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Nov. 23, 2005

VIA FAX & Electronic Filing
Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St SW
Washington, DC 20554

Notice of *ex parte* Presentation in MM Docket No. 99-325

Dear Ms. Dortch:

On Nov. 22, 2005, the undersigned, (Petitioner) had a telephone conference call with
Ms. Heather Dixon, Esq. Legal Advisor to Chairman Martin re the captioned matter.[1]

The Petitioner described what he believed were a number of major problems in the
Record of MM Docket No. 99-325, and offered reasons why the instant Rule Making
should, in the Public's interest, convenience and necessity be immediately terminated.

This immediate termination of at least all AM type iBiquity IBOC transmissions is
especially important, because of AM radio's vital role in alerting the American
Public of danger, whether said danger is the result of enemy attacks or natural
disasters, such as the recent Gulf storms. The fact is the Public depends on its
almost Billion radios it listens to 24/7, especially its battery powered AM radios, to
alert them of the first sign of danger.

The Public, obviously demands such vital service NIGHT and day and the Record of

this Docket provides extensive proof that the iBiquity proposed system does not and
cannot provide the coverage that the Public demands. Indeed, the argument was
made in the undersigned's 7/25/05 Reply urging iBiquity's licensees to immediately
initiate nighttime tests, if they truly believed their system did not violate FCC Rules

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[1] Since the undersigned could not visit the Commission at a mutually convenient time, he
requested a telephone conference. As it is difficult to know which part of this Proceeding's lengthy Record the FCC would find useful in such a conference, the instant Notice is unusually long. For example, it includes a number of quotations from *RKO v FCC,* a controlling case, which the undersigned placed in the Record in his earlier filings.

and if they followed two caveats to protect the Public and other broadcasters, if they
were wrong. -

Furthermore, nighttime service is especially important to hearing disadvantaged
individuals, who represent almost 10% of America's population. These individuals
can be served by the Cam-D™ System, as originated by the undersigned, which was designed to accommodate them with an LCD scroll display and alarm light
informing them of danger and urging them to read the digital LCD display for
details This display works night and day, and our digital system extends coverage,
rather than destroying coverage as does the iBiquity system. Furthermore, also
unlike iBiquity, Cam-D penetrates buildings where people may go for shelter during
storms, etc.

THE IMPORTANCE OF THE *RKO V. FCC* CASE

The undersigned also provided an analysis of *RKO General, Inc. v. FCC* 670 F.2d
215 (D.C. Cir. 1981) showing that RKO was denied renewal of its Billion dollar
radio and TV licenses because it violates its *affirmative duty* to exercise *full candor*.
Thus, even though the Public had seen publications and radio and TV stories of General Tire's bribery attempt of a foreign government **PRIOR** to purchasing
RKO, its failure to properly disclose the problem resulted in this enormous loss to
RKO General's stockholders. It is vital the FCC revisit this controlling case.

In the instant Rule Making, even though the undersigned in his Reply of Aug. 16, 2005 under a section entitled ***Just Who Really Controls iBOC?*** the *RKO* case places the burden on the licensee to provide the information. Even if one ignores the fact
that the Commission is considering the grant of a monopoly that will control all of AM and FM broadcasting and limit the RKO case to licensees, it should be noted that on page 2 of the 4/20/04 FCC Further Notice of Rule Making it is stated that iBiquity claims as "*strategic*

partners" most of the *largest broadcast group owners* and also lists Clear Channel, Cox, Viacom CBS, etc. on its website as strategic partners.

Of course, all of these major radio groups are FCC licensees and must therefore exercise full candor, including providing the Public, including me, information as to who actually owns and controls the cartel of which they are *strategic partners*.

The RKO case treats ownership & control issues and requires licensees to prove they are responsible so as to act in the public interest, *RKO General Inc .v FCC*, at 232 …As a result, the Commission must rely heavily on the completeness and accuracy of the submissions made to it, and its applicants in turn have an affirmative duty to inform the Commission of the facts it needs in order to satisfy its statutory mandate. Also at 229: *RKO's* conduct thus threatened "*the integrity of the Commission's processes*." And also...the question before the FCC was not so much what RKO said
as what it had failed to say. In the instant IBOC case we do not know who actually owns equity in the cartel and who exercises control. And finally at 227:
The Commission may not decide a case one way today and a substantially similar one another way tomorrow, without a more
reasonable explanation than is offered here,"

The Commission has not offered any explanation or even demanded an answer from
IBiquity to my request in my Reply of Aug. 16,2005 pgs. 7 & 8 starting with the
section **JUST WHO REALLY CONTROLS iBOC?** and ends with the PRAYER of
And, it is further Respectfully Requested that this Honorable Commission initiate an investigation to determine which entities control the iBOC System, referencing RKO General

The petitioner also briefly mentioned the anti-trust issue; the allegation that the
Strategic partners boycotted the use of the Cam-D™ System in the crucial New York market requiring me to do initial tests thousand miles from our laboratory. In answer to your question, I asserted I was aware of *Noerr-Pennington*, but since the FCC does not control AM/FM radio receivers, except if they radiate, this Trillion Dollar market is not exempt from the Sherman Acts.

Finally, I pointed out that my Petition dated Jan. 24,2003 to:

1. Revise the procedure for evaluating new technology, which would include removing the lobbyist group, NAB, and the NRSC that suffers from severe conflicts
of interest, as FCC advisors, and 2. Using the revised evaluation Procedure to
reinvestigate the technical basis the Commission used to support its MM-99-325
Order of Apr. 20,2004 page 2 as said Order is based on flawed advice as demonstrated by the following Seven (7) erroneous statements

1. Enhanced fidelity... 2. Near CD [uncompressed quality]... 3. Use their current AM
& FM radio spectrum analog simultaneously... 4. With higher quality digital
signals...5. Eliminate fades...6. Preventing interference to the host analog... 7. And
stations on the same channel

All of these claims have been shown to be erroneous in the Record some of which violate the very essence of viable broadcasting.

Also ignored by the staff is my Apr. 3, 2003 Amendment announcing Cam-D.. Still
no assignment of Docket number and no letter explaining its failure to docket this
rulemaking.
Obviously, I trust that you will look into a suitable response to this new Proposal for
Rulemaking.

I wish to conclude with my thanks to you for the courteous conference and I
sincerely look forward to meeting you in person when I next visit the FCC.

Respectfully yours,

Leonard R. Kahn
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