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

**March 14, 2008**

**Re: Notice of *Ex Parte* Presentation**

**Dockets: 07-294, 06-121, 02-277, 01-235, 01-317, 00-244, 04-22**

Dear Ms. Dortch,

This letter is to advise you, in accordance with Section 1.1206(b) of the Commission's rules, that on March 13, 2008, Ben Scott of Free Press met with Commissioner Michael Copps as well as legal advisors Rick Chessen, Bruce Gottlieb and Scott Deutchman concerning the above mentioned proceedings.

We discussed the issues, evidence, and arguments on minority ownership of broadcast stations filed by Free Press and other consumer organizations in the aforementioned dockets. In addition, I presented a verbal summary of Free Press' initial thoughts on the FCC's 3<sup>rd</sup> FNPRM on minority ownership issues.

We briefly discussed the nine items for which the Commission has asked comment. I presented our view that getting the definition of "socially and economically disadvantaged business" right would be the difference between policies that are helpful and policies that are ineffective in serving the interests of minority owners. Though the possibility of strict judicial scrutiny requires the Commission to proceed with care on the definition, we feel that there are ways to approach the problem that will pass judicial muster and serve the interests of minority communities. We are considering a proposal to include in our comments which would recommend a review board system that certified "socially and economically disadvantaged business."

In addition, we discussed a number of the other proposals in the FNPRM. In particular, I counseled caution on the Share-Time Proposals. These proposals would authorize the bifurcation of HD IBOC channels into licensed sub-channels. While we are generally supportive of this idea, we believe that it needs to be considered carefully in conjunction with the structural ownership limits so that it does not have the unintended consequence of permitting circumvention of the multiple ownership rules.

On the question of modifying Form 323 to ensure that the Commission has accurate data about the race and gender information of licensees, we are preparing to offer specific recommendations

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in our comments. We will suggest that the Commission require each station (both commercial and non-commercial) to file a single Form 323 (or move the race/gender questions to another separate Form). This Form 323 must be filled out properly, with the race/gender information filled out on the form, not in an attachment. It is critical that we know who the ultimate owners are for each station on a single form. We will also suggest that instead of filing every two years on the anniversary of the license acquisition, that stations file on a uniform filing date annually, or upon change in ownership. We will not suggest that the Commission attempt to determine the validity of the race/ethnic information submitted, but we will recommend that quality control audits be conducted, and fines for non-compliance levied.

We briefly discussed Free Press' opinions about other proposals in the FNPRM. First, we offered caution, as we have in the past, for structural rule waivers in exchange for the creation of incubator programs. We are much more comfortable with this idea if it comes in conjunction with a reduction in the total number of stations permitted to one owner in a market. Second, we noted that the question of must-carry for Class A television stations is an increasingly important one. Our initial analysis suggests that the Commission does have authority to grant this must-carry status. This may be a very appropriate policy, particularly in the cases where Class A stations offer local news, second-language programming, and other local public service benefits. We did note that the Commission should look to gather more data concerning localism on Class A stations as a category to determine its proper course. Finally, we briefly discussed the importance of Commission action to investigate local marketing agreements and the proper identification of attributable interests.

The conclusion of our discussion focused on the key point that the definition of the entities eligible for policies intended to promote minority ownership of broadcast stations is paramount. Further, even with a good definition, we feel that these policies must be paired with policies that de-concentrate media ownership.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Scott", with a long horizontal line extending from the end of the signature.

Ben Scott, Policy Director  
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