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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 27 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of)
MOBILEMEDIA CORPORATION, et. al.)
Applicant for Authorizations and Licensee)
of Certain Stations in Various Services)
WT Docket No. 97-115)
)

To: The Commission

REPLY COMMENTS OF THE UNSECURED CREDITORS

The Official Committee of Unsecured Creditors (the "Committee") of MobileMedia Corporation and its affiliates (collectively, "MobileMedia" or "the Company") hereby replies to the consolidated comments of the Wireless Telecommunications Bureau (the "Bureau") on the petitions for intervention filed by the Committee and by the Chase Manhattan Bank as agent for the Company's secured creditors.^{1/}

In its comments, the Bureau asserted that, because the Commission has granted a ten-month stay of MobileMedia's qualification hearing, the petitions for intervention filed by MobileMedia's creditors "are not ripe"; the Bureau therefore requested that the

^{1/} The Commission's Rules do not provide for the filing of "comments" on a petition for intervention, and the Bureau did not file an opposition to the petitions, as would be permitted under 47 C.F.R. § 1.294. If the Bureau's comments are deemed to be such an opposition, leave to file these reply comments is hereby requested.

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Commission hold the petitions "in abeyance" until the stay of the hearing is lifted. Bureau Comments at 2. The Bureau's comments, however, are conspicuously devoid of any legal or factual reasoning to support this request. The Bureau has not offered any reason why the Commission should not immediately consider the timely filed petitions to intervene.

The issue is not, as the Bureau has suggested, whether the Committee can proffer information to assist the Commission in evaluating the Company's anticipated Second Thursday application. Bureau Comments at 2. Intervention is not being sought in any Second Thursday proceeding; no such proceeding exists today. Rather, intervention is being sought in the hearing, which has been stayed but which could be reinstated at any time if the Company were to fail to comply with the stay order. The Committee seeks to intervene now in order to protect its strong interest in ensuring that the stay is not lifted.

The Bureau has conceded that "Petitioners appear to have satisfied the requirements for intervention as a matter of right *in the hearing* under Section 1.223(a) of the Commission's Rules." Bureau Comments at 3 (emphasis in original). Nevertheless, without explaining why intervention as of right should not be granted to the Committee, the Bureau argued that, if intervention as of right were denied, the Commission should also reject the creditors' petition for discretionary intervention. The Commission, however, need not reach the discretionary intervention issue. Because the Committee has established that it is a party

in interest, as recognized by the Bureau,^{2/} the Commission must promptly grant the Committee's petition to intervene in the hearing. See 47 C.F.R. § 1.223(a) ("Where the person's status as a party in interest is established, the petition to intervene will be granted.") (emphasis added).^{3/}

The Bureau is also incorrect in its assertion that participation by the Company's creditors in the hearing will not assist the Commission in its fact-finding and deliberation. Bureau Comments at 3-4. Because the hearing was stayed in order to facilitate "innocent creditors' recovery," MobileMedia Corp., FCC 97-197, ¶ 13 (June 6, 1977), it is important that the interests of the creditors be represented during the stay of the hearing, and at the hearing if the stay were to be lifted. The creditors' unique understanding of their interests will materially assist the Commission in its endeavor to balance those interests with the Commission's enforcement obligations.

^{2/} The General Counsel's office has recently recognized that the Committee is a party for purposes of the ex parte rules. See Public Notice, DA 97-1277 (June 19, 1997).

^{3/} In the event that the Commission considers the issue of discretionary intervention, it should be noted that the Bureau's characterization of the petitions filed by the creditors is incomplete. The Bureau suggested that only MobileMedia's secured creditors requested discretionary intervention under 47 C.F.R. § 1.223(b) in the event that the Commission denied the petition for intervention as a "party in interest" pursuant to 47 C.F.R. § 1.223(a). Bureau Comments at 2-4. In fact, the Committee also requested discretionary intervention in the event that the Commission did not deem the Committee to be a party in interest. See Petition for Intervention of the Official Committee of Unsecured Creditors of MobileMedia, at 1 n.1 (filed June 11, 1997).

For the foregoing reasons, the Committee respectfully requests that the Commission reject the Bureau's suggestion that the Committee's petition for intervention be held in abeyance, and that the Commission promptly grant the Committee's petition for intervention.

Respectfully submitted,

THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF
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June 27, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June, 1997, I caused copies of the foregoing REPLY COMMENTS OF THE UNSECURED CREDITORS to be served by hand or by first-class U.S. Mail, postage prepaid, to the following:

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