



G A R V E Y S C H U B E R T B A R E R
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

WASHINGTON D.C. OFFICE

fifth floor

flour mill building

1000 potomac street nw

washington, d.c. 20007-3501

TEL 202 965 7880 FAX 202 965 1729

anchorage, alaska

beijing, china

new york, new york

portland, oregon

seattle, washington

GSBLAW.COM

Please reply to MELODIE A. VIRTUE
mvirtue@gsblaw.com
TEL EXT 2527

January 30, 2015

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

*Re: Expanding the Economic and Innovation Opportunities of Spectrum Through
Incentive Auctions, GN Docket No. 12-268*

Notice of *ex parte* presentation

Dear Ms. Dortch:

In accordance with FCC Rule 1.1206(b)(2), this letter is submitted to notify you that on January 27, 2015, a principal of my client Free Access & Broadcast Telemedia, LLC ("FAB"), David Mallof, reported that he presented at the Office of Communications Business Opportunities ("OCBO") *Small Business and Emerging Technologies Conference* held that day at the FCC, which was open to the public.¹ In addition to non-FCC personnel, Mr. Gilberto De Jesus, FCC Attorney Advisor for OCBO was present for Mr. Mallof's scheduled verbal "Fast Pitch" presentation. FAB accepted the OCBO's invitation to make a Fast Pitch in order to speak publicly to OCBO about actively promoting entrepreneurship via FCC licensing and the provision of innovative, facilities-based network services, not just via apps and software that ride some other existing established networks. FAB submits this *ex parte* filing out of an abundance of caution.

FAB noted that apparently no other attendee at the entire conference sought to provide network-based services via ownership and operation of FCC-licensed infrastructure, rather being relegated to ride others' networks. Mr. Mallof mentioned that the session was, therefore, incomplete in that respect.

¹ For the agenda, see: <http://www.fcc.gov/document/small-business-emerging-technologies-conference-tech-fair-jan-27th>.



Specifically, Mr. Mallof overviewed FAB as a competitive, wireless new market entrant, stating that FAB is poised to offer innovative two-way and traditional free broadcast services to mobile (and sometimes “fixed”) consumers in top cities. Using a combined subscription-based and ad sponsor-based revenue model, FAB believes the FCC needs to play its traditional and pivotal role in promoting and enhancing a wellspring of new competition and entrepreneurial innovation. He remarked that other start-up entrepreneurs are unlikely to survive what FAB’s partners have suffered in threatened relocations and complex rulemakings over the last five years, absent also the freedom of technical flexibility to innovate. He stated FAB is active today with its partners in top metro markets in advancing its business plan, and expects to add more FCC-licensed cities in 2015/16.

He specifically cited as a case in point Google’s fiber build out in Austin and Kansas City and the growth map of new cities portrayed on the company website as a far more capital intensive exercise, yet achievable on a single city basis just like FAB, without in any way requiring an immediate national footprint or rollout. Further, he emphasized the added economies of wireless being able to reach consumers on the move at far lower capital, implementation, and operating costs.

He urged the FCC to cease its licensing asymmetry and grant all broadcasters technical flexibility to innovate, just as all Wireless Bureau and International Bureau wireless licensees are allowed to do today. He also called on the FCC leadership not to forsake entrepreneurship as a font of new competition and innovation, nor to presume that only ever-consolidating, established players are the key to America’s future.

Finally, he reiterated that LPTV licensees are a vital component of fostering localism and a diversity of media voices as enshrined in the Communications Act of 1934. He called upon the FCC and Congress to allow LPTV to thrive absent the repeated, ongoing uncertainty and increasingly complex rules the Incentive Auction Rulemaking process is generating. He also emphasized that the Commission may be moving in a direction not sustainable in any court, nor consistent with Congress’ original intent.

All the points made in the presentation are more fully set forth in FAB’s recent submissions filed in Docket 12-268.

Respectfully submitted,

/s/

Melodie A. Virtue
Counsel to Free Access & Broadcast Telemedia, LLC



G A R V E Y S C H U B E R T B A R E R

Marlene H. Dortch, Secretary
January 30, 2015
Page 3

cc: Mr. Gilberto De Jesus (via e-mail to Gilberto.DeJesus@fcc.gov)
Mr. Thomas Reed, OCBO Director (via e-mail to Thomas.Reed@fcc.gov)
Ms. Corrin Barksdale, OCBO staff member (via e-mail to Corrin.Barksdale@fcc.gov)
Mr. William Lake, Media Bureau Chief (via email to William.Lake@fcc.gov)
Mr. William Scher, OGC (via e-mail to William.Scher@fcc.gov)
Ms. Barbara Kreisman, Video Division Chief (via email to Barbara.Kreisman@fcc.gov)