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February 16, 2016

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

RE: Notice of *Ex Parte* Communication In the Matters of MB Docket No. 15-146 Amendment of Parts 15, 73, and 74 of the Commission's Rules to Provide for the Preservation of One Vacant Channel in the UHF Television Band for Use by White Space Devices and Wireless Microphones; WT Docket No. 14-170 Updating Part I Competitive Bidding Rules Expanding the Economic and Innovation; GN Docket No. 12-268 Opportunities of Spectrum Through Incentive Auctions; WT Docket No. 05-211 Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures; WC Docket No. 11-42 (Lifeline and Link Up Reform and Modernization); WC Docket No. 09-197 Telecommunications Carriers Eligible for Universal Service Support; WC Docket No. 10-90 Connect America Fund; MB Docket No. 15-64 The Downloadable Security Technical Advisory Committee (DSTAC) Report

Dear Ms. Dortch:

This letter reports on a series of meetings held on February 11, 2016. The first meeting was held with Commissioner Michael O'Rielly and Robin Colwell, Chief of Staff and Legal Advisor, Media Office of Commissioner O'Rielly. The second meeting held included Commissioner Mignon Clyburn, and Holly Saurer, Media Legal Advisor. Representatives from the Multicultural Media, Telecom and Internet Council ("MMTC") were Maurita Coley, Vice President, Chief Operating Officer, Dr. Nicol Turner-Lee, Vice President and Chief Policy and Research Officer, and DeVan Hankerson, Research Director.

With respect to the Commission's "vacant channel" proposal, MMTC shared the *Ex Parte* letter recently filed on the issue. MMTC shared in the meetings that low power television (LPTV) has proven itself as among the most successful means for achieving minority media ownership, and that the current "vacant channel" proposal

would have a negative and disproportionately devastating impact on multicultural programming and broadcast station ownership by people of color. MMTC cautioned the Commission about moving forward on an unprecedented proposal to force open additional channels for unlicensed use by displacing LPTV stations, and giving unlicensed use a priority over these stations.

MMTC shared that many of the full power stations that are expected to surrender their spectrum in the Commission's incentive auction are among the few full power stations providing foreign language and diverse programming. If this occurs, LPTV may be the only source of programming left for many minority communities after the auction. Compounding the decrease in minority ownership, MMTC shared that the vacant channel proposal will leave many multilingual audiences without any options for news, information, and emergency programming in a language that they can understand.

MMTC also requested a status update on our Petition for Partial Reconsideration in the Secondary Markets proceeding. In anticipation of the upcoming spectrum incentive auction, MMTC encouraged the Commission to act on the *four* potential incentives offered within the Petition:

1. Consideration of secondary market transactions as a factor in whether to give a carrier rule waivers relating to ownership, including in the mergers and acquisitions ("M&As") context, and possibly attendant to the IP Transition.
2. Consideration of secondary market transactions as a factor in determining whether to report to Congress that the wireless marketplace is competitive.
3. Restoration and refinement of the Tax Certificate so that it would apply to secondary market transactions, enabling the seller to defer payment of the capital gains taxes on the sale upon reinvestment in comparable property.
4. Giving carriers that engage in secondary market transactions a bidding credit.

It is MMTC's belief that the Commission could advance minority ownership of commercial wireless ownership for minority- and women-owned businesses by adopting all of these incentives. Moreover, given that many of these businesses will not have the access to capital to compete in the upcoming incentive auction, the secondary market offers tremendous opportunity to gain access to commercial spectrum, while increasing capital access and enhancing existing business models.

The Petition for Partial Reconsideration also included a formal declaration from Dr. Coleman Bazelon, one of the nation's leading wireless economists and an expert on secondary market transactions. In the document, Dr. Bazelon describes the criticality of secondary market transactions in enabling the FCC to administer a competitive and diverse wireless marketplace. Further, he explains why each of MMTC's four potential incentives for secondary market transactions would operate in practice to advance competition and diversity. Dr. Bazelon concludes that MMTC's four incentive proposals "provide potent tools for the FCC to encourage and incentivize minority participation in wireless transactions."

In these meetings, MMTC also updated the Commission on its advocacy around Lifeline reform. Without question, MMTC believes that the Commission should offer high-speed broadband as an eligible service as part of program reform. MMTC continues to partner with numerous civil rights and social justice organizations, and supports reforms offered by both the FCC Chairman and other Commissioners. MMTC also reiterated our support of coordinated enrollment and verification of Lifeline with the SNAP program. MMTC also recommended that the Commission create a national verifier, through either state agencies or the Universal Service Administrative Company (“USAC”), to work directly with the SNAP program to facilitate program eligibility, enrollment and de-enrollment.

MMTC urged the Commission to eliminate the designation of eligible telecommunications carriers (ETCs), or streamline the ETC process, to increase marketplace competition in the Lifeline program that would ensure that eligible consumers receive the product of choice. MMTC shared in the meetings that we will soon release a paper exploring costs, and the impact of reform on the program’s reach and budget.

MMTC also discussed the Chairman’s set top box proposal. MMTC noted that the Commission’s downloadable security technical advisory committee (DSTAC) did not reach consensus on the future of video devices. We urged the Commission to engage in more due diligence to understand the unintended consequences of this proposal on diverse and independent programmers, as well as how these changes affect consumer privacy protections.

On the Chairman’s set top proposal, MMTC urged the Commission to address the harms imposed on consumers and diverse and independent programmers if manufacturers of these devices are given permission to ignore content licensing and financial agreements, and reduce or eliminate consumer privacy and other protections. MMTC also shared that the Commission should not give government benefits to companies with dismal diversity and inclusion track records, which is the practical result under the Chairman’s current proposal. MMTC shared with the Commission that for decades diverse programmers have worked hard to gain carriage on TV platforms, and under the Chairman’s proposal, they could become obsolete. Instead, the Commission should develop a solution that provides consumer choice while also transforming the television industry in a place where diverse and independent programmers—of all sizes—can flourish without their business models being undermined by government policies.

On the set top issue, MMTC also heard from the Commission about the intent of the proposal, but again cautioned the Commission against adopting proposals that would allow device manufacturers to disaggregate the programming line-ups in pay TV services, repackage and rebrand this content as their own, ignoring the agreements that these programmers have negotiated with their licensors and distributors. MMTC also cautioned the Commission against promoting policies that apply different rules to video providers and violate consumer privacy protections, particularly if certain companies, such as Google, that engage in video distribution are able to gather and monetize personal

consumer data to the corporation's benefit under the proposal. Moreover, MMTC cautioned against models that disproportionately affect the advertising revenue used by existing programmers and new content creators to develop, market and distribute quality programming, particularly given the absence of viable business models available for diverse programmers to fund their online content.

Finally, MMTC asked questions about the forthcoming Notice of Inquiry (NOI) on diverse and independent programming. MMTC encouraged the Commission to avoid picking "winners" and "losers" by asking a breadth of questions that would enhance the record on the issue. MMTC suggested that the Commission focus the NOI on the marketplace, on viable business models, and how the entire ecology (i.e., the pay TV market, the FCC, the consumer, and the video streaming companies) can work together to stimulate, or hinder, diverse and independent programming. MMTC encouraged the Commission to be neutral in the NOI to gather information that would determine substantive opportunities and challenges. In short, MMTC requested that the Commission work to generate a balanced NOI that will help paint a full picture of the current state of diverse and independent programming.

Respectfully submitted,

Nicol Turner-Lee

Vice President and Chief Policy and Research Officer