

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Wireless Microphones Proceeding

| | | |
|---|---|----------------------|
| |) | |
| |) | |
| Revisions to Rules Authorizing the Operation of |) | WT Docket No. 08-166 |
| Low Power Auxiliary Stations in the 698-806 |) | |
| MHz Band |) | |
| |) | |
| |) | |
| Public Interest Spectrum Coalition, Petition for |) | |
| Rulemaking Regarding Low Power Auxiliary |) | WT Docket No. 08-167 |
| Stations, Including Wireless Microphones, and the |) | |
| Digital Television Transition |) | |
| |) | |
| |) | |
| Amendment of Parts 15, 74 and 90 of the |) | |
| Commission's Rules Regarding Low Power |) | ET Docket No. 10-24 |
| Auxiliary Stations, Including Wireless |) | |
| Microphones |) | |
| |) | |
| |) | |
| Expanding the Economic and Innovation |) | |
| Opportunities of Spectrum Through |) | GN Docket No. 12-268 |
| Incentive Auctions |) | |

**COMMENTS OF
THE PERFORMING ARTS WIRELESS MICROPHONE WORKING GROUP**

**Alliance of Resident Theatres/NY
Association of Performing Arts Presenters
Dance/USA
Educational Theatre Association
League of American Orchestras
OPERA America
Theatre Communications Group**

January 25, 2013

INDEX

- Page 3:** **COMMENTS OF THE PERFORMING ARTS WIRELESS
MICROPHONE WORKING GROUP**
- 1. Access to the Geo-Location Database**
 - 2. Expansion of Part 74, Subpart H Licensing Should Include the
Performing Arts**
- Page 4:**
- 3. Eligibility of Entities in the Performing Arts for Licensing**
 - 4. Retention of Reserved/Safe-Haven Channels**
 - 5. Performing Arts Investment in Wireless Technology**
- Page 5:**
- 6. Offsetting the Costs of Wireless Microphone Transition**
 - 7. Efficient Spectrum Use**
 - 8. Public Service by the Performing Arts**
- Page 6:**
- 9. The Performing Arts are Vital**

COMMENTS OF THE PERFORMING ARTS WIRELESS MICROPHONE WORKING GROUP

The Performing Arts Wireless Microphone Working Group is a coalition of national performing arts service organizations serving the professional, nonprofit performing arts and presenting fields and educational theatre. These are the current participants in this Working Group: Alliance of Resident Theatres/NY; Association of Performing Arts Presenters; Dance/USA; Educational Theatre Association; League of American Orchestras; OPERA America; Theatre Communications Group.

We understand that the FCC is moving forward with plans to auction and repack the broadcast spectrum. We appreciate efforts so far to recognize and protect wireless microphones used in the performing arts. We look forward to continued cooperation with the FCC in working toward a smooth transition in the shared use of the spectrum.

Toward that end, we appreciate the opportunity to follow-up on previous filings that many of our organizations have made and meetings we have had with the FCC, as we continue to advocate for the protection of wireless microphones use in the performing arts.

1. Access to the Geo-Location Database

Since the FCC's September, 2010 Ruling, the national performing arts service organizations have worked to inform and educate our members that the FCC set aside two safe-haven channels for wireless microphones, and that, for events requiring more than the two safe-haven channels and other channels available in certain locations, they could apply to participate in the geo-location database. It is our understanding that the database became operational nationally on December 6, 2012 and that White Space devices will be permitted nationally sometime in January, 2013. It is only then that the FCC's plan for the shared use of White Spaces between wireless microphones and White Space devices will become real.

Professional performing arts organizations as well as theatre education programs across the country, would all have some sort of interference protection under this plan. School theatre programs and small and mid-sized professional performing arts entities will be protected by the two safe-haven channels, and larger performing arts organizations will be protected by access to the geo-location database – with a goal of preserving interference-free cultural and educational programs as well as ensuring protections for new commercial electronic devices.

2. Expansion of Part 74, Subpart H Licensing Should Include the Performing Arts

We strongly urge the Commission to expand eligibility for Part 74, Subpart H Licensing to include performing arts organizations with 500 seats or more and which utilize more than the two safe-haven channels and other available channels in their location. Entities licensed under Part 74, Subpart H would, under the FCC's plan, be eligible for participation in the geo-location database. We urge the FCC to leave it to the professionalism of sound engineers to certify that they will not use more channels than they absolutely need.

Professional performing arts venues across the country present professional level performances that fit the FCC criteria. If the minimum number of required seats were higher than 500, too many professional performances would go unprotected. Based on recent surveys by Theatre Communications Group of its member theatres in 2010 and 2011, there is a correlation between the use of many devices and houses with 500 seats or more.

Professional performing arts organizations – those with paid staff and performers, that offer tickets for sale to the public – and have invested in professional sound equipment, and would be eligible for the database, would also benefit from Part 74 licensing, and should be eligible. This would provide them with more immediate access to the database because the 30 day delay in accessing the geo-location database does not allow for the flexibility needed in the professional performing arts sector.

It is important to the performing arts sector, that there be some freedom in choosing which channels are used in different locations. Some of the equipment used in major performing arts productions might be used in channels that are also available to White Space devices. Many performing arts organizations invested in sound equipment, as is highlighted later in this document, in order to vacate the 700 MHz band. It would be extremely cost-prohibitive for these organizations to have to give up this equipment, or replace it so soon after the 2010 vacate order. Because a Part 74 license doesn't require certification that the safe-haven channels and other available channels have been used, it offers greater flexibility.

Entities using fewer than 16 wireless devices would continue to be protected by the two reserved, or safe-haven channels.

3. Eligibility of Entities in the Performing Arts for Licensing

We recommend Part 74 Licenses to be eligible to: 1) owners or operators of venues that present the performing arts, 2) producers of the performing arts such as dance, opera, theatre and symphony orchestras, and 3) professional audio service contractors/suppliers of professional production systems used in the performing arts.

4. Retention of Reserved/Safe-Haven Channels

Any FCC plan to re-pack and re-organize the broadcast spectrum should continue to include two reserved/safe-haven channels. Protection of wireless microphone technology in the performing arts is dependent upon all of the protections put forth by the FCC – two reserved/safe-haven channels and eligibility in the geo-location database for those entities that require more spectrum than afforded by the two safe-haven channels. There are professional performing arts organizations across the country that operate with fewer than 16 wireless devices and they need the protection of the two safe-haven channels.

A reliable geo-location database will avoid interference between wireless microphones and TV Band Devices. Maintaining two safe-haven channels nationally is critical in preserving interference protection for smaller and mid-sized professional performing arts performances – especially those outside of major urban areas – and for school theatre programs. We urge the FCC to closely supervise the implementation of the geo-location database and be responsive to any concerns raised by the wireless microphone community and to maintain two safe-haven channels nationally for wireless microphones. If the safe-haven channels were eliminated, smaller performing arts entities would then need access to the database.

5. Performing Arts Investment in Wireless Technology

Performing arts organizations in the United States have made substantial financial investments in their technical equipment, including wireless microphones and communications devices used for backstage communications, in order to produce and present performances of the highest caliber, which our audiences have come to expect.

6. Offsetting the Costs of Wireless Microphone Transition

Wireless microphone users, including those in the performing arts, were required to cease operations in the 700 MHz band by June 12, 2010. For many performing arts organizations, this migration out of the 700 MHz band caused an unanticipated expenditure of \$25,000 to \$100,000 for the purchase of sound equipment that would operate in a different area of the broadcast spectrum.

As the FCC reviews options for rulemaking on the recently approved spectrum auctions, we request that the FCC consider the burden already borne by the performing arts community. Should another move in the broadcast spectrum be deemed necessary, the performing arts community has conservatively estimated that \$17.5 million – which is a fraction of the actual cost – would be needed to be set aside to defray equipment replacement costs for the performing arts community. We respectfully request that the FCC require entities moving into spectrum currently being used by wireless microphones in the performing arts, to help fund the relocation of these wireless microphones.

7. Efficient Spectrum Use

The Performing Arts Wireless Microphone Working Group understands and supports the FCC's desire to effect more efficient use of the broadcast spectrum. Many of the performing arts organizations we represent are non-profit. All of the entities we represent are operating on tight budgets in a difficult economy. Many of these entities purchased new equipment, at great expense, to vacate the 700 MHz band before June 12, 2010. The FCC did not provide sufficient guidance as to where wireless microphones should relocate until September, 2010, when it released the decision creating nationwide channels for wireless microphone use. Consequently, some newly purchased equipment could not take advantage of those channels. After September, 2010, some entities purchased new equipment relying on the FCC's promise that these two safe-haven channels would exist. If performing arts organizations must again purchase new equipment, it will be a severe financial hardship, especially considering that many budget for equipment that is expected to have a long usable lifespan. We respectfully request that the Commission provide reliable guidance for wireless microphone purchasers, including an easy to find link to database searches that would show the safe-haven and other available channels for specific locations. We also understand the desire to urge migration of wireless microphones from analog to digital. We are not yet convinced that digital sound equipment is ready for professional use and that latency issues have been resolved. Once digital microphones become usable for professional live performances, then we would suggest a period of 10 years for migration, because of the financial considerations we have outlined above.

8. Public Service by the Performing Arts

Performing arts organizations provide demonstrable service to the public in improving quality of life, preserving our cultural heritage, and in providing education, enlightenment, entertainment and, of course, contributing to local economies in every community across this country.

Performances by opera and dance companies, symphony orchestras, community theaters, and regional theatres reach a combined audience of 190 million Americans annually and collectively represent an annual \$7.8 billion dollar industry. Broadway theatre, performing in more than 200 markets across North America, directly spurred a combined economic contribution of more than \$14.5 billion to the national economy last year. In addition, there are more than 21,000 school theatre programs in the United States; which impact approximately 500,000 enrolled students.

Given the thousands of performances held by arts organizations each year, the use of wireless microphones is both essential to producing high-quality performances and also mitigates against significant public safety concerns. Professional wireless capability, with interference protection that works successfully, is essential to the performing arts sector.

9. The Performing Arts are Vital

We appreciate the FCC’s ongoing efforts to work toward better and more efficient spectrum-sharing, that assures interference protection and does not demand an unbearable cost to performing arts organizations and educational institutions. In closing, the Performing Arts Wireless Microphone Working Group hopes that the FCC will rule in such a way as to protect a vital sector in American society – the performing arts and the audiences we serve.

Respectfully submitted,

/s/
Ginny Loulouides
Executive Director
Alliance of Resident Theatres/ New York

/s/
Mario Garcia Durham
President and CEO
Association of Performing Arts Presenters

/s/
Amy Fitterer
Executive Director
Dance/USA

/s/
Julie Woffington
Executive director
Educational Theatre Association

/s/
Jesse Rosen
President and CEO
League of American Orchestras

/s/
Marc Scorca
President and CEO
OPERA America

/s/
Teresa Eyring
Executive Director
Theatre Communications Group