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September 11, 2009

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, DC 20554

RE: Ex Parte Presentation of
The Coalition of Wireless Microphone Users
in WT Dockets Nos. 08-166 and 08-167 and
in ET Dockets Nos. 04-186 and 02-380

Dear Ms. Dortch:

On September 11, 2009, the undersigned, along with Reverend Kimberly Barnes, Associate Pastor of the Metropolitan AME Church; Teresa Eyring, Executive Director of Theatre Communications Group, Inc.; Thomas S. Ferrugia, Director of Government Relations for the Broadway League; Ginny Loulouides, Executive Director of the Alliance of Resident Theatres/ New York; Nicolas Maduros of Quinn Gillespie & Associates, LLC; Heidi Mathis, Corporate Relations Manager of the Shubert Organization; and Antoinette Cook Bush of this firm, on behalf of the Coalition of Wireless Microphone Users ("CWMU"),¹ met with David S. Goldman, Acting Legal Advisor to the office of Chairman Julius Genachowski.

¹ CWMU is an informal organization of entities that use wireless microphones and other equipment operating on frequencies assigned to Low Power Auxiliary Stations under Part 74, Subpart H of the Commission's rules. Members of CWMU include The Broadway League; The Shubert Organization; Theatre Communications Group, Inc.; The Alliance of Resident Theatres/New York, Inc.; The Educational Theatre Association; League of Off-Broadway Theaters and Producers, Inc.; League of Resident Theatres; the African Methodist Episcopal Church; Sports Video Group, LLC; National Basketball Association; National Football League, National Hockey League, Major League Baseball; ESPN, Inc.; and News Corporation.

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CWMU reiterated its intention to vacate the 700 MHz band upon the determination by the Commission of a date when Wireless Microphone² use in that spectrum must cease. With regard to the use of Wireless Microphones in other areas of the television band, CWMU members are seeking protection from interference by new unlicensed "TV Band Devices" for existing Wireless Microphone users, including those that are not currently eligible for Part 74 licenses. CWMU believes that this protection can most effectively come from eligibility for Part 74 Subpart H licenses and from the inclusion of Wireless Microphone uses in the proposed White Spaces database. The discussion included the points on the attached outline.

CWMU members remain available to discuss these issues with any party and to assist the Commission in developing rules and procedures that will protect existing Wireless Microphone users in their provision of services to the public.

Sincerely,

A handwritten signature in black ink, appearing to read "D. H. Pawlik". The signature is fluid and cursive, with a long horizontal stroke at the end.

David H. Pawlik
Counsel to
The Coalition of Wireless Microphone Users

cc: David Goldman

² CWMU defines "Wireless Microphones" to include IFB systems and other wireless cue and control systems.

COALITION OF WIRELESS MICROPHONE USERS

September 11, 2009

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- CWMU believes that eligibility for Part 74 Subpart H licenses should be extended to include producers of live performing arts, cultural presentations (including religious presentations), professional or amateur sporting events, conventions or trade shows, or the owners or operators of venues where such events take place; and government and educational entities.
- CWMU's members' are committed to vacating the 700 MHz band, and CWMU members already have incurred, and are continuing to incur, substantial expense in eliminating operation in that band. CWMU members appreciate the importance of clearing the 700 MHz band of Wireless Microphone use, and have purchased new equipment to do so.
- Given this commitment and expense, it would be manifestly unfair for the Commission to adopt PISC's proposals to reduce interference protection by rendering Wireless Microphones only co-equal with TV Band devices ("TVBDs") or else relegating them to operation under Part 15 of the Commission's Rules.
- Adoption of this proposal would be also a reversal of the FCC's position in the White Spaces order, which stated that Wireless Microphones could be included in the database and protected against interference from TVBDs.
- Treating Wireless Microphones as co-equal to TVBDs would essentially provide no protection at all from the technology most likely to interfere with Wireless Microphone performance. Parties with equal status must negotiate interference with one another. Because temporary interference would not have the same devastating on TVBDs that it would have on Wireless Microphones, TVBD operators would begin any interference negotiation with much less to lose and thus a significant advantage.
- The Part 15 regime would make Wireless Microphones co-equal with everything from garage door openers to home-built radio-controlled airplanes. Parties operating Part 15 devices have no vested or recognizable right to the continued use of any frequency, cannot cause interference to any authorized frequency use, and must accept interference from any authorized radio station or other Part 15 device.
- CWMU has proposed a limited 60-day amnesty period during which existing Wireless Microphone users could apply for licenses to cover their grandfathered uses of the television broadcasting spectrum. Following the termination of the amnesty period, the Commission could issue additional authorizations by waiver to ensure that only those entities that need Wireless Microphones using Part 74 spectrum are licensed, while reserving spectrum resources for use by TVBDs.