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August 2, 2006

**Via Electronic Filing**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th St., S.W., TW-A325  
Washington, D.C. 20554

RE: Digital Audio Broadcasting, MM Docket No. 99-325

Dear Ms. Dortch,

Pursuant to section 1.1206(b)(2) of the Commission's rules, we hereby submit this notice regarding an *ex parte* meeting in the above-referenced proceedings.

On Tuesday, August 1, 2006, Jim Snider of New America Foundation, Gloria Tristani of Benton Foundation, Dawn Holian at Common Cause, Parul Desai of Media Access Project, and Angela Campbell and Marvin Ammori of the Institute of Public Representation met with Heather Dixon, Legal Advisor for Chairman Kevin Martin, at the offices of the Federal Communications Commission. Pete Tridish of Prometheus Radio Project also participated in the meeting via conference call.

We discussed several points, focusing on how the Commission could promote competition and new entry through the digital radio transition. First, demand for radio spectrum is intense; indeed thousands of groups and individuals have sought low-power fm licenses only to be turned away for lack of spectrum. Moreover, there is a great need to increase opportunities for minorities and women to own broadcast stations. At the same time, incumbents are multiplying their program streams and attempting to annex additional spectrum in adjacent channels, which could be used by other services and speakers. As a result, we urged the Commission to consider freeing up spectrum for new entrants. In addition, we proposed that the Commission encourage time-brokerage agreements by digital audio broadcasters on multicast streams to allow new and diverse voices to take advantage of the increased capacity and increased spectrum and to explore other ways that new voices could use the radio spectrum.

Second, because digital audio broadcasting is a new, evolving service about which broadcasters have predicted and promised considerable public interest benefits, the Commission should gather information on its development to ensure it is providing such benefits. For example, the Commission should gather information on whether broadcasters are multicasting or not, what kind of content they are multicasting, whether they have entered into time-brokerage agreements with unaffiliated programmers, whether they are providing reasonable access for political speech including equal opportunities for candidates, and whether the multicast streams are free or subscription-based.

Third, we discussed the issue of FM modulators, and how such modulators are important to breaking the broadcasters' near monopoly on automobile listening. We suggested broadcasters have incentives to undermine competitors who use FM modulators, and that the current permissible power levels set by the FCC for such devices may be inadequate for many metropolitan areas.

Fourth, we suggested that the Commission may have a potential legal problem under the Administrative Procedure Act, as it granted hundreds of experimental multicast authorizations to broadcasters, effectively passing a rule without complying with the APA. Fifth, we urged the Commission to adopt meaningful public interest obligations for all streams, as discussed in our filed comments.

Finally, we noted the Commission should be careful not to foreclose policy decisions by deciding too much right now; it should make no decisions on policy for the *post*-digital-transition DAB service, and focus on the transitional service.

We left a copy of the memorandum, drafted by Jim Snider, attached to a July 26, 2006 *ex parte* by these same parties.

In accordance with the Commission's rules, this *ex parte* notice is being filed electronically in the above-referenced dockets. If you have any questions regarding this filing, please do not hesitate to contact me at (202) 662-9541.

Respectfully submitted,

/s/

Angela Campbell