



Federal Communications Commission
Washington, D.C. 20554

April 24, 2008

David Donovan
President
The Association of Maximum Service
Television, Inc.
4100 Wisconsin Avenue, NW
Washington, DC 20016

Dear Mr. Donovan:

This letter is in regard to your informal objection (styled "Petition to Deny"), filed on February 6, 2008, in which you ask the Commission to deny the application of Clarity Media Systems, LLC ("Clarity") for an experimental license (File No. 0692-EX-PL-2007).

In your informal objection and subsequent pleadings and *ex parte* representations, you argue that Clarity's application is an attempt to revive a group of waiver requests that have been denied; that the proposed experiment cannot result in a viable technology and therefore is unwarranted; and that grant of the experimental application would be detrimental to the public interest because it would result in interference to critical electronic newsgathering services.

We first acknowledge the pendency of the waiver proceeding, DA 07-1946, in which Clarity seeks a waiver of various provisions of the Part 78 rules to permit operation of video distribution systems in the 2 GHz band at truck stops. Those petitions have been denied, and Clarity has sought review of that decision.

MSTV's arguments regarding the propriety of Clarity's proposed experiment are unavailing, and the experimental license is being granted coincident with this letter. We disagree with MSTV's arguments that the proposed experiment must be denied because the Media Bureau previously denied Clarity's waiver request for a similar operation. The waiver requested authorization to conduct operations on an ongoing basis at more than 200 truck stops. The experimental license application requests authority to conduct interference measurements from installations at only 2 truck stops. Therefore the two requests are significantly different.

MSTV's arguments that the experimental license must not be granted because it cannot result in a viable technology and that the public interest would be harmed by resulting interference to critical newsgathering services, are not persuasive. The purpose

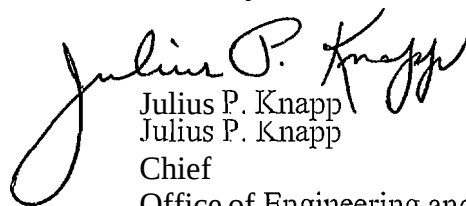
of Clarity's application for an experimental license is to investigate the potential for interference from its system to broadcast auxiliary operations, which is a central issue of its waiver request. Further, it is investigating the viability of various interference mitigation techniques. We make no findings here as to the merit of Clarity's tests. However, we find that Clarity should be afforded the opportunity to collect relevant information to make its case. The various issues that have been raised relative to the waiver request are appropriately addressed in the waiver proceeding, not in the context of an experimental license to conduct interference tests.

It is not a prerequisite to obtaining an experimental license that an applicant prove the absence of harmful interference to authorized stations in other services. Rather, experimental licenses are granted subject to the express conditions that harmful interference not be caused to authorized services, and that transmissions must cease immediately in the event that harmful interference develops. (47 C.F.R. §§ 5.85(c), 5.111(a)(2).) Based on the information before us, the proposed experimental license, at the locations and under the parameters set forth in the application, is not expected to cause harmful interference. If harmful interference does occur from the tests at the two experimental locations, Clarity will be required to modify or cease operation to alleviate the interference.

In granting Clarity's experimental application, we are careful to stress that we make no finding as to the ultimate probative value in determining the propriety of a rule waiver or waivers based on Clarity's experiment or the resulting data that may be generated.

Finally, we note that Clarity filed a Motion to Strike your informal objection, arguing that it was untimely, and you have opposed that Motion. Without reference to the substantive arguments of either party regarding the procedural rules that would apply to this pleading, we have considered your arguments on our own motion. Additionally, we note here that we are treating this application proceeding, which is closely tied to a related waiver proceeding that is pending, as a permit-but-disclose proceeding under the Commission's rules governing *ex parte* contacts.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius P. Knapp". The signature is fluid and cursive, with a large loop at the end of the last name.

Julius P. Knapp
Julius P. Knapp
Chief

Office of Engineering and Technology

cc: Howard Topel