

October 24, 2008

Dear Senator,

We write to encourage you to join us in supporting the FCC's proposed ruling to open the empty broadcast television channels (or "white spaces") for public use. In the upcoming vote on November 4th, the Commission has the opportunity to take a major step toward expanding affordable broadband access and trigger major investment, innovation, and consumer benefit in this sector. Few agency decisions carry this kind of potential. However, because of the money at stake, the underlying value of this policy for consumers has been obfuscated by politics. As consumer groups, we want to take this opportunity to lay out the case for opening the white spaces in clear and certain terms. The FCC's proposed rule would be a huge win for consumers—expanding broadband coverage, lowering prices, and triggering lots of new innovation at a time when jobs and investment are under heavy downward pressure.

First – Contrary to the rhetoric from the broadcasters, if the FCC goes forward with its rule-making on November 4th, it will have zero impact on the digital television (DTV) transition. Zero. Even if the FCC desired to certify white spaces devices before February 2009 (which it does not), it is simply a practical impossibility for a white space device to be built, certified and deployed in the next three months. No serious and honest observer would suggest otherwise. Moreover, the transition of television stations to digital broadcasting is irrelevant to the operation of white space devices. These devices detect the presence of digital broadcasters (and avoid interference) regardless of the channel on which they operate. We share a strong interest in ensuring the DTV transition proceeds as smoothly as possible; and we are 100% confident that this white spaces Order will not trouble that outcome in the slightest.

Second – This decision should not be delayed. We understand the broadcasters have asked for further public comment and review of the FCC's technical recommendations. This is a kitchen sink strategy to delay a ruling that is already long overdue. The FCC has been working on this proceeding for four years. The laboratory and field testing on the white spaces prototype devices were conducted over a period of months with the engineers from all parties present and observing. The nature of the studies, their findings, and the likely conclusions were extensively debated in the record. Further, it is not standard for the FCC to put engineering studies out for public comment. Though we have been critical of this FCC's process in the past, in this case, the agency has gone above and beyond the call for transparency of process and outcome. There is no need for delay.

Third – The FCC's process to open the white spaces has been contentious, but it has been fair. Perhaps more to the point, it has been cautious. We are all committed to ensure that white spaces devices do not cause harmful interference to over-the-air television. This is not about favoring Blackberry users over TV viewers—that is a canard. We believe the FCC's expert engineers have bent over backwards to protect incumbents. The technical limitations they have placed on white space device certification are, if anything, overly restrictive. This has been done very carefully. Further, this phase of the testing aimed only to establish the "proof of concept."

Prototype devices for use in the white spaces were not expected to perform perfectly. They were built with the purpose of demonstrating that the technology is possible. The tests show an easy clearance of that bar. For those with strong concerns about interference protections, device certification remains another hurdle before any product comes to market. Further scrutiny will come in that phase.

Finally – we want to underscore that this process has been conducted forthrightly and transparently. Good science has been methodically applied to good public policy ideas that have been supported by a broad, bipartisan array of leaders. We’ve come to a strong public interest outcome. Therefore, we treat with a healthy dose of skepticism the frantic claims of incumbents that the sky will fall if the spectrum is opened and returned to the public for unlicensed use. The National Association of Broadcasters (NAB) in particular has a long history in this proceeding and elsewhere of bending facts and raising hysteria to protect their financial interests.

At a time when we should all be thinking about policies that spark economic growth, we have a great chance to support one right now. As a technical matter, the only neutral engineering team in this debate (the FCC) has given the green light on a proof of concept. There will be ample opportunity to address continued interference concerns in the certification phase. For now, the process has run its course. The FCC should vote on November 4th. We much appreciate your consideration of this important issue and we hope to count you as a supporter.

Sincerely,

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