

February 7, 2018

Marlene Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington DC 20554

Re: 2014 Quadrennial Regulatory Review *et al.*, MB Dockets 14-50, 09-182, 07-294, 04-256 and 17-289
Modernization of Media Regulation Initiative, MB Docket 17-105
FM C4 Proposal, RM-11727
Restoring Internet Freedom, WC Docket 17-108

Dear Ms. Dortch:

On Monday, February 5, 2018, meetings were held among: (Meeting #1) Chairman Ajit Pai, Alison Nemeth, Esq., Media Advisor to the Chairman, James Winston, President of the National Association of Black Owned Broadcasters (“NABOB”), Maurita Coley, President of the Multicultural Media, Telecom and Internet Council (“MMTC”) and me; (Meeting #2) Commissioner Jessica Rosenworcel, Kate Black, Policy Advisor to Commissioner Rosenworcel, Mr. Winston, and me; (Meeting #3) Commissioner Brendan Carr, Evan Swarztrauber, Policy Advisor to Commissioner Carr, and me; and (Meeting #4) Commissioner Michael O’Rielly, Brooke Ericson, Chief of Staff and Senior Legal Advisor, Media, to Commissioner O’Rielly, and me. On Wednesday, February 7, 2018, a meeting (Meeting #5) was held among Commissioner Mignon Clyburn, Claude Aiken, Legal Advisor – Wireline to Commissioner Clyburn, Mr. Winston, and me. During the meetings, Ms. Coley, Mr. Winston and I presented our organizations’ positions on the following issues:

- AM-FM Radio Subcaps (Meetings 1, 2, 3, 4, and 5): The AM and FM subcaps are the number of AM or FM stations a company may own in a market as a portion of the total cap of radio stations it may own. In the upcoming 2018 Quadrennial, the Commission reportedly is considering elimination of the subcaps, so that a company could own eight FM stations in a market (or eight AM stations, although virtually no owners would want to do that). Were that to happen, the largest FM owners in the market would promptly find a way to expand up to the eight FM station limit. When the largest companies stop investing in AM radio, AM equipment manufacturers will stop designing improved AM equipment and the top engineering firms will stop doing AM work. This will lead to a rapid deterioration in the AM service and undermine the Commission’s AM revitalization efforts. AM stations (which are disproportionately minority owned) would suffer deeply, with diminished or zero asset value. Elimination of the subcaps would be the death knell for AM broadcasting.
- Rural Radio Policy Repeal (Meetings 1, 2, 3, 4, and 5): The Rural Radio Policy negatively impacts minorities and protects incumbents from competition. In the past, when minorities and other small broadcasters obtained stations, facilities in the exurban or rural areas often were the only ones available. These stations were far from minority broadcasters’ target markets, and they were not competitive with full market stations irrespective of the format chosen. Today, even if engineering considerations do not prohibit relocation of transmitters closer to downtown, the Rural Radio Policy prevents relocation. It is time to repeal the Policy.
- FM C4 Proposal (Meetings 1, 3, 4 and 5): A petition currently before the Commission would enable nearly 800 Class A FM stations to double their power from 6,000 watts to 12,000 watts, and allow hundreds of stations of all classes to improve their technical facilities without impacting the protected signal contours of neighboring stations. MMTC and SSR Communications, Inc. (“SSR”) co-authored the proposal, which is before the Commission in RM-11727. Under the current regulatory environment, many independent and minority-owned stations are and will be forever unable to upgrade their facilities, unless the Commission moves to adopt RM-11727’s new FM C4 power classification. Approval of the RM-11727 proposal would enable a diverse array of broadcasters to compete more effectively.

- Pirates (Meetings 1, 2, 3, 4, and 5): For two decades, individuals have set up “radio” stations in their garages or bedrooms in large cities without bothering to apply for FCC licenses. These “pirate” stations provide no news, no public service programming, no emergency broadcast service, no discussion of community issues, and no editing of content to ensure that it is child-friendly. Many of these operations choose to exploit the African American community, drawing revenue away from legitimate broadcast licensees that invest in community service. The FCC has had to cut back on its field offices and thus its piracy enforcement capacity. The time-line from initial FCC enforcement action to DOJ litigation exceeds a year and is a low DOJ priority; meanwhile the pirates have moved to another locations. Targeting landlords helps but is not enough. At a minimum, the FCC needs additional enforcement powers to shut down pirates without relying on DOJ to sue them.
- Redlining and Section 254 (Meetings 1, 2, 3 and 5): In *Restoring Internet Freedom*, Declaratory Ruling, Report and Order, and Order, FCC 17-166 (rel. Jan. 4, 2018), p. 170 n. 1034, the Commission noted that MMTC and NABOB “express concerns that disavowing section 706 as a source of authority could constrain the Commission’s ability to address ‘digital redlining’” but “[t]hey do not explain, however, why other statutory provisions such as section 254 are inadequate to address issues of unserved or underserved communities should more ultimately be found to be needed beyond the Commission’s other efforts to promote broadband deployment more generally.” We read this as holding that a carrier that discriminates should not be eligible to participate in the Universal Service Fund, just as a broadcaster that discriminates should not be eligible to be a licensee under Section 309(e). In both instances, Section 151’s overall nondiscrimination mandate governs. Thus, we will undertake to craft a policy under which the Commission could bring about the end of geographic digital redlining by invoking Section 254 with little or no need for adjudications – in effect, deterring noncompliance in such a way that the Commission could “win the war against redlining without firing a shot.”

This letter is being filed electronically pursuant to Section 1.1206 of the Commission’s Rules.

Sincerely,

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cc: Hon. Ajit Pai, Hon. Jessica Rosenworcel, Hon. Brendan Carr, Hon. Michael O’Rielly, Hon. Mignon Clyburn, Alison Nemeth, Kate Black, Evan Swarztrauber, Brooke Ericson, and Claude Aiken.