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By Electronic Filing

September 27, 2022

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

**Re: NPRM on FM Broadcast Booster Stations, MB
Docket No. 20-401, RM-11854; Modernization of
Media Initiative, MB Docket No. 17-105**

Dear Ms. Dortch:

On behalf of GeoBroadcast Solutions, LLC (“GeoBroadcast”), we write to address the disingenuous September 22, 2022 *ex parte* filing from Rick Kaplan, Chief Legal Officer and Executive Vice President of the National Association of Broadcasters. While there has been no shortage of irrelevant arguments throughout this proceeding, this letter lobs out-of-context personal allegations that have no bearing on the merits of the proposal before the Commission in a blatant attempt to change the subject and derail this rulemaking. GeoBroadcast encourages the Commission to assess the pending proposal based on the extensive technical record developed in this proceeding and adopt the rule change to permit FM boosters to originate hyper-local content for up to three minutes of each broadcast hour.

The letter highlights a 2009 lawsuit against Chris Devine, founder and CEO of GeoBroadcast, filed by the estate of one of his business investors. The letter repeats a variety of meritless claims from the lawsuit and misleadingly suggests that the case was settled because of the merits. In fact, this baseless lawsuit grew out of a sad, intra-family dispute and was voluntarily withdrawn by the plaintiff with prejudice because in fact Mr. Devine’s conduct in the matter was appropriate. As any entrepreneur knows, baseless lawsuits happen in business and this meritless suit was handled the way it should have been: with the plaintiff dismissing the suit with prejudice and not receiving a penny in damages.

Not apparent in the letter is why this strange filing highlighting decade-old bare allegations in a civil lawsuit has any bearing on the proposed rule change. The legal irrelevance to an FCC rulemaking of the lawsuit’s unsubstantiated allegations

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regurgitated in the letter underscores the letter's purpose—to create a sideshow where the public interest debate is put aside. No party should be plumbing the depths of the Internet for salacious reports about a party to this proceeding since that does not advance the Commission's analysis of the public interest. We want to discuss the merits of the proposal since we and many others view them as compelling.

In that vein, we address some substantive points which the letter tacked on. One is the tiresome repetition that this rule change reflects a proprietary concept and benefits only GeoBroadcast. The company has never made that claim and to the contrary has made plain that others can offer this service; indeed a radio broadcaster could work with their own consulting engineer to devise a booster system. The fact that GBS has been working for over a decade with many broadcasters (ironically enough, including the large group owners who oppose this rule change), to enhance their current signal using MaxxCasting simply means that the company has relationships in the market but in no way does it have an exclusive arrangement. If the Commission adopts the proposal, any company could work to develop and deploy FM booster geo-targeting technology that operates consistent with the Commission's interference rules.

Similarly, it bears reemphasizing that this is a permissive, not mandatory, proposal—if a radio broadcaster does not want to deploy geo-targeting technology, then they will not. The company has spoken with many broadcasters, including Steve Roberts who hosted the field test in Jackson, MS and found the economics of the technology compelling at costs far below those described in the letter. But that is a *business* decision for broadcasters in their market, and is not a regulatory decision that—bizarrely and contrary to five decades of advocacy—NAB now thinks the FCC should be making to oversee a broadcaster's business plans. In short, we urge the Commission to enable a broadcaster in the context of geo-targeting to make a decision they make in their market every day: how best to serve their community. We remain confident there is commercial demand for this technology and that it will benefit small and minority-owned FM radio broadcasters for those who choose to deploy it.

It is unfortunate that the letter chose not to follow its own advice and “stick to the facts.” GeoBroadcast agrees that should be the Commission's focus. The letter endeavors to turn the Commission's attention away from NAB's technical arguments, which have been shown to be wanting, and away from its plea for the FCC to be the regulator of last resort for a radio station's business plans, which has no foundation in the law. Instead, the letter suggests the Commission should give weight to tabloid-style material and ignore the central question in this rulemaking: whether FM booster geo-targeting technology can be deployed consistent with the FCC's rules regarding self-interference and give a station the opportunity to enhance its ability to promote localism and serve its community. The answer, shown through actual, technical test results publicly available in the above-captioned dockets, is that Yes, it can be. Accordingly, the

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Commission should stick to the facts and adopt the proposal to permit FM broadcasters to air geo-targeted content for up to three minutes of each broadcast hour.

Please direct any questions to the undersigned.

Sincerely,

/s/
Gerard J. Waldron
*Counsel to GeoBroadcast
Solutions, LLC*