

STATEMENT OF CONCERN FEDERAL COMMUNICATIONS COMMISSION PROTECTING PERFORMING ARTS TECHNOLOGY

BACKGROUND

The FCC ruled on September 23, 2010 that portions of the broadcast spectrum called “white space” would be shared by wireless microphones used in the performing arts and new white space devices (aka TV band devices), such as PDAs, cordless phones, and wireless laptops. In order to implement the rule, the FCC ordered several protection measures including the establishment of a geo-location database (or multiple databases) which would allow the new devices and wireless microphones to share spectrum without interference. In addition, the FCC set aside two safe-haven channels for use by wireless microphones. The FCC allowed the geo-location database to become operational nationwide in December 2012 and allowed new white space devices to operate nationally in March 2013. As the FCC monitors the operational effectiveness of these interference protection mechanisms, we encourage the Commission to ensure that it protects existing services, including wireless microphones for performers, performing arts organizations, venues, and educational facilities.

Further, the FCC issued a Notice of Proposed Rulemaking in October 2012, as it worked to implement the *Middle Class Tax Relief and Job Creation Act of 2012* which transitions spectrum from TV broadcasting to wireless broadband through spectrum auction. The FCC will ‘repack’ or reorganize the broadcast spectrum following the incentive auction which will mean another relocation for wireless microphones and likely the costly replacement of sound equipment. The FCC is also proposing to eliminate the two safe-haven channels in this Proceeding and devote some TV spectrum to new unlicensed devices in White Space spectrum and in a separate Proceeding is seeking Public Comment on limited expansion of Part 74 licensing for wireless microphones.

Performers, performing arts organizations and venues, and educational facilities will benefit from these interference protection mechanisms. School theater 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 expanded licensing that provides access to the geo-location database with a goal of preserving interference-free cultural and educational programs as well as protections for new commercial electronic devices. There are more than 21,000 school theater programs in the United States which impact approximately 500,000 enrolled students. Performances by opera and dance companies, symphony orchestras, community theaters, and regional theaters reach a combined audience of 190 million Americans annually and collectively represent an annual \$7.8 billion dollar industry. 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.

For 35 years, wireless microphone technology has allowed users unrestricted on-stage movement and helped to create sophisticated sound. Nonprofit performing arts organizations, commercial theaters, schools, and performers have all relied on this equipment operating within the “white space” radio frequencies between broadcast channels of the television band. Wireless systems are also integral to backstage communications used by stagehands to execute complex technical activity. Interference to these backstage communications could compromise the safety of performers, technicians, and audiences.

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Performing arts organizations provide demonstrable service to the public in improving quality of life; preserving our cultural heritage; in providing jobs, education, enlightenment, entertainment; and of course, contributing to local economies in every community across this country. Nonprofit 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. K-16 schools committed to the performing arts as part of their core curriculum have also expended considerable funding to ensure that their students have the opportunity to learn and train on the most up-to-date audio equipment.

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 school theatre programs and for smaller and midsized professional performing arts performances—especially those outside of major urban areas. 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.

Larger professional performing arts entities should be eligible for Part 74 licensing which would provide them with more immediate access to the database because the 30 day delay in accessing the geo-location database dictated by the FCC's current rules for unlicensed wireless microphones does not allow for the flexibility needed in the professional performing arts sector.

The Middle Class Tax Relief and Job Creation Act of 2012, intended in part to help close our nation's budget deficit and create jobs, includes spectrum auction as a means of raising federal revenue. The valuable public benefits produced by our nation's performing arts sector should be considered in any future plan to reallocate or 'repack' the broadcast spectrum as a result of these auctions. If the auction requires that wireless microphones operate in a different part of the broadcast spectrum, it will most likely demand the purchase of new sound equipment—an unbearable cost to nonprofit performing arts organizations and educational institutions.

Wireless microphone users, including those in the performing arts, were subject to an FCC Rule that required cessation of 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–\$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 urge Congress to 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— a fraction of the actual cost—would be needed to be set aside to defray equipment replacement costs for the performing arts community.