Multicultural Media, Telecom and Internet Council

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February 23, 2015

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

RE: Notice of *Ex Parte* Communication, Protecting and Promoting the Open Internet, GN Docket No. 14-28

Dear Ms. Dortch:

This letter reports on a series of calls held on February 20, 2015. The first call was held Rebekah Goodheart, Legal Advisor, Wireline from the Office of Commissioner Clyburn. The second call was with Priscilla Delgado Argeris, Senior Legal Advisor for the Office of Commissioner Rosenworcel. The third call was with Brendan Carr, Legal Advisor, Wireless, Public Safety and International from the Office of Commissioner Pai. The fourth call was with FCC Commissioner Michael O'Rielly and Amy Bender, Legal Advisor to the Commissioner. The fifth and final call was held with Gigi Sohn, Special Counsel for External Affairs from the Office of the Chairman. Representatives from the Multicultural Media, Telecom and Internet Council ("MMTC") were Kim Keenan, President; David Honig, President Emeritus and General Counsel, Dr. Nicol Turner-Lee, Vice President and Chief Policy and Research Officer, and DeVan Hankerson, Research Director.

The overarching purpose of these calls was to answer questions and follow up on the MMTC ex parte letter[1] that was filed on February 18, 2015. MMTC began the call by reiterating its position on record that the Commission can protect and promote an open Internet through the use of Section 706 authority of the Telecommunications Act, supplemented by a consumer-friendly, probable cause enforcement mechanism like that in Title VII of the 1964 Civil Rights Act. MMTC continues to believe that the application of Title II regulation, as proposed by the Chairman, is unnecessary and has potential unintended consequences on broadband adoption for people of color, the disabled, the economically disadvantaged, rural residents and seniors.

During the calls, MMTC also stressed the importance of resolving the potential imposition of other telecom-related taxes and surcharges on consumers, especially those with limited incomes and resources. In MMTC's view, Title II regulation, particularly due to the unknowns in its application to broadband, will not exempt states from applying additional taxes and fees on

[1] See MMTC Open Internet Ex Parte, FCC Docket No. 14-28 (February 18, 2015). (Attached)

consumers that may not be protected by the current Internet Tax Freedom Act (IFTA) moratorium. MMTC urged the Commission to review how these ambiguities associated with the type of taxes and length of exemption could have a disproportionate impact on low-income and other cost conscious consumers, leading to a widened digital divide.

MMTC continued to reiterate that consumers should have access to a user-friendly system to effectively resolve their complaints. MMTC believes that the Commission should adopt the practices of Title VII of the Civil Rights Act of 1964, which could be imported into the FCC's Internet regulatory process under Section 706 of the Telecommunications Act of 1996. Such a model would be a first line of defense for consumers that are harmed by the ecosystem, or perceive there to be harm, and be couched within an enforceable and flexible legal framework. As MMTC has suggested in prior filings, such a procedure should help alleviate concerns that Section 706 is insufficiently muscular to preserve Internet openness, while protecting consumers.

Given the Chairman's proposal to classify broadband as a public utility, MMTC also expressed concern over potential rate regulation, despite proclamations that it will not included in the final Order. MMTC's concerns about the certainty of this action and the practical operation of Sections 201 and 202 prompted a discussion on these calls as to their enforcement and the extent to which the Commission should consider preventing *de facto* rate regulation *ex-post facto*. Specifically, MMTC offered the Commission the procedural precedent under the FCC's *2000 EEO R&O* and respectfully shared the following language to add into the Open Internet R&O when such complaints are filed: "[i]f an adjudicative complaint is filed in this instance, the agency "will dismiss any such complaint summarily."[2]

In all of the calls, MMTC requested that the Commission take into consideration our recommendations and the particular impact on the vulnerable consumers, entrepreneurs and businesses we represent as they decide upon the future of Internet regulation.

Respectfully submitted,

Kim Keenan

President, MMTC

[2] See the *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Procedure,* 15 FCC Red 2329, 2418 ¶226 (2000) ("*2000 EEO R&O*").