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December 9, 2007

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

Dear Ms. Dortch:

RE: Notice of *Ex Parte* Communication, MB Docket No. 06-121 (Media Ownership)

On behalf of the Diversity and Competition Supporters (“DCS”), this reports on meetings MMTC Fellow Joycelyn James and I held December 7, 2007: (1) Amy Blankenship, Legal Advisor to Commissioner Tate; (2) Commissioner Robert McDowell and his Legal Advisor, Cristina Pauze.

- (1) Proposals to be Addressed. Several proposals that may not have been included in a draft report and order are especially deserving of being included there or, at least, incorporated into a Third FNPRM. These include the seven proposals listed in our November 22, 2007 Supplemental Comments as #41-47 (each submitted by parties other than DCS), Proposal #5 (incubators, as narrowed in the DCS’ Supplemental Comments to address an objection by Free Press et al.), Proposal #12 (FM spectrum reform), Proposal #33 (foreign ownership relaxation), and Proposal #35 (cluster spinoff deadline relaxation). If Proposal #10 (zero tolerance for ownership rule abuse) is adopted, the Commission should include an audit procedure as a deterrent to fraud. Finally, to avoid further delay, a Third FNPRM should contain a pledge to undertake to produce a report and order in no less than six months. We shared, and attach here, DCS’ informal list of proposals and a press report concerning Proposal #42 (use of analog Channels 5 and 6 for FM).
- (2) Definition of the Beneficiary Class. As set out in our Supplemental Comments, the percentage of minority owned stations among all commercial radio stations is 7.78% (Free Press calculation), and the percentage of minority owned commercial radio stations among SBA-defined “small businesses” is 5.88% (MMTC calculation based on Free Press data). Thus, the use of a small business definition would actually be regressive and adverse to minority ownership. DCS’ Supplemental Comments proposed a race-neutral “full file review” interim classification paradigm. This paradigm would be based on an applicant’s success in overcoming disadvantages, the overcoming of which would naturally yield diversity of information and viewpoints and would be predictive of success in a challenging environment. If the Commission is not ready to adopt a full file review paradigm at this time, it could give the Advisory Committee on Diversity two months to flesh it out. The effective date of rules dependent on a full file review procedure would be the date the Commission issues a further report and order approving such a procedure.
- (3) Enforcement. DCS Proposals #1 and #22 contemplate rules against transactional and advertising discrimination respectively. If the Commission adopts these rules, it should announce immediately that they will be vigorously enforced. Thereafter enforcement will seldom be necessary because the industry will be on notice that the rules are deserving of respect.

Sincerely,

David Honig

David Honig
Executive Director

Attachments