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March 7, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20054

Re: ***Ex Parte* Presentation**
MM Docket No. 00-39, *Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*; ET Docket No. 02-135, *Spectrum Policy Task Force Report;* and MB Docket No. 03-15, *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*

Dear Ms. Dortch:

This is to notify you that on March 6, 2003, Michael Petricone, Vice President, Technology and Policy, Consumer Electronics Association (CEA); Ralph Justus, Vice President, Technology and Standards, CEA; John Godfrey, Senior Manager, Government Affairs, Sony Electronics Inc.; and David Siddall, counsel to CEA, met with the following FCC staff: Susan Eid, Legal Advisor to Chairman Powell; Rick Chessen, Associate Media Bureau Chief and Chief, Digital Television Task Force; and Alan Stillwell, Senior Associate Chief (Policy), Office of Engineering and Technology, to discuss issues in the above-referenced proceedings.

Specifically, we discussed issues in the Commission staff's Spectrum Policy Task Force Report of November, 2002, as they relate to Commission consideration of receiver standards for digital television receivers. We referred to the fact that the FCC staff, after conducting extensive field tests of DTV receivers, in 2001 concluded that DTV receivers demonstrated reception success rates better than analog receivers. For example, in one of the more challenging tests, analog signals were received with sufficient clarity 27 percent of the time, whereas comparable digital signals were received with perfect clarify 85 percent of the time. (*See* OET Report FCC/OET TRB-00-2. April 9, 2001, *A Study of ATSC (8-VSB) DTV Coverage in Washington, DC, and Generational Changes in DTV Receiver Performance.)*

We reiterated that the industry continues to implement improvements to digital reception devices, that these improvements are flowing through to consumer television sets, and that improvements will continue to be implemented. Attempts to distort

statements that related solely to requiring digital tuners in sets must be rejected. The actual quoted statements on their face do not address, and did not intend to address the absolute requirement of all television set manufacturers to make the best possible product for their consumers. Manufacturers cannot play with the substantial financial risks involved if even a small number of customers purchase sets and then return them because reception is not adequate. Updates to sets are being implemented periodically, and will continue to be implemented. In addition, work to assure even better DTV transmission and reception is continuing in a number of industry forums, including the Advanced Television Systems Committee (ATSC).

The problem with digital reception today has nothing to do with receiver capabilities, and everything to do with the low power that some broadcasters are using for their digital signals. To illustrate the difference in coverage between some stations' analog and digital signal coverage, the coverage map comparing the low power service area to the full power service area of Sinclair Broadcasting's WICS-DT, as submitted to the Commission by the licensee, was exhibited. In addition, the participants noted that the Vice President of Sinclair published in *Broadcasting & Cable* an eloquent explanation of just why low power digital signals "could kill the service before it gets started" – because "the consequence of low-power DTV rollout is that the public will not be able to receive our DTV signals." Although we agree with few of Sinclair's representations before the Commission, in this case we do agree on the single point that it is the use of low power by digital broadcast licensees that impairs reception of digital signals. To date, the original intent of the Commission and the expectation of consumers that broadcast station digital signals would cover the same neighborhoods as their analog signals has been thwarted by many (not all) stations.

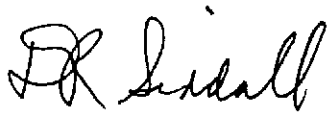
The clear conclusion from this evidence is that consideration of television receiver standards would be a solution looking for a problem. In considering the staff's spectrum policy recommendations, which may relate more to some wireless services than broadcast services, consideration should be given the fact that consumers consistently have expressed a very high degree of satisfaction with today's television sets. To the extent that there is a problem with reception of digital signals, the problem is digital signals being broadcast at power levels well below Commission authorizations and just too weak to reach many of the consumers who view the full power analog signal from the same station.

The participants also discussed the staff concept of "interference temperature" and how that term might be defined and applied to television broadcasting and receivers. Finally, the participants discussed that television receivers are designed and redesigned to provide highly reliable reception in today's radio frequency environment.

During the presentation, CEA participants referred to the coverage map included in an application for Special Temporary Authority (STA) filed by Sinclair-owned WICS-DT, Springfield, IL; and to an editorial by Nat Ostroff published in *Broadcasting & Cable* on May 6, 2002. Copies of these documents are enclosed.

In accordance with Section 1.1206 of the Commission's rules, this letter is being filed electronically in the above dockets and sent to all participants.

Respectfully submitted,

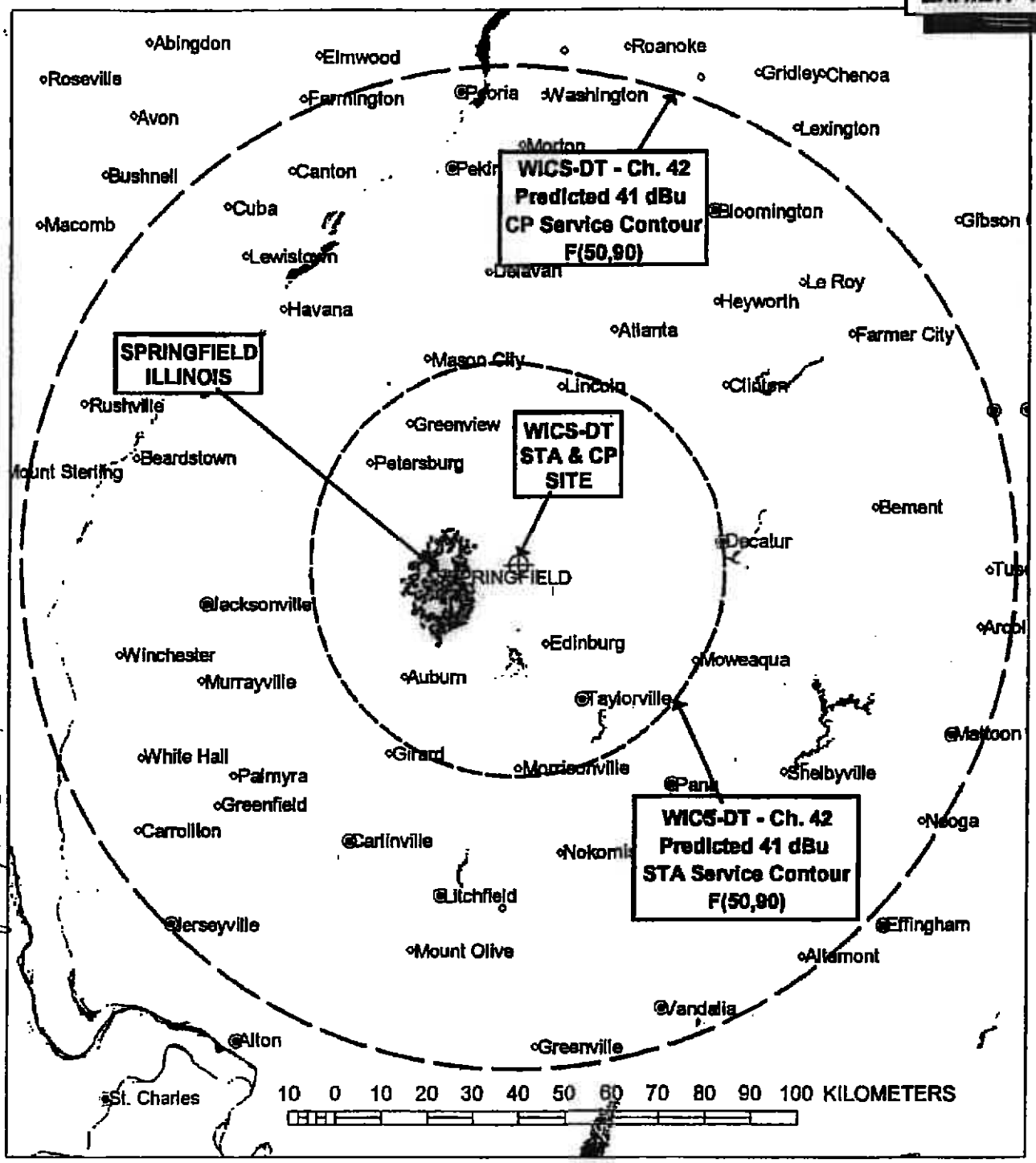


David R. Siddall
Counsel, Consumer Electronics Association

Enclosures

cc: Susan Eid
Rick Chessen
Alan Stillwell

EXHIBIT 4



PREDICTED COVERAGE CONTOURS

STA COMPARED TO CONSTRUCTION PERMIT

WICS-DT, SPRINGFIELD, ILLINOIS
SPECIAL TEMPORARY AUTHORIZATION
REQUESTED FACILITY
CH. 42 - 2.0 kW - 95.8 m HAAT

PREDICTED 41 dBu F(50,90)
STA FACILITY SERVICE CONTOUR

PREDICTED 41 dBu F(50,90)
CP FACILITY SERVICE CONTOUR
CH. 42 - 725 kW - 436 m HAAT

OCTOBER 2002

CARL T. JONES

Sinclair Broadcast Group, Inc.

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Another DTV threat

Cutting power could kill the service before it gets started

Nat Ostroff, Sinclair Broadcast Group
Broadcasting & Cable
5/6/2002

Sinclair has always viewed the success of the DTV transition as dependent on the ability of our signals to reach an over-the-air audience. Long before we discovered that the 8-VSB system was flawed, Sinclair fought the FCC, MSTV and the NAB for the need for increased UHF transmission power to be able to reach indoor antennas. We won that battle, and the Maximization Principle was written into the rules.

When the FCC changed the ground rules and allowed TV stations to transmit at low power for DTV, many broadcasters welcomed it, but that decision may have fed the DTV transition a poison pill. While low-power operation saves on the station's initial investment and the operating-power bill, it does great harm to the public's perception of the new digital service.

It is fully understandable, from a political point of view, that the FCC would allow the low-power option in order to be able to report that a large percentage of stations have met the DTV deadline, as amended. However, what is very disappointing is the lack of recognition of the long-term impact of that action. Initial operation at uselessly low power is to condemn over-the-air DTV to a long and painful period from which it may never recover.

There are a host of reasons for not launching over-the-air DTV at low power. For one, the FCC Table of Channel Allotments was based on the assumption that all stations would operate at their assigned power levels. This ensured that the interference between stations would be manageable. When DTV stations operate at much lower power than originally assumed, they are subject to interference that would otherwise have been overcome.

Another reason is the adjacent channel assignments for DTV. It is one thing for the DTV receiver to separate adjacent channels when they are close in power level. It is quite difficult to separate adjacent channel signals if they are separated in power by a ratio of 100 to 1 or more.

Perhaps the most egregious major new development is the current, widely recognized understanding that the FCC's DTV planning factors are in error by a factor of 10 or more. In other words, DTV reception, as calculated by the FCC and used to determine transmitted power levels and coverage, has been too optimistic by 10 dB. This means that the predicted coverage of a DTV station's signal is currently overstated, using the FCC planning factors, by more than 60%. At lower powers, the coverage is practically useless.

Low-power operation of DTV will eliminate the most important over-the-air audience for the new service: the home viewer with an indoor antenna. In short, low power really means no power to most of our audience and certainly eliminates indoor reception in most cases.

Whatever happened to the broadcasting industry's principle of always striving for the best over-the-air coverage and reach? Have we become so complacent that we abandon the over-the-air audience and slip into a slavish reliance on cable delivery? The birthright of our industry was and still remains the ability to reach our audience on a wireless basis. That and that alone distinguishes the broadcaster from being just another cable programmer. It is also worth noting that an FCC license and the accompanying RF spectrum are not a requirement to be a cable programmer.

The FCC has made a short-term political decision that will allow it to dodge the bullet that its continued technical mismanagement of the DTV rollout has created. It will be able to say to Congress that it got most of the DTV stations in the U.S. on the air on or close to its deadline. On the air, yes, but not into America's living rooms. As broadcasters, we should remember that operation at low power is an option, not a requirement. We can and should do better for our audiences and ourselves.

Our industry's grateful acceptance of this economic escape hatch stands as testimony to the failure of the DTV/HDTV vision put forward more than a decade ago. It also is evidence of how far our industry leaders have strayed from the original ethic of our industry. That ethic was once to provide maximum free, over-the-air service. The unintended consequences of the FCC ruling may very well be to kill over-the-air DTV service or, at best, marginalize it out of existence.

Putting the poor performance of the 8-VSB standard aside, the consequence of low-power DTV rollout is that the public will not be able to receive our DTV signals. Over-the-air DTV service will be relegated to a historical backwater, and the well of public opinion will be poisoned for many years to come.

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