

February 27, 2014

**VIA HAND DELIVERY**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

**Re: Notice of Ex Parte Statement**  
**MB Docket Nos. 13-249, 09-182, 07-294 and 04-256**  
**GN Docket No. 12-268**  
**BO Docket No. 12-30**

Dear Ms. Dortch:

This letter is submitted pursuant to Section 1.1206 of the Commission rules to disclose the communications made in the above-referenced proceedings.

On Tuesday, February 25, 2014 approximately 25 representatives of the Kansas and Missouri Associations of Broadcasters (radio and television broadcasters from across each state, plus the Presidents of each of the associations) and the undersigned counsel met with FCC Commissioner Ajit Pai and his Chief of Staff, Matthew Berry, to discuss issues currently pending at the FCC of interest to broadcasters. The discussion touched on the proposed study on Critical Information Needs of Communities, AM revitalization, the incentive auction of television spectrum, and the Commission's potential revision of the attribution rules – particularly those rules affecting the attribution status of television joint sales and shared services agreements. Specifics of the conversation on each of these topics are listed below.

**Critical Information Needs:**

- Broadcasters thanked the Commissioner for his efforts to restrict the study of newsroom decision making. The Commissioner remarked that he believed that such a study posed First Amendment issues, and was not necessary to determine the barriers to entry into the communications business for new entrants as required by Section 257.

- Broadcasters asked how they could help to make sure that this study does not reappear. It was suggested that they make clear to the FCC that this is not a partisan issue, but instead one on which all media companies are united.

**AM Revitalization:**

- There was general support for the proposal that there be a filing window for new FM translators reserved for the rebroadcast of AM stations. Several broadcasters remarked how important such translators are given the amount of listening now done on FM, and the restricted coverage, particularly at night, of many AM stations.
- Mr. Berry remarked that there were still issues to be decided on that window, including whether there would be a strict one-translator-per-AM station limit on filings, whether there would be a preference system in the event of mutually exclusive filings by AM stations, and related matters.
- Broadcasters from Kansas discussed how important AM service was, and the benefits that could be provided by FM translator service at night, particularly at times when there are severe weather alerts in that state. Local sports and local church services were also mentioned as important services provided by AM broadcasters and much in demand by local communities.
- Missouri representatives pointed out that they had filed comments in this docket separate from those of other state broadcast associations, and urged the Commissioner to review those comments, specifically mentioning that they had proposed that the Commission reexamine the concept of “community” for AM purposes, as service to a specific city of license did not reflect current marketplace realities and restricted technical choices for AM facilities.
- There was general support for the elimination of the ratchet rule.
- Questions were asked as to whether the FCC could mandate AM receiver quality, or encourage wireless companies to include radio chips in mobile phones, but the Commissioner indicated that FCC jurisdiction in these areas was probably limited.

**Incentive Auction:**

- There was a discussion of LPTV and TV translator protections after the incentive auction and TV spectrum repacking.
- The broadcasters were supportive of encouraging the FCC to do what it could to protect these secondary stations after the repacking, as they provide important services, particularly in rural areas. A proposal to allow translators to continue to operate in rural

areas outside of the repacked TV band until there was a demand for their spectrum from a wireless user was met with general approval of the broadcasters.

- The Commissioner was asked if there was any opportunity to lift the current freeze on TV technical applications, as it was imposing burdens on broadcasters. The Commissioner indicated that he knew of no current plans to lift the freeze before more work on the incentive auction has been completed.

**JSA/SSA Attribution:**

- Broadcasters asked what the possible reasoning was behind the proposed attribution of TV joint sales and shared services agreements. The Commissioner mentioned that there were concerns expressed by those that supported attribution of these relationships that these agreements were an evasion of the Commission's limits on the local ownership of TV stations, and that the agreements made minority ownership more difficult as they tied up stations that could otherwise go to minorities.
- Broadcasters remarked that these agreements are necessary given the increased marketplace competition for advertising revenues. Local cable advertising sales, radio, local digital ad sales, and newspapers were all seen as effective competitors for advertising dollars in markets in these states.
- A Kansas City TV operator remarked that cable television, Google, and satellite television were all selling local video ads and compete with his TV station for local advertising revenue.
- One broadcaster stated that there is a finite amount of TV advertising revenue available in any television market, and that much advertising inventory goes unsold because there is simply no one to buy it in smaller markets. Thus, joint operations are necessary to allow stations to recognize economies. If stations are forced to give up these economies, the weaker station would not be able to compete in the market.
- It was also pointed out that the SSA-JSA arrangement enabled the stations to add jobs and supported the payroll required to provide their local news and public service, while many of their competitors do not provide such services.
- Reference was made to a joint arrangement in Joplin, Missouri that was dark before a sharing arrangement allowed it to resume operations to serve the local community.
- Benefits of various joint operating agreements, including increased local news and the ability to support foreign language programming, were cited by broadcasters. One sharing arrangement allowed for the development of the only local Spanish television news programming in Kansas.

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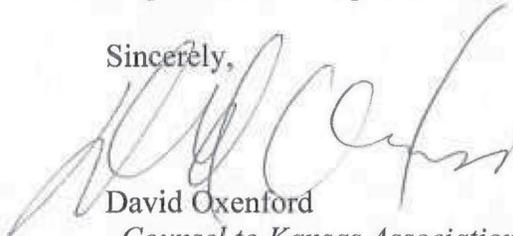
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- Broadcasters also pointed out that TV was different from radio, in that one owner can hold many radio licenses in a single market, but that the local TV rules have not been adjusted to reflect new marketplace competition, to allow for more local consolidation. As the local television ownership limits have not been revisited since the 1990s, these joint operating agreements are necessary given the vastly different media marketplace that now exists.
- There was a general consensus that there was a disconnect between the determination of the DOJ (and apparent beliefs of some at the FCC) that TV was such a massive local marketplace competitor that any combinations had to be prohibited for purposes of these rules, and the contrary implication inherent in the spectrum auction that TV is a “dinosaur” in the technology world that could be deemphasized by limiting the amount of spectrum devoted to its operations. It was pointed out that the DOJ analysis and history of defining the relevant market as restricted to over-the-air broadcast advertising was not proper given the reality of fierce intermodal competition among all forms of electronic media.

Should there be any questions concerning these matters, please contact the undersigned.

Sincerely,



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cc: Commissioner Ajit Pai  
Matthew Berry