

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

In the Matter of	)	
	)	
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	)	WT Docket No. 08-167
Rulemaking Regarding Low Power Auxiliary	)	
Stations, Including Wireless Microphones, and the	)	
Digital Television Transition	)	
	)	
Amendment of Parts 15, 74 and 90 of the	)	ET Docket No. 10-24
Commission's Rules Regarding Low Power	)	
Auxiliary Stations, Including Wireless	)	
Microphones	)	

To: The Commission

**Reply Comments of
The Association for Maximum Service Television, Inc. and
The National Association of Broadcasters**

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Dated: March 22, 2010

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SUMMARY

The Association for Maximum Service Television, Inc. (MSTV) and the National Association of Broadcasters (NAB) hereby submit reply comments on the Report and Order and Further Notice of Proposed Rulemaking in this proceeding concerning the regulatory status of licensed and unlicensed wireless low power auxiliary stations, including wireless microphones, in the TV broadcast band.

The record in this proceeding demonstrates a broad range of agreement with MSTV and NAB's position that opening the TV band to an influx of new untraceable wireless audio devices, on an unlicensed basis under Part 15 of the Commission's rules, could cause substantial harmful interference to digital television (DTV) service. Further, existing wireless microphone users almost unanimously oppose an unlicensed Part 15 approach, and argue that many wireless microphone operations are used in professional situations that require the protection afforded by licensing.

The more appropriate course of action is to modify Part 74 of the Commission's rules to allow certain additional entities to operate wireless microphones in the TV band on a licensed basis. The record supports a narrow expansion of Part 74 eligibility to permit theaters, live music productions, government bodies and houses of worship to become licensed users of wireless microphones.

In contrast, permitting wireless microphones in the TV band on an unlicensed basis under Part 15 is unsound policy. Such an approach would allow unfettered access to the TV band for a wide range of wireless microphone consumer applications, such as baby monitors and voice-activated, remote-controlled toys. Unlike wireless microphone uses that currently coexist with DTV service, these unlicensed devices are

not used in controlled settings at locations sufficiently far away from residential television viewing, nor professionally installed, maintained or subject to frequency coordination.

Finally, MSTV and NAB renew our objections to the proposal to allow unlicensed wireless audio devices in the TV band during the pendency of this proceeding. Such an approach presumes the resolution of the proceeding, and effectively cannot be modified or reversed should the Commission ultimately choose a different path. MSTV and NAB recommend instead a temporary, narrow extension of Part 74 eligibility to allow the above-listed licensed wireless microphone users in the TV band during the pendency of this proceeding.

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The Association for Maximum Service Television, Inc.
and The National Association of Broadcasters**

The Association for Maximum Service Television, Inc. (MSTV)¹ and the National Association of Broadcasters (NAB)² respectfully submit these reply comments on the above-captioned Report and Order and Further Notice of Proposed Rulemaking concerning the use of wireless low power auxiliary stations, including wireless microphones, in the TV broadcast band (TV Channels 2 – 51, excluding Channel 37).³

¹ MSTV is a nonprofit trade association of local broadcast television stations committed to achieving and maintaining the highest technical quality for the local broadcast system.

² NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

³ Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band, WT Docket No. 08-166, Public Interest Spectrum Coalition, Petition

The Further Notice proposes to amend the Commission's rules to allow operators of low power auxiliary stations (including wireless microphones) that are currently ineligible for a license under Part 74 of the Commission's rules to operate such microphones in the core TV bands to do so on an unlicensed basis pursuant to Part 15 of the rules. The Commission further asks for comment on expanding Part 74 eligibility to allow certain additional entities to operate wireless microphones in the TV bands on a licensed basis. Further Notice at ¶ 107.

Although parties differ widely in how answering specific questions raised in the Further Notice, the one point of consensus is the need for a practical resolution of the future regulatory status of wireless microphones that will provide certainty for all involved. The record also reveals substantial agreement with MSTV and NAB's position that opening the TV band to a new universe of unlicensed, unidentifiable wireless audio devices under Part 15 of the rules is inappropriate and unwise. As discussed below, the Commission should permit certain additional entities to use wireless microphones in the TV band on a licensed basis pursuant to a narrow expansion of Part 74 eligibility.

I. No Technical Rationale Exists for Resolving Potential Interference in the 700 MHz Band by Increasing the Risk of Interference to Television Service

The Commission has concluded that wireless microphones may cause interference to the new commercial wireless and public safety services to be deployed in the 700 MHz band, and proposes to resolve this interference by moving wireless

for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition, WT Docket No. 08-167, Amendment of Parts 15, 74 and 90 of the Commission's Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones, ET Docket No. 10-24, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 10-16 (rel. Jan. 15, 2010) (Report and Order or Further Notice).

microphones operations to the TV band. Further Notice at ¶¶ 107-109. However, as MSTV and NAB explained, television service is no less susceptible to potential interference from wireless microphones than the new wireless services to be located in the 700 MHz band,⁴ a fact that is undisputed in the record. Both digital television (DTV) and the new 700 MHz wireless services use digital modulation systems that have similar signal level thresholds and are thus equally vulnerable to the types of interference the Commission seeks to prevent in the 700 MHz band. Further, DTV service may be even more prone to interference from a new category of wireless audio devices because DTV reception is based on an outdoor antenna with antenna gain and height that also applies to signals coming from Part 15 wireless audio devices. MSTV/NAB Comments at 5.

No technical grounds exist to treat DTV viewers in such a disparate manner.⁵ If the Commission determines that unlicensed wireless microphones will cause interference to wireless services in the 700 MHz band, it must also conclude that wireless microphones will disrupt DTV service. Relocating wireless microphones from the 700 MHz band to the TV band for purposes of reducing potential interference amounts to “robbing Peter to pay Paul.”

II. Permitting Operation of Unlicensed Wireless Microphones in the TV Bands Would Cause Irreversible Interference to DTV and Other Services

The Further Notice proposes to permit low power wireless devices to operate on an unlicensed basis in the TV bands, pursuant to certain technical restrictions. Further

⁴ Comments of MSTV and NAB, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 4-5 (MSTV/NAB Comments).

⁵ Similarly situated entities must be treated equally. *See, e.g., Melody Music, Inc. v. FCC*, 345 F.2d 730 (1965).

Notice at ¶¶ 109 – 123. The proposal would create a new category of unlicensed wireless microphones under Part 15 of the rules, and classify them as “Wireless Audio Devices.” *Id.* at ¶ 112. However, NAB and other commenters submit that this definition is overly broad, and would enable an influx of all kinds of consumer devices, such as baby monitors, remote home speakers systems, and wireless intercoms.⁶

Only a handful of commenters on the Further Notice favor opening the TV band to unlicensed wireless microphones under Part 15, and most of these parties are manufacturers of wireless microphone equipment with an interest in promoting markets for their products.⁷ Even these parties offer only tepid support. For example, Shure disagrees with the Commission’s assumption that operation of unlicensed wireless microphones in the TV band could “meet the needs of the vast majority of wireless microphone users.”⁸ Shure agrees with MSTV and NAB that professional users of wireless microphones should be licensed under Part 74 of the rules, and suggests Part 15 only as a back-up mechanism for nonprofessionals and recreational users. Shure Comments at 9. Motorola also endorses wireless microphone operations in the TV band as offering more certainty to users, but notes that allowing unlicensed wireless microphones in the TV band “risks interference to television licensees, land mobile,

⁶ MSTV/NAB Comments at 6-7; Comments of Thomas C. Smith, WT Docket No. 08-167, ET Docket No. 10-24, filed March 1, 2010, at 2.

⁷ Comments of Motorola, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 2-3 (Motorola Comments); Comments of Sennheiser Electronic Corporation, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 12-14 (Sennheiser Comments); Comments of Shure Incorporated, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 19-24 (Shure Comments); Comments of Audio-Technica U.S., Inc., WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 4-5 (A-T Comments); Comments of Spectrum-Bridge, Inc., WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 4 (Spectrum Bridge Comments).

⁸ Shure Comments at 19, citing Second Further Notice at ¶ 111.

public safety, and commercial wireless licensees.” Motorola Comments at 2. Even Dell and Microsoft lash their support for the Part 15 proposal to a precondition that the Commission first reconsider the requirement that “white spaces” devices must sense for wireless microphones.⁹

Importantly, none of these parties refute MSTV and NAB’s showing that allowing an influx of unlicensed wireless microphone applications into the TV band will seriously threaten DTV service. Even MAP *et al.*, which strenuously opposes expanded Part 74 eligibility and states that wireless microphones users “will be able to continue unlicensed use of core TV band channels pursuant to Part 15,” fails to refute or even address the inescapable physics of interference between wireless microphones and TV service.¹⁰

MSTV and NAB explained in our initial comments that television service and existing wireless microphones have functioned successfully in the same band largely because most wireless microphones are used in controlled, professional settings, such as theaters, government buildings and houses of worship, that are sufficiently distant from residential locations where television viewing occurs. MSTV/NAB Comments at 7-8. We also noted that most wireless microphone systems used in these settings are

⁹ Comments of Dell Inc. and Microsoft Corp., WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 6-8 (Dell/Microsoft Comments).

¹⁰ Comments of Media Access Project, New America Foundation, and Public Knowledge, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 5 (MAP *et al.* Comments)

relatively expensive because they are made of superior quality, and that these devices are usually professionally installed and maintained. *Id.* at 9-10.¹¹

In contrast, the types of Part 15 wireless audio microphone and other unlicensed applications that would enter the TV band under the Commission's proposal are commonly used inside homes and rooms where television viewing takes place. Signal attenuation from buildings and walls will not help protect DTV reception. *Id.* at 8. Moreover, these kinds of unlicensed audio devices are typically mass-produced, consumer-grade, and much less likely to be installed or maintained consistent with FCC technical requirements. *Id.* at 9.¹² We also noted that unlicensed wireless audio device users have no ability to coordinate frequencies with TV licensees, nor do they have detailed information about the location of TV stations making the Commission's separation distance requirements meaningless.¹³

Other parties agree. The County of Los Angeles notes that portions of the TV band represent the core frequencies for public safety communications in Los Angeles and other metropolitan areas.¹⁴ LA County strongly opposes the proposal to allow unlicensed wireless microphones into the TV band because it "would create exactly the

¹¹ *Accord* Comments of the Association of Performing Arts Presenters, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010 (Performers Comments), at 3 (some venues invest up to \$850,000 in high functioning wireless audio equipment).

¹² Comments of the Coalition of Wireless Microphone Users, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 5 (Wireless Mics Coalition Comments) (wireless microphones will be "used in large part by amateur and casual users . . .").

¹³ *Accord* MSTV/NAB Comments at 10-11; see also Wireless Mics Coalition Comments at 5 ("Frequency coordination is not standard practice among such users and they would pose a significant threat to each other with a daily trial-and-error search for available frequencies. This would also cause interference to other users of those TV band channels.")

¹⁴ Comments of the County of Los Angeles, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 1-2 (LA County Comments).

type of harmful interference that the Commission sought to eliminate in the 700 MHz band.” LA County Comments at 3. LA County states that the unpredictable use of wireless microphones could cause potentially life-threatening interference to public safety systems. *Id.* These concerns are echoed by other public safety organizations.¹⁵

Based on this record, the Commission should not open the door to the TV band for unlicensed wireless microphone users. Such an approach will lead to unwanted interference to DTV service, and significantly, to public safety operations that cannot later be ameliorated because unlicensed wireless microphone users will be unidentifiable and untraceable. The better course of action is to implement a narrow, conservative expansion of eligibility under Part 74 of the rules to allow certain additional entities to use wireless microphones in the TV bands on a licensed basis.

III. The Record Demonstrates Widespread Support for a Narrow, Practicable Expansion of Part 74 Eligibility to Allow Certain New Categories of Wireless Operations in the TV Band

The Commission seeks comment on expanding eligibility under Part 74 to foster licensed operation of wireless services in the TV bands. Further Notice at ¶¶ 127 - 128. The Commission notes that some users, such as sporting arenas and theaters, have similar characteristics to entities already licensed under Part 74 to use wireless microphones, including broadcasters and cable television systems.¹⁶

MSTV and NAB support a conservative modification of Part 74 to allow certain additional entities to use wireless microphones in the TV band on licensed basis in

¹⁵ Comments of the Association of Public-Safety Communications Officials-International, Inc. (APCO), WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 3; Comments of the National Public Safety Telecommunications Council (NPSTC), WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 3.

¹⁶ Further Notice at ¶¶ 125, 129; 47 C.F.R. § 74.832(a).

controlled, professional settings that are typically located a sufficient distance from residential areas. MSTV/NAB Comments at 16-18. MSTV and NAB listed four specific categories that would be suitable to add to the categories of eligible licensees under Part 74: theaters, live music producers, government bodies, and houses of worship. *Id.* The record reveals a broad range of parties generally supportive of MSTV and NAB's position.¹⁷

For example, the Wireless Mics Coalition states that pursuant to certain eligibility criteria such as an entity's public service and audience size, Part 74 should be expanded to cover producers of live performing arts and cultural presentations, certain sporting events, and professional audio contractors, among others. Wireless Mics Coalition Comments at 6-7. Several church organizations explain the importance of wireless microphones to their services, in support of expansion of Part 74 to include houses of worship.¹⁸ Similarly, various performing artists and live entertainment venues discuss their contributions to culture and the economy, and the vital role that wireless

¹⁷ See, e.g., Comments of 3 Doors Down, et al., WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010 (Recording Artists Comments), at 1-2; Wireless Mics Coalition Comments at 6-10; Comments of Pioneer Memorial Church, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 1 (Pioneer Church Comments); Comments of Faith Church, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 1 (Faith Church Comments); Comments of the Nuclear Energy Institute and Utilities Telecom Council, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 4-5 (NEI/UTC Comments); Comments of the Grand Ole Opry, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 1-3 (Opry Comments); Comments of Harrah's Entertainment, Inc., WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 2 (Harrah's Comments); Comments of Live Nation, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 4-5 (Live Nation Comments); Performers Comments at 3-7.

¹⁸ See, e.g., Pioneer Church Comments at 1; Faith Church Comments at 1; Comments of Fellowship Bible Church, WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24, filed March 1, 2010, at 1 (Fellowship Comments).

microphones play, in support of a rule change permitting these types of entities to use wireless microphones on a licensed basis under Part 74.¹⁹

These parties also affirm important characteristics that MSTV and NAB previously mentioned. Live Nation states that some larger entertainment venues can use hundreds of wireless microphones and related equipment for a single concert or sporting event, but that such venues always employ experienced professional audio technicians that carefully test and coordinate use of microphones. Live Nation Comments at 3. Harrah's states that enjoyment of their performances rests on sound quality that is not impaired or distorted by interference from unlicensed devices. Harrah's Comments at 2. Thus, as Opry argues, it is imperative that wireless microphones for these and similar purposes be licensed and safeguarded under Part 74. Opry Comments at 2.

Dell and Microsoft, MAP *et al.*, and Spectrum Bridge oppose expansion of Part 74 eligibility due to the potential impact on "TV Band Devices" to be deployed in TV white spaces (TVBDs).²⁰ These parties contend that wireless microphones should be permitted on an unlicensed basis under Part 15 to ensure that such devices do not have higher status than TVBDs. Such an approach ignores completely the potential impact on existing DTV viewers and licensed DTV operations that merit protection from both TVBDs and wireless microphones licensed under Part 74, and that wireless microphones are incumbents in the band.

¹⁹ See *e.g.*, Recording Artists Comments at 1-2; Opry Comments at 1-3; Harrah's Comments at 2; Live Nation Comments at 4-5; Performers Comments at 4-6.

²⁰ Dell/Microsoft Comments at 9-11; MAP *et al.* Comments at 2-4; Spectrum Bridge Comments at 3.

The argument is also devoid of technical merit. MAP *et al.* and Spectrum Bridge argue that expansion of Part 74 eligibility could hinder or deny TVBDs access to limited TV spectrum.²¹ These parties overlook the fact that there are currently hundreds of megahertz of other spectrum available at 2.4 GHz and 5 GHz for these types of TVBD devices, while spectrum for wireless microphone operation is much more limited. Under the unlicensed approach suggested by these parties, a Part 15 wireless audio device would be able to operate whenever and wherever it desires. However, as a practical matter, the low power of wireless microphones and similar operations (either venue or indoor) would limit the potential impact to TVBDs, while TVBDs, including fixed operations at both high power and high transmit antenna heights, could adversely impact wireless microphones.

As Opry states, “unprotected Part 15 status is not appropriate for the Opry’s venues . . . Wireless microphones in use at Opry performances and productions must perform flawlessly. The exacting audio quality we demand is simply unattainable under Part 15 rules where our wireless microphones would be forced to operate on a sufferance basis and tolerate any interference generated from inside or outside one of our venues.” Opry Comments at 2. For many of the same reasons, DTV reception must be similarly protected from both TVBDs and wireless microphones. DTV viewers require crystal clear reception no less than audience members for a live performance.

The more appropriate course is to adopt a conservative, narrow expansion of Part 74 to allow certain additional entities to use wireless microphones in the TV band on a licensed basis. In doing so, MSTV and NAB respectfully ask the Commission to

²¹ See, e.g., MAP *et al.* Comments at 2-4; Spectrum Bridge Comments at 3.

also review its Part 74 equipment authorization procedures. As discussed in the Report and Order, there already exists a substantial presence of wireless microphones,²² and the Commission must be careful not to compound the potential problems caused by existing devices by permitting an influx of new devices with even more potential to interfere with licensed operations and DTV viewers.

An appraisal of the Commission's equipment authorization database shows that wireless microphone application grants are typically conditioned appropriately as "limited to use at stations licensed for use under Part 74 of the FCC rules" and that this information is included in some of the owner's manuals that must be submitted with the equipment application. For example, the manual for FCC ID: PVDVHF-30BP has a section entitled "Licensing Requirements" with the following text:

This equipment complies with Part 74 of the FCC Rules. A license is required for operation subjective device will be issued only to the following:

- (1) A licensee of an AM, FM, TV or international broadcast station or low power TV station
- (2) A broadcast network entity.
- (3) A cable television system operator . . . that produces program material for origination
- (4) Motion picture producers as defined in 74.801.
- (5) Television program producers as defined in 74.801.
- (6) Licensees and conditional licensees in the multipoint distribution service

Other manuals state that licensing is required but provide much less specific information. For instance, the manual for FCC ID: AK8DWTP01, states only that "Use of Sony wireless devices is regulated by the Federal Communications Commission as described in Part 74 subpart H of the FCC regulations and users authorized thereby are required to obtain an appropriate license."

²² Report and Order at ¶¶ 71-72.

However, a large number of owner's manuals submitted with equipment applications provide no information on this licensing requirement. In a substantial number of cases, the Commission seemingly approved equipment that clearly was not intended or appropriate under Part 74 of the rules. The owner's manuals for FCC IDs: UBTEW019 and W19EV-20 contain no information on licensing requirements and do not mention Part 74. Even more troubling is the fact that FCC ID: LL4UPL-83F is for "many applications including tour guide use, oral multi-languages translating system, audio-visual language teaching, auditoriums" Similarly, the owner's manual for FCC ID: QSRHT-400 mentions use for "presenters" and "public speakers," and the owner's manual for FCC ID RW5VHF-4808 (approved Feb. 11, 2009) is from a company called "VocoPro," which describes itself as "a leading manufacturer of Karaoke equipment." None of these entities or uses are permitted or addressed under Part 74.

Thus, many of these manuals indicate uses of wireless microphones outside the boundaries of the Commission's rules, and approval of these kinds of equipment should be reconsidered and the licenses revoked to protect TV operations and other licensed applications. Such an effort will improve coordination and reduce interference in the relevant frequency bands.

Similarly, MSTV and NAB support new requirements for labeling and marketing for wireless microphones to emphasize that such equipment must be licensed and that licensing is limited to eligible parties such as TV station licensees, broadcast networks, as well as any new eligible entities like houses of worship, government bodies, and

theaters. The rules should clearly state that operation of this equipment by the general public is not permitted and is a violation of the FCC rules. Further Notice at ¶¶ 140-145.

MSTV and NAB also find merit in Motorola's suggestion to license the owner or operator of the facility or venue rather than the performing group, sports team or religious organization. Motorola notes that licensing based on the facility could "improve coordination efforts as the database entries will be location and channel specific," and also claims this approach "will further promote efficient use of TV white space spectrum."²³

IV. MSTV and NAB Renew Our Objections to Allowing Low Power Auxiliary Station Operations in the TV Band During the Pendency of This Proceeding

The Commission should prohibit low power auxiliary services currently operating in the 700 MHz band from relocating to the TV band during the pendency of this proceeding. Wireless microphones pose an equivalent interference risk to TV service as to operations in the 700 MHz band. Important DTV service, including emergency information, could consequently suffer.

As stated in our initial comments, allowing unauthorized operation of wireless microphones under Part 15 during the pendency of this proceeding effectively dictates the outcome of the proceeding, because it may be impossible to resolve interference caused by these unidentifiable, untraceable devices once they enter the TV band. The potential harm could last for an indefinite period while the Commission completes this proceeding.

A more practicable, fair approach is to temporarily expand the definition of users that would be eligible to operate under Part 74 of the Commission's rules. Such an

²³ Motorola Comments at 6.

approach would provide a controlled mechanism for enabling continued necessary wireless microphone use without adversely affecting licensees in the TV band. Most importantly, such an approach would be easily modifiable or reversible if the Commission should later adopt a different path.

V. Conclusion

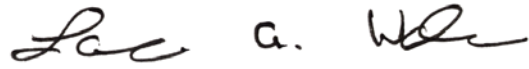
For the reasons set forth above, the record in this proceeding supports a narrow expansion of Part 74 eligibility to certain additional, licensed users of wireless microphones. Because no party has refuted MSTV and NAB's arguments about the harmful effects of wireless microphone interference with DTV services, we reiterate our objections to allowing unlicensed wireless microphones in the core TV bands pursuant

to Part 15 of the rules, either during the pendency of this proceeding or on a permanent basis.

Respectfully submitted,

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