

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
**WASHINGTON, DC 20554**

In the Matter of	)	
	)	
Amendment of the Commission’s <i>Ex Parte</i>	)	GC Docket No. 10-43
Rules and Other Procedural Rules	)	
	)	

**COMMENTS OF MEDIA ACCESS PROJECT**

Media Access Project (MAP) respectfully submits these brief comments in response to the Commission’s *Notice of Proposed Rulemaking* (“*NPRM*”) proposing certain changes in the Commission’s *ex parte* rules. The substantial number of proceedings currently under way at the Commission preclude the submission of more detailed comments at this time. MAP hopes to participate more actively in subsequent phases of this proceeding.

The highly commendable decision to revise the *ex parte* rules demonstrates that the Commission is committed to transparency. Vigorous enforcement of *ex parte* rules benefits everyone, but it is especially important for members of the public and those who represent them, as the *ex parte* rules help “level the playing field.” Large, deep pocketed companies and trade associations have far more resources to influence Commission decisions, and the *ex parte* rules enable public interest organizations to deploy their limited assets in the most effective manner.

MAP generally supports the Commission’s proposed changes. The current rules have several gaping loopholes and are not easily enforceable. There is an extremely disquieting disrespect for the rules in some quarters, and, sadly, widespread non-compliance. Notwithstanding the plain language of the existing rules, many people appear to believe that discussions in social settings and telephone conversations need not be disclosed; the Commission must forcefully declare that all communications

must be disclosed.

By far the most serious threat to the transparency of the Commission's processes is the fact that Commission has condoned the filing of plainly inadequate notices of oral *ex parte* communications. MAP is not prepared at this time to join those who call for the elimination of all or most oral *ex parte* presentations, but it does urge the Commission to give serious consideration to the proposal.

Changing technology offers an opportunity for the Commission to take a dramatic step towards increasing the transparency of the *ex parte* process. It is now feasible to require that audio recordings be made of oral *ex parte* presentations.<sup>1</sup> MP3 files of such meetings could easily be posted online and associated with the written notice memorializing these communications. Those finding that a meeting described in the notice is of interest could then listen to the audio of the meeting. MAP urges the Commission to consider this approach.

One significant omission in the Commission's discussion of oral *ex parte* notices is the role of the Commission staff. Section 1.1206(b)(2) contemplates that Commissioners or staff who receive an oral *ex parte* presentation will receive a copy of the notice filed subsequent to that presentation. (The rule currently excepts notices which are filed electronically; this should be revised to require that all such notices be supplied to the Commissioner or staff.) Notwithstanding this fact, the Commission places no obligation on Commissioners or staff to "flag" notices which are plainly deficient. These are people who are best qualified to know if the notice is complete. The Commission should require that Commissioners and staff notify filers when a notice is deemed to be plainly incomplete or deficient, and to report instances of non-cooperation to the General Counsel.

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<sup>1</sup>Off the shelf digital voice recorders fully capable of recording such meetings cost well under \$50.

Another area that requires particular attention is the treatment of oral *ex parte* communications which take place during the Sunshine period. While such communications should be rare, they have become increasingly common. MAP supports the proposal that such notices shall be filed within four hours. MAP also supports the proposal that such communications should be permitted only when genuinely by staff or a Commissioner. The Commission should not permit outside parties to ask for or invite such solicitations.

### **CONCLUSION**

As noted above, MAP looks forward to participating more actively in this proceeding in the coming weeks.

Respectfully submitted,

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