



**Minority Media &
Telecom Council**

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October 24, 2014

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

RE: Notice of *Ex Parte* Communication, GN Docket No. 14-28 (Open Internet); GN Docket No. 09-191 (Preserving the Open Internet); WC Docket No. 07-52 (Broadband Industry Practices); DA 14-1365 (Tell City Waiver Decision); Docket No. 06-2943 (Designated Entity); WT Docket No. 05-211 (Designated Entity); AU Docket No. 06-30 (Designated Entity); WC Docket No. 13-184 (Modernizing the E-rate Program for Schools and Libraries)

Dear Ms. Dortch:

This letter reports on two meetings held at the Federal Communications Commission with representatives of the Minority Media and Telecommunications Council. The first was with FCC Commissioner Jessica Rosenworcel and Clint Odom, Policy Director on October 22, 2014. In this meeting Kim Keenan, President and CEO, David Honig, President Emeritus and General Counsel, Maurita Coley, Vice President and Chief Operating Officer and Maria Lesinski, Law Clerk, represented MMTC.

The second meeting was with FCC Commissioner Ajit Pai, and Matthew Berry, Chief of Staff on October 24, 2014. In this meeting Kim Keenan, President and CEO, David Honig, President Emeritus and General Counsel, Maurita Coley, Vice President and Chief Operating Officer, Nicol Turner-Lee, Vice President and Chief Research and Policy Officer, and Charlyn Stanberry, Cathy Hughes Fellow, represented MMTC.

With respect to the Open Internet proceeding, MMTC continues to support Section 706 as a rational regulatory framework along with the strong improvements to the consumer complaint process, proposed in MMTC's Comments.¹ MMTC urged the Commission to

¹ See Comments of the National Minority Organizations, GN Docket Nos. 14-28, 10-127 (July 18, 2014), at p. 13.

model its enforcement of open Internet violations after the consumer-friendly complaint process established by Title VII of the 1964 Civil Rights Act. Instead of relying on an overly formal complaint process, such as that authorized for Title II services by Section 208,² an enforcement program derived from the Title VII example would allow a complainant to provide the Commission's Enforcement Bureau staff with enough information to make out a *prima facie* case of specific or systemic harm. This would allow the Commission to conduct an initial screening; and, if the Commission's staff issues a non-precedential finding of probable cause, the agency could institute expedited enforcement or mediation.³ This efficient model of enforcement would provide consumers and regulators with an affordable and expedited means of investigating alleged rule violations and other claims against service providers.⁴ Implementing the Title VII model could also provide consumers with timely and cost-effective complaint resolution.

MMTC is concerned about the extremely low-levels of people in color employed in the high tech industries.⁵ To study and provide recommendations on how to overcome the dearth of employment diversity in high tech, MMTC recommended that the Commission assign its Advisory Committee for Diversity in the Digital Age ("Diversity Committee") the task of researching the employment patterns and practices that result in a homogeneous technology sector. This task is well within the scope of the Diversity Committee's Charter.⁶

MMTC applauded the recent release of the Notice of Proposed Rulemaking on Competitive Bidding, to reinvigorate the Designated Entity (DE) Rules.⁷ MMTC looks

² See 47 U.S.C. §208 (Section 208 directs complainants to submit a petition to the Commission, the Commission then forwards the complaint to the common carrier for response, the Commission may then open an investigation).

³ See Comments of the National Minority Organizations, at 14.

⁴ Comments of the National Minority Organizations, at 12-14 (July 18, 2014).

⁵ *RE: Diversity and EEO in the Tech Sector*, (September 16, 2014) available at <http://mmtconline.org/wp-content/uploads/2014/09/MMTC-Tech-EEO-Ltr-091614.pdf> (last visited October 23, 2014).

⁶ See Federal Communications Commission, Charter of the FCC's Advisory Committee on Diversity for Communications in the Digital Age (2011), available at <http://transition.fcc.gov/DiversityFAC/docs/charter-2011.pdf> (last visited Oct. 24, 2014) ("The Committee's mission is to provide recommendations to the FCC regarding policies and practices that will further enhance diverse participation in the telecommunications and related industries." (emphasis added)).

⁷ See *In the Matter of Updating Part I Competitive Bidding Rules*, Notice of Proposed Rulemaking, RM-11395, (2014) available at <http://www.fcc.gov/document/competitive-bidding-nprm> (last visited October 22, 2014). See also *MMTC Expresses Strong Support For FCC Actions to Reduce Market Entry Barriers That Impede Designated Entity Participation in Spectrum Auctions*, Press Release (2014), available at

forward to participating and anticipates that the Commission will complete this proceeding efficiently to ensure DEs have time to finalize their business plans and raise the necessary capital for participation, as mandated by Congress, prior to the incentive auction.

As noted in MMTC's application for review of the Media Bureau's denial of the Tell City FM translator relocation waiver request,⁸ the Tell City waiver request addresses an important agency policy decision for AM broadcasters; especially the minority owners, who disproportionately hold AM licenses and require urgent relief.⁹ As a result of the Tell City waiver denial, the FCC effectively elevates outdated procedures over the public interest. The Tell City waiver request is the only immediately implementable AM revitalization solution that would allow a widespread benefit. The application requested a removal of FCC regulatory barriers to AM stations acquiring and moving existing FM translators, which would benefit minority ownership, AM revitalization, and the listening public.

MMTC inquired about the status of the FCC's Diversity Committee whose mission is to advise the Commission regarding policies and practices that will enhance diversity in the telecommunications and related industries.¹⁰ MMTC expressed concern that the Diversity Committee has not been re-chartered since the last it was last instituted on

<http://mmtconline.org/wp-content/uploads/2014/10/MMTC-DE-NPRM-Statement-101014.pdf> (last visited October 22, 2014).

⁸ *RE: Suggestion to Reverse the Tell City Waiver Decision (DA 14-1365) on the Commission's Own Motion*, September 29, 2014), available at <http://mmtconline.org/wp-content/uploads/2014/10/MMTC-Tell-City-Cm-092914.pdf> (last visited October 23, 2014).

⁹ The survival of minority ownership in broadcasting is closely linked to the ability of AM radio to thrive because over two-thirds of minority owned broadcast stations are on the AM band. In 2011, the last year for which the FCC released data, of the 559 broadcast stations (AM/FM/TV) held by minorities, 409, or almost 73 percent, of them were AM stations. *See Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Report on Ownership of Commercial Broadcast Stations*, 27 FCC Rcd 13814, 13824 (rel. Nov.14, 2012). Minority ownership in AM radio is far higher than in any other FCC-licensed technology. Further, minority owned AM stations tend to have inferior technical facilities (higher frequencies, daytime-only authorizations, complex directional patterns, lower wattages, geographic separation from the central city) and thus especially need FM translators in order to survive and compete.

¹⁰ *Diversity Committee Meeting*, (October, 2012) available at <http://www.fcc.gov/events/diversity-committee-meeting-1> (last visited October 22, 2014).

March 11, 2013.¹¹ MMTC supports the existence of the Diversity Committee as a strong community voice, made up of subject matter experts, which perpetuates a conversation on diversity engagement.

As a final matter, as expressed to Commissioner Pai, MMTC also continues to support E-Rate reform.

Respectfully submitted,

Kim Keenan

Kim Keenan
President

¹¹*Appointment of Members to the Re-Chartered FCC Diversity Committee*, Public Notice, (March, 2013), available at <http://www.fcc.gov/document/appointments-members-re-chartered-fcc-diversity-committee> (last visited October 22, 2014).