



April 5, 2012

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

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

Dear Ms. Dortch:

On April 3, 2012, Jane Mago, Chris Ornelas, Victor Tawil, Bruce Franca and the undersigned of the National Association of Broadcasters (NAB) met with William Lake of the Media Bureau, Ruth Milkman from the Office of the Chairman and Rick Kaplan of the Wireless Telecommunication Bureau.

In the meeting, we expressed serious concerns with the Commission's possible effort to move forward with a proposal set forth in the Commission's *Notice of Proposed Rulemaking* (NPRM) in this docket that would add a co-primary fixed and mobile designation across the all broadcast television bands. We said that a decision on this issue is premature/untimely. There is no full record of the impact of this allocation on existing services. Moreover, the Commission's objective to facilitate band clearing can be accomplished by deferring the co-primary decision until after the Commission has set the structure and rules for the incentive auction. Delaying the co-primary allocation decision for now would not impact the overall schedule and timely completion of the incentive auctions proceeding.

We pointed out that giving co-primary priority to wireless services across the entire broadcast band is unprecedented on both a national and international level. Moreover, insertion of new classes of operation such as fixed and mobile on a co-primary basis would not only stunt investment and innovation in the broadcast band, but could displace secondary broadcast services, such as Low Power Television and TV translators, currently operating in the band.

We further suggested that, in light of the recently passed legislation that grants the Commission authority to conduct incentive auctions, the Commission should consider,

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at the very least, accepting further comment and discussion to supplement the record with regard to the co-primary issue.

Ultimately, we argued, the Commission should stipulate allocations and service rules based on the results of the incentive auction. For example, if, through an incentive auction, the Commission were able to clear ten contiguous broadcast channels, we believe that any new allocations for fixed and mobile wireless services should be focused on those recovered channels, not the entire existing broadcast band. This method would still provide the Commission all the flexibility it needs assign new fixed and mobile licensees into the recovered channels and do so in a way that does not delay the process. We also stated that such a model is more in line with Congressional intent.

Respectfully submitted,

A handwritten signature in black ink that reads "Scott Goodwin". The signature is written in a cursive, slightly slanted style.

Scott Goodwin
Associate General Counsel
Legal and Regulatory Affairs

Cc: William Lake
Ruth Milkman
Rick Kaplan