

# Minority Media and Telecommunications Council

3636 16<sup>th</sup> Street N.W. Suite B-366  
Washington, D.C. 20010  
Phone: 202-332-0500 Fax: 202-332-0503  
[www.mmtconline.org](http://www.mmtconline.org)

---

November 16, 2009

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

Dear Ms. Dortch:

RE: Notice of Ex Parte Communication:

- Preserving the Open Internet: GN Docket No. 09-191
- Broadband Industry Practices: WC Docket No. 07-52
- Radio Rescue Petition for Rulemaking: RM-11565
- Broadcast Diversity: MB Docket No. 07-294
- PPM Inquiry: MB Docket No. 08-187
- Broadcast EEO: MM Docket No. 98-204
- Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks: EB Docket No. 06-119
- 2010 Quadrennial Review: MB Docket No. 09-182
- 2006 Quadrennial Review MB Docket No. 06-121

This reports on a November 10, 2009, meeting with Commissioner Michael J. Copps and Jamila Bess Johnson, Senior Legal Advisor. Present from MMTTC were Joseph Miller, Fellow and myself.

## **Network Neutrality**

MMTC is Counsel for the Broadband Opportunity Coalition (“BBOC”), which is composed of the Asian American Justice Center, National Urban League, National Association for the Advancement of Colored People, League of United Latin American Citizens, National Council of La Raza, and One Economy Corporation.

BBOC has not taken a position on Net Neutrality, but is scheduled to convene a meeting on November 11, 2009 to discuss the implications of net neutrality on closing the digital divide.

## **Media Ownership**

Catherine Sandoval, Assistant Professor, Santa Clara University School of Law, has completed a landmark study on media ownership which has revealed, inter alia, that the percentage of

Marlene Dortch, Esq.

November 16, 2009

Page 2

minority-controlled commercial radio stations has declined from 7.76% in 2007 to 7.24% in 2009. The study also revealed that most of these station owners acquired their licenses before the Telecommunications Act of 1996. Further, eighteen minority-owned stations filed for silent operation licenses for financial reasons in late 2008 or 2009. These trends suggest a dire need for genuine media ownership diversity policies.

### **Handling of Minority Ownership in the NPRM**

We discussed my concern with the Commission's failure to mention minority media ownership in the 2010 Media Ownership Review Proceeding.

### **Incubator Proposal**

MMTC is in favor of an incubator proposal initially made during the 2006 Quadrennial Regulatory Review. Under this proposal, companies establishing meaningful diversity programs would be permitted to exceed the otherwise maximum allowable number of stations in the market in which the incubator operates.

### **Advertising Non-Discrimination**

Despite the Commission's rule prohibiting no-urban and no-Spanish dictates in advertising sales contracts,<sup>1</sup> advertising discrimination persists. For example, a written advertising buy was issued recently for Mini-Cooper containing such a discriminatory provision. While the advertising agency responsible for the discrimination was removed from representing Mini-Cooper, the incident is illustrative of the need for more robust enforcement of the rule.

### **Ratings Measurement Methodology**

We reiterated the need for the Commission to initiate a Section 403 investigation of Arbitron Inc.'s Portable People Meter ("PPM") methodology. Arbitron has rolled out PPM in fifteen markets even though only two of these markets are accredited by the Media Rating Council ("MRC"). Further, 30% of the population is expected to be "cell phone only" by next year. Still, Arbitron lacks representative cell-phone only participation in its sample.

Congressman Edolphus Towns, Chairman of the House Committee on Oversight and Government Reform, is scheduled to conduct an additional PPM hearing on December 2, 2009.

---

<sup>1</sup> See Report and Order and Third Further Notice of Proposed Rulemaking, In the Matter of Promoting Diversification of Ownership In the Broadcasting Services, MB Docket No. 07-294, et al., 23 FCC Rcd 5922, 5941 ¶49 (released March 5, 2008).

Marlene Dortch, Esq.

November 16, 2009

Page 3

### **Inferior Technical Facilities – Need for Radio Rescue**

Two-thirds of minority-owned radio stations are AM stations. These stations are vital to their communities as 78% of them broadcast minority service broadcasting. Therefore, we recommended, in our Radio Rescue petition, that these stations be allowed to broadcast on channels 5 and 6. Of the seventeen total proposals we made in our Radio Rescue Petition, fourteen were unopposed.

### **EEO Non-Enforcement**

The Commission should increase its EEO enforcement, the lack of which acts as an entry barrier to minority broadcast entrepreneurship. The EEO Staff is currently housed in the Media Bureau and it is being moved to the Enforcement Bureau where, hopefully, it can be staffed up and given greater authority to bring major cases.

### **Language Barriers – EAS**

Despite several rounds of pleadings and attempts to develop a multilingual communications strategy for the Emergency Alert System (“EAS”), the recently released FCC Emergency Preparedness Report<sup>2</sup> failed to mention either the state of play of the Emergency Alert System rules with respect to non-English speakers or what the Commission’s plan is for ensuring all Americans are able to receive emergency information.

Attached please find four handouts I presented during the meeting:

- Agenda
- MMTC Announces Landmark Study on Minority Commercial Radio Ownership
- Radio Rescue Support/Oppose List
- Table of Contents of MMTC’s Radio Rescue Petition, Showing Items Opposed By No More Than One Individual *Pro Se* Commenter

Respectfully submitted,

*David Honig*

David Honig  
President and Executive Director

---

<sup>2</sup> See Federal Communication Commission, Public Safety and Homeland Security Bureau, FCC Preparedness for a Major Public Emergency, available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-293332A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293332A1.pdf) (last visited November 10, 2009).