

Minority Media and Telecommunications Council

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May 12, 2010

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

RE: GN Docket 09-191 (Preserving the Open Internet)

Dear Ms. Dortch:

This letter reports on meetings held Tuesday, March 11, 2010 with Edward P. Lazarus, Chief of Staff to Chairman Genachowski, Enforcement Bureau Chief Michele Ellison and OCBO Director Thomas Reed. I was accompanied by our Cathy Hughes Fellow, Joycelyn James.

We discussed the Commission's recent release of the "Third Way" framework under which the transmission component of broadband Internet would be reclassified under Title II of the Communications Act. While the Commission makes a brave attempt to address concerns raised by the D.C. Circuit in Comcast v. FCC,¹ we reiterated our dissatisfaction that this initial presentation of the Third Way does not mention or refer to minorities, women, MBEs, WBEs, SDBs, new entrants or disadvantaged businesses. Nor does the Third Way appear to protect the ability of these entities to enter into agreements with Internet service providers (ISPs) that allow for price flexibility and new entrant incubation - issues raised by the National Organizations in the Open Internet docket. Elimination of the ability to make these agreements would have a negative effect on the Commission's efforts to promote adoption through the National Broadband Plan.

We also expressed our concerns regarding the Third Way's proposed forbearance of obligations under 47 U.S.C. §257 to report on market entry barriers. This is particularly troublesome at a time when the Commission's Advisory Committee on Diversity for Communications in the Digital Age ("Diversity Committee") has set before the agency numerous recommendations to act upon numerous MMTC and Diversity Committee proposals to increase participation by minorities and women in FCC-regulated fields. Further, we expressed our concern that the Commission's Section 257 Triennial Report, due to Congress in December 2009, has still not been released.

We provided a May 7, 2010 ex parte letter addressing similar concerns (attached).

Respectfully submitted,

David Honig

David Honig
President and Executive Director
Counsel for the National Organizations

¹ Comcast Corp. v. FCC, ___ F.3d ___, No. 08-1291, slip op. (D.C. Cir., April 6, 2010).