

June 19, 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 No. 06-150

Dear Ms. Dortch:

On June 18, 2007, Andrew Jay Schwartzman, Harold Feld, and Lee Previant of Media Access Project; Gigi Sohn, Elizabeth Gonsiorowski, and Jacob Levin of Public Knowledge; and Michael Calabrese of New America Foundation, met with Commissioner Adelstein, Barry Ohlson, Chris Naoum, and Margaux Berwitt of the FCC with regard to the above captioned matter.

The parties discussed the PISC open access proposal. PISC advocates an open access plan that requires interconnection at a gateway and ensures that adequate bandwidth is available to compete with DSL and cable. PISC noted that not all 30MHz would need to be in one block, but that 30 MHz total is necessary to ensure speeds competitive with DSL and cable. It is not clear that open access conditions on 30 MHz of spectrum would substantially reduce auction revenue. To the extent the open access licenses are less desirable, the value of the remaining licenses will increase. Further, the demand and use of spectrum is growing at a steady pace and the likelihood that incumbents would “sit on the sideline” while potential competitors acquired spectral capacity does not appear likely. Finally, the auction statute requires the FCC to maximize the value of the spectrum as a public interest resource, rather than to maximize revenue. If there is any loss in auction revenue, therefore, it should be viewed as an investment in the wireless and network infrastructure which ensures that America remains a global competitor and player in rapidly advancing technology.

Commissioner Adelstein also asked if there was an open access business plan. If open access requirements include only the ability to lease/sell wholesale access to the network/spectrum there is little need for regulation since the wholesalers would have a business interest in creating an efficient and functional wholesale market. If open access includes the ability to lease/sell access to the network/spectrum for profit, regulations would have to be implemented to ensure that incumbents do not attempt to bar other competitors from the network/spectrum to serve their own interests. Anonymous bidding should be implemented in order to encourage competitive entry, prevent incumbents from limiting entry of new competitors via blocking, and prevent collusion through signaling. PISC recommends that the Commission should adopt the *Computer III* regime and either exclude wireline and wireless incumbents from participating or require them to operate through structurally separate entities.

Commissioner Adelstein expressed concern that if new competitors do not have enough money to bid with the incumbents that some incumbents may “steal spectrum on the cheap.” These

concerns may be addressed with spectrum caps (implemented in the PCS auction). Spectrum caps coupled with licenses covering larger geographical areas (and therefore less licenses numerically) can curb signaling and blocking during the auction. Keeping the number of licenses numerically lower will have little effect on rural and small licensees since the geographical areas they seek to acquire licenses in are not as desirable to the larger bidders. In the event the Commission adopts smaller license areas, then the need to adopt anonymous bidding and other safeguards against collusion and blocking increase.

PISC support geographical build-out requirements, and support a “use or lose” build-out requirement. As discussed in the May 23 filing, PISC supports modifying the “use or lose” requirement for new entrants or smaller licensees that can demonstrate genuine hardship in complying with the benchmarks. In addition, PISC support a “triggered use or lose,” under which a licensee would only use the unserved portion of its license area if a provider demonstrate an immediate willingness to serve the unserved area.

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.

Respectfully submitted,

/s/

Harold Feld
Senior Vice President

cc: Commissioner Adelstein
Barry Ohlson