

March 22, 2007



Marlene H. Dortch  
Secretary  
Federal Communications Commission  
TW-A325  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Notice of Ex parte* presentation in WT Docket Nos. 05-211, 06-50  
PS Docket No. 06-229

Dear Ms. Dortch:

On March 19, 2006, Harold Feld, Senior Vice President, Media Access Project, met with Aaron Goldberger, Wireless Advisor to Commissioner Tate, with regard to the above captioned proceeding. Mr. Feld made the following points:

***Support for the Frontline Proposal:*** The recent proposal by Frontline to auction a 10 MHz national license, subject to the specified license conditions, would serve the public interest. Adopting the Frontline proposal would make 24 MHz of important spectrum available to both the commercial sector and public safety on a wholesale, open access basis. This would have several salutary effects. First, it would ensure that public safety has access to needed spectrum in an efficient manner. It would facilitate the development of interoperable public safety communication equipment, while leveraging the economies of scale from the consumer market – a public interest benefit the Commission has recognized in the past.

More importantly, the license condition imposing an open access, wholesale business model meets critical needs not yet met in the wireless commercial market. Because the Commission has consistently declined to impose such conditions on existing carriers, the Frontline proposal represents the only way consumers can “vote with their feet” and demonstrate a market demand for a neutral network that permits any network attachment. Further, because the license is national, it will provide businesses interested in providing wireless services – particularly those in underserved rural and minority communities – with affordable spectrum access. Neither auctions nor secondary markets have made sufficient spectrum available for small businesses, such as WISPs, that have repeatedly stated their interest in leasing licensed spectrum.

***Support for anonymous bidding and other proposed bidding changes:*** Echostar and DirecTV propose to allow package bidding and other forms of combinatorial bidding in response to the failure of new entrants to create a national footprint in the AWS auction.

The result in the AWS auction was entirely predictable. Indeed, MAP and the consumer organizations that urged the FCC to adopt anonymous bidding *did* predict it. To the extent package bidding makes it easier for new entrants, MAP supports package bidding. But this will not address the overall problem of incumbents targeting new entrants.

MAP once again urges the Commission to adopt anonymous bidding, as was initially proposed in the AWS auction. Unless the Commission adopts anonymous bidding, it will squander the last best hope for a genuinely disruptive new entrant in wireless services.

***Support for certain elements of the Band Optimization Plan:*** MAP generally supports the “first stage” of the band optimization plan, although it confers free spectrum to the private licensees of the guard bands. While MAP generally opposes conferring spectrum windfalls on a private licensee, without even the promise of additional public interest obligations, this is the rare case where the overall benefit to the public as a whole justifies giving a very modest increase in spectrum access to private licensees.

***Opposition to “reverse auctions”:*** MAP opposes any form of “reverse auction,” which would permit a private licensee to auction access to its spectrum as part of the 700 MHz auction. A reverse auction violates the plain language of the statute, which requires that the FCC deposit all auction revenues in the U.S. Treasury. It further violates the command of Section 310(d), that the Commission make an individualized approval of every license transfer. Finally, the Commission should recall that when it sought to use reverse auctions to clear the 700 MHz band, Congress moved swiftly to chastise the Commission and prohibit any such action.

***Rural license size:*** MAP is generally supportive of providing smaller licenses for rural carriers. But this depends in part on resolution of the pending DE rulemaking. If the Commission continues to permit Des to maintain material relations with large wireless incumbents, then creating smaller licenses merely creates opportunities for large incumbents, working through “captive” DEs, to win licenses at a substantial discount.

In accordance with Section 1.1206(b) of the Commission’s Rules, 47 C.F.R. § 1.1206, this letter is being filed with your office. I regret that this notice is filed late, but unanticipated family demands delayed drafting. If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,

Harold Feld  
Senior Vice President

cc:  
Aaron Goldberger