May 6, 2013 on this subject.<sup>4</sup>

NAB concluded by repeating its willingness to work with the Commission toward a successful auction, but again urged the agency to put aside changes to OET-69 in the context of the auction.

Respectfully submitted,



Rick Kaplan  
Executive Vice President, Strategic Planning  
National Association of Broadcasters

cc: Alex Hoehn-Saric, David Goldman

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<sup>2</sup> See Reply Comments of NAB, *et al.* in ET Docket No. 13-26 and GN Docket No. 12-268 (Apr. 5, 2013), at 5-7 and attached Declaration of Bruce Franca at ¶ 17; Comments of NAB, *et al.* in ET Docket No. 13-26 and GN Docket No. 12-268 (Mar. 21, 2013), at 21 and attached Declaration of William R. Meintel at ¶¶ 12-13.

<sup>3</sup> *Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate*, Public Notice, DA 13-618 (Apr. 5, 2013) ("Freeze PN").

<sup>4</sup> Letter from Rick Kaplan to William T. Lake, GN Docket No. 12-268, filed May 6, 2013.