

Minority Media and Telecommunications Council

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March 24, 2010

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

RE: Notice of *Ex Parte* Communications:

- MB Docket Nos. 07-294 (Promoting Diversification of Ownership in the Broadcasting Services), 06-121 (2006 Quadrennial Review), 02-277 (2002 Biennial Review), 01-235 (Cross-Ownership), 01-317 (Multiple Ownership in Local Markets), 00-244 (Definition of Radio Markets), 04-228 (Ways to Further Section 257), 03-130 (Definition of Radio Markets for Areas Not Located in an Arbitron Survey Area), 04-233 (Broadcast Localism), 09-52 (Review of Technical Policies and Rules Presenting Obstacles to Implementation of Section 307(b) of the Communications Act and to the Promotion of Diversity and Localism), 08-187 (Portable People Meter), and RM 11565 (Review of Technical Policies and Rules Presenting Obstacles to Implementation of Section 307(b) of the Communications Act and the Promotion of Diversity)
- MM Docket Nos. 98-204 (Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies), 99-25 (Creation of a Low Power Radio Service), 05-210 (Revision of Procedures Governing Amendments To FM Table of Allotments and Changes of Community of License in the Radio Broadcast Service)
- DA Nos. 05-1076 (Auction 62), 04-1699 (Auction 37)
- AU Docket Nos. 09-21 (Competitive Bidding Procedures),
- Council Tree Communications v. FCC, Docket No. 06-2943.
- WT Docket Nos. 05-211 (Implementation of the Commercial Spectrum Enhancement and Modernization of the Commission's Competitive Bidding Rules and Procedures), 00-230 (Secondary Markets Proceeding), 05-96 (Rules for Wireless Broadband Service in the 3650-3700 MHz Band)
- PRM09MB (Petition for Rulemaking to Expand the Commission's Broadcast Advertising Nondiscrimination Rule to Cable, Satellite and Telecommunications Services)
- GN Docket No. 10-25 (Future of Media)
- ET Docket Nos. 04-151 (Wireless Operations in the 3650-3700 MHz Band), 02-380 (Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band), 98-237 (Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band)

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Dear Ms. Dortch:

This reports on a meeting held March 23, 2010 with Thomas Reed, Director of OCBO, Carolyn Fleming Williams, Senior Deputy Director of OCBO, Eric Malinen, Senior Legal Advisor and FCC Liaison to the SBA, Belford V. Lawson III, Attorney Advisor, Calvin Osborne, Attorney Advisor, and Karen M. Beverly, Consumer-Industry Affairs Specialist and Assistant for Management. Representing MMTC at this meeting was David Honig, President and Executive Director, Joseph Miller, Earle K. Moore Fellow, Jacqueline Clary, John W. Jones Fellow.

MMTC distributed a briefing book at the last meeting containing a table and description of 84 pending civil rights proposals. Attached please find table of the 84 pending proposals. During the meeting I discussed pending proposals 40-84. My position during the meeting was consistent with the dockets' documents listed (below) unless otherwise noted.

	Proposal	Points made that are not in documents cited
	*Unique facts regarding minorities gaining spectrum access. Minorities were two decades late in entering the industry due to discrimination and when minorities finally did gain access the majority of the stations they were able to acquire were AM.	
40.	Create Medium Powered FM Stations	
41.	Replace FM Table With Interference-Based Allotment Criteria	<ul style="list-style-type: none">• This would harmonize very well with the Commission's other decisions; by using this standard for everything except allotting stations they are still depriving the public of the opportunities for new stations.• Can measure actual interference, the Rules have not caught up with engineering.
42.	Authorize Interference Agreements No Significant Opposition to Underlying Concept	<ul style="list-style-type: none">• FCC overestimates interference harm caused by mildly increasing power.
43.	Harmonize Regional Interference Protection Standards; Allow FM Applicants to Specify Class C, C0, C1, C2 and C3 Facilities in Zone I and IA	<ul style="list-style-type: none">• The question is where is the interference and how many are affected; compensation for all of the interference proposals is more stations and more station upgrades.
44.	Remove Non-Viable FM Allotments No Significant Opposition	<ul style="list-style-type: none">• The FCC or an outside communication engineer could identify and map the vacant allotments.
45.	Relax the Limit of Four Contingent Applications No Significant Opposition to Underlying Concept	

46.	Study the Feasibility of a New Radio Agreement with Cuba No Significant Opposition	
47.	Increase Auction Discounts to New Entrants FFR Candidate	<ul style="list-style-type: none"> • A number of changes could be made to help minority-owned businesses do better in the auctions: <ul style="list-style-type: none"> ○ Could change the statute; ○ Increase discounts for new entrants; ○ Potential for FFR; or ○ If no other way, closed pools. • OCBO should study and determine the threshold.
48.	Require Minimum Opening Bid Deposit on Each Allotment for Bidders Bidding for an Excessive Proportion of Available Allotments	<ul style="list-style-type: none"> • The FCC should analyze how many minority-owned businesses participate in each step of the auction process.
49.	Only Allow Subsequent Bids to be Made Within no more than Six Rounds Following the Initial Bid	
50.	Provide Narrow Eligibility Requirements for Bidding Credits; Expand Eligibility Where Bidder's Interest in Standalone AM Station to be Non-attributable to Bid for a FM Permit in the Same ADI FFR Candidate	
51.	Require Bidders to Specify Intention to Bid Only on Channels With Total Minimum Bid of Four Times Their Deposit and Designate a Second Place Bidder if Winning Bidder Withdraws	<ul style="list-style-type: none"> • Would also work for wireless • Before the auction FCC would go make an initial determination of whether a company meets basic qualifications.
52.	Do Not Include Any Channel Where CDBS Shows a Conflicting Proposal or Internal Coordination is Incomplete	<ul style="list-style-type: none"> • FCC should first determine that company meets basic qualifications. • Self-certification invites abuse.
53.	Conduct Aggressive Outreach to Encourage Minority Bidders and Provide Same Day Reporting on Disentitlements to Bidding Credits No Significant Opposition to Underlying Concept	<ul style="list-style-type: none"> • Information should be published.

<p>54.</p>	<p>Reallocation of TV Channels 5/6 for FM Service and Establish an AM Transition Federal Advisory Committee to Make Recommendations for the Use of 5/6 Post DTV Transition</p> <p>No Significant Opposition to Advisory Committee Concept (but some opposition to the 5/6 migration proposal)</p>	<ul style="list-style-type: none"> • Advisory Committee should include a representative from all stakeholders • Advisory Committee should also include several engineers. • Select a diplomat as chair. • Potential to create a subcommittee of the Diversity Committee, but the Committee would need to add members to satisfy requirements above.
<p>55.</p>	<p>Evaluate Media Access Project’s Proposal for new “Class S” Television Station to Share-Time With Full Power DTV</p> <p>No Significant Opposition to Underlying Concept</p>	<ul style="list-style-type: none"> • Could also help by incubating new entrants to gain experience to continue business regardless of the distribution platform.
<p>56.</p>	<p>Request the Removal of AM Nighttime Coverage from Section 73.21(i)</p> <p>No Significant Opposition</p>	<ul style="list-style-type: none"> • Creating a general rule would reduce expenses for those who would seek waiver and increase FCC efficiency.
<p>57.</p>	<p>Relax Principal Community Coverage Rules for Commercial Stations</p> <p>No Significant Opposition</p>	
<p>58.</p>	<p>Replace Minimum Efficiency Standard for AM Stations with a “Minimum Radiation” Standard</p> <p>No Significant Opposition</p>	<ul style="list-style-type: none"> • Agree that it might be a candidate for §610 Revie.w.
<p>59.</p>	<p>Maintain a Rule of 10 Translator Applications Per Applicant</p>	
<p>60.</p>	<p>Create a New Local “L” Class of LPFM Stations</p>	
<p>61.</p>	<p>Expedite FCC Application Review When Notice of Intent to Sell/Lease Spectrum Was Done in a Manner that Provided Notice to Minorities</p> <p>No Significant Opposition to Underlying Concept</p>	
<p>62.</p>	<p>Waive Pre-Approval Requirement for Common Carrier License and Transfers of Control if Not Conflicting with Public Interest and Results in Minority Ownership of 25% or More</p> <p>FFR Candidate; No Significant Opposition to Underlying Concept</p>	

63.	Set Aside 2006 Designated Entity Rule Changes	<ul style="list-style-type: none"> The FCC should take a fresh look at the rules and how it has impacted minority ownership; the FCC could do a review prior to awarding DE benefits to ensure the applicant is eligible.
64.	Do Not Award DE Benefits to Entities that Have a Material Relationship With Large In-Region Incumbent Wireless Providers – Specifically: Create a Pre-clearance Process for DE Applicants; Conduct Random Audits Afterwards; and Strengthen Unjust Enrichment Rules	
65.	Reduce Barriers to Deployment of Unlicensed Services and Technologies by Increasing Amount of Spectrum Set Asides for Unlicensed Use	
66.	Reduce Barriers to Deployment of Unlicensed Services and Technologies by Expediting Equipment Certification Process No Significant Opposition	
67.	Reduce Barriers to Deployment of Unlicensed Services and Technologies by Increasing Maximum Initial Terms for Experimental Licenses No Significant Opposition	<ul style="list-style-type: none"> The FCC should incentivize experimental licenses to increase innovation.
68.	Reduce Barriers to Deployment of Unlicensed Services and Technologies by Expanding Maximum Term of Special Temporary Authorization No Significant Opposition	<ul style="list-style-type: none"> STAs generally should be increased to a year.
69.	Increase Access to Licensed Spectrum by Increasing Bidding Credits to Small and Very Small Businesses FFR Candidate	
70.	Increase Access to Licensed Spectrum by Identifying Auctions Where Assigned Licenses Cover Small Geographic Areas No Significant Opposition to Underlying Concept	

71.	<p>Increase Access to Licensed Spectrum by Waiving Pre-Approval Requirements of Lease Agreements that Transfer De Facto Control of Common Carrier Licenses that Do Not Conflict with Public Interest</p> <p>No Significant Opposition to Underlying Concept</p>	
72.	<p>Make Legislative Recommendation to Amend 309(j) (spectrum auctions)</p>	
73.	<p>Prepare Two Diversity Guides for Companies in Media and Telecom Industry and for Small Businesses, Entrepreneurs and other New Entrants</p> <p>No Significant Opposition</p>	
74.	<p>Develop an Online Resource Directory to Enhance Recruitment, Career Advancement, and Diversity Efforts</p> <p>No Significant Opposition</p>	
75.	<p>Extend Advertising Nondiscrimination Rule to all Platforms</p>	<ul style="list-style-type: none"> • For cable, the Commission should look to CARS licenses for jurisdiction.
76.	<p>Create a New Civil Rights Branch of the Enforcement Bureau with Staff and Compliance Officers for EEO, Transactional and Advertising Nondiscrimination for All Platforms</p> <p>No Significant Opposition to Underlying Concept</p>	
77.	<p>Designate a Senior Compliance Officer for the Advertising Nondiscrimination Rule</p> <p>No Significant Opposition</p>	
78.	<p>Conduct 403 Inquiry into PPM</p>	
79.	<p>Restore Effective EEO Enforcement; Prohibit Excessive Word of Mouth Recruitment from Homogeneous Workplaces; and Designate Evidentiary Hearings Promptly</p>	

80.	EEO Proposals: Collect and Publish Form 395 Data and Annual Employment Reports At a Set Date	<ul style="list-style-type: none"> • The data will not be used in a race conscious manner any more than the racial data on the Census would. • §151 of the 1996 Act clarified types of prohibited discrimination but this section is non-self executing. After the 1996 Act, the Commission stated that it intended to have a rulemaking to implement §151; however, it did not follow through. • Because the Diversity Committee is unable to agree on this issue, the FCC should make a decision. • Concerned about the current transition into a digital society and the likelihood that without intervention, this change will exacerbate current gaps.
81.	Close the Loopholes Allowing Rural Broadcasters to Perform Two Rather than Four EEO Outreach Initiatives Every Two Years	
82.	Reaffirm Willingness to Consider Statistical Evidence of Industry-wide EEO Noncompliance	
83.	Amend EEO Rules to Provide for Greater Focus on Retention and Career Development of Diverse Candidates No Significant Opposition	
84.	Make Legislative Recommendation to Expand Sections 334 and 634 (EEO)	<ul style="list-style-type: none"> • Apply to multiple platforms, clarify, and require more aggressive compliance.

The corresponding descriptions of proposals 1-39, portions of which were distributed at the meeting, can be found in the following dockets.

- MMTC Radio Rescue Petition For Rulemaking, Review of the Technical Policies and Rules Presenting Obstacles to Implementation of Section 307(b) of the Communications Act and to the Promotion of Diversity and Localism, RM-11565, MB Docket No. 09-52 (July 19, 2009), available at <http://mmtconline.org/lp-pdf/MMTC-Radio-Rescue-Petition-071909-REV.pdf> (last visited March 23, 2010).
- Comments of the Minority Media and Telecommunications Council, Amendment of the Commission’s Rules Governing Modification of FM and AM Authorizations, RM-10960 (May 24, 2004), available at <http://mmtconline.org/lp-pdf/MMTCCCommentsFirstMediaPFRM.pdf> (last visited March 23, 2010).
- Reply Comments of the Minority Media and Telecommunications Council, Competitive Bidding Procedures FM Auction 79 – September 2009, AU Docket NO. 09-21 (April 1,

- 2009), available at <http://mmtconline.org/lp-pdf/FM-Auction-Reply-Comments-040109.pdf> (last visited March 23, 2010).
- Comments of the Minority Media and Telecommunications Council, Auction of FM Broadcast Construction Permits Schedules for November 1, 2005 (Auction 62), DA 05-1076 (April 29, 2005), available at <http://mmtconline.org/lp-pdf/MMTCAuction62Comments.pdf> (last visited March 23, 2010).
 - Initial Comments of the Diversity and Competition Supporters in Response to the Third Further Notice of Proposed Rulemaking, Promoting Diversification of Ownership in the Broadcasting Services, MB Docket No. 07-294 (July 30, 2008), available at <http://mmtconline.org/lp-pdf/DCS-Comments-Third-NPRM-073008.pdf> (last visited March 23, 2010).
 - Council Tree Communications v. FCC, Emergency Motion for Stay Pending Review, Docket No. 06-2943 (June 8, 2006), available at <http://mmtconline.org/lp-pdf/AWS-Mtn-for-Stay.pdf> (last visited March 23, 2010).
 - Comments of the Minority Media and Telecommunications Council, Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures, WT Docket No. 05-211 (Feb. 24, 2006), available at <http://mmtconline.org/lp-pdf/MMTC-AWS-Comments.pdf> (last visited March 23, 2010).
 - Application for Review, Auction of FM Broadcast Construction Permits Scheduled for November 3, 2004 (PR Rpt. AUC-04-37-K (Auction No. 37), DA 04-1699 (July 12, 2004), available at <http://mmtconline.org/lp-pdf/MMTCAuction37AppRev.pdf> (last visited March 23, 2010).
 - MMTC's Legislative Recommendations to Advance Diversity in the Media and Telecommunications Industries (Jan. 21, 2009), available at http://mmtconline.org/lp-pdf/MMTC_Legis_Recommendatns_012109.pdf (last visited March 23, 2010).
 - Letter to Hon. Julius Genachowski, Chairman of the FCC, MB Docket No. 07-294 (Aug. 12, 2009) available at <http://mmtconline.org/lp-pdf/MMTC-NUD-Ltr-081209.pdf> (last visited March 23, 2010).
 - Petition for Rulemaking, Petition for Rulemaking to Expand the Commission's Broadcast Advertising Nondiscrimination Rule to Cable, Satellite and Telecommunications Services, PRM09MB (Feb. 16, 2009) available at <http://mmtconline.org/lp-pdf/Advtg-Nondiscrimination-PFRM-021509.pdf> (last visited March 23, 2010).
 - Letter to Hon. Michael Copps, Interim Chairman of the FCC (Jan. 21, 2009), available at http://mmtconline.org/lp-pdf/MMTC_Letter_on_FCC_Processes_012109.pdf (last visited March 23, 2010).
 - Emergency Petition for Section 403 Inquiry, In re Portable People Meter, MB Docket No. 08-187 (Sept. 2, 2008), available at <http://mmtconline.org/lp-pdf/403-Petition.pdf> (last visited March 23, 2010).
 - Comments of the PPM Coalition, Portable People Meter – Commission Inquiry Pursuant To Section 403 of the Communications Act (47 U.S.C. §403), MB Docket No. 08-187 (Sept. 24, 2008), available at <http://mmtconline.org/lp-pdf/PPMC-Comments-092408.pdf> (last visited March 23, 2010).
 - Comments of the Minority Media and Telecommunications Council in Response to the Third Report and Order and Fourth Notice of Proposed Rulemaking, Review of the

- Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, MM Docket No. 98-204 (May 22, 2008), available at <http://mmtconline.org/lp-pdf/MMTC-EEO-395-Comments-052208.pdf> (last visited March 23, 2010)
- Reply Comments of the Minority Media and Telecommunications Council, Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, MM Docket No. 98-204 (June 6, 2008), available at <http://mmtconline.org/lp-pdf/EEO-395-Reply-Comms-060508.pdf> (last visited March 23, 2010).
 - Comments of the National Organization for Women *et al.*, Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, MM Docket No. 98-204 (July 29, 2004), available at <http://mmtconline.org/lp-pdf/EEOConfidComments.pdf> (last visited March 23, 2010).
 - Petition for Clarification, Or, In The Alternative, For Partial Reconsideration, Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies, MM Docket No. 98-204 (Feb. 6, 2003), available at <http://mmtconline.org/lp-pdf/BroadcastEEO-PetnRecon.pdf> (last visited March 23, 2010).
 - Diversity Committee Recommendation on FM Radio Rules (Oct. 4, 2004), available at <http://www.fcc.gov/DiversityFAC/adopted-recommendations/AdoptedFMRadioRules.pdf> (last visited March 23, 2010).
 - Diversity Committee Recommendation on S-Class Television Licenses (Oct. 28, 2008), available at <http://www.fcc.gov/DiversityFAC/adopted-recommendations/s-class-licenses-102808.pdf> (last visited March 23, 2010).
 - Diversity Committee Recommendation on Spectrum and Access to Capital (June 14, 2004), available at http://www.fcc.gov/DiversityFAC/adopted-recommendations/spectrum_and_access.pdf (last visited March 23, 2010).
 - Diversity Committee Recommendation on Designated Entity Rules (April 25, 2006), available at <http://www.fcc.gov/DiversityFAC/recommendations.html> (follow link to Designated Entity Rules) (last visited March 23, 2010).
 - Diversity Committee Recommendation on Designated Entity Investment Rules (Sept. 22, 2009), available at <http://www.fcc.gov/DiversityFAC/recommendations.html> (follow link to Designated Entity Investment Rules) (last visited March 23, 2010).
 - Diversity Committee Recommendation on Diversity Guides (June 10, 2008), available at <http://www.fcc.gov/DiversityFAC/adopted-recommendations/guidebooks-061008.pdf> (last visited March 23, 2010).
 - Diversity Committee Recommendation on Resource Directory (Dec. 10, 2004), available at <http://www.fcc.gov/DiversityFAC/recommendations.html> (follow link to Resource Directory) (last visited March 23, 2010).
 - Diversity Committee Recommendation on Funding Acquisitions (Dec. 3, 2009), available at <http://www.fcc.gov/DiversityFAC/recommendations.html> (follow link to Funding Acquisitions) (last visited March 23, 2010).
 - Diversity Committee Recommendation on Personal People Meter (Dec. 3, 2009), available at <http://www.fcc.gov/DiversityFAC/recommendations.html> (follow link to Personal People Meter Taskforce) (last visited March 23, 2010).
 - Diversity Committee Recommendation Requesting an Investigation of the Arbitron Portable People Meter (July 28, 2008), available at

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<http://www.fcc.gov/DiversityFAC/adopted-recommendations/PortablePeopleMeter072808.pdf> (last visited March 23, 2010).

- Diversity Committee Recommendation on Equal Employment Opportunity Forum & Revisions (Dec. 3, 2009), available at <http://www.fcc.gov/DiversityFAC/recommendations.html> (follow link to Equal Employment Opportunity Forum & Revisions) (last visited March 23, 2010).
- Diversity Committee Recommendation for a Regulatory Initiative for Career Advancement (Dec. 10, 2004), available at <http://www.fcc.gov/DiversityFAC/recommendations.html> (follow link to EEO Rule) (last visited March 23, 2010).

Respectfully submitted,



David Honig
President and Executive Director

Attachment