



MMTC 2010 LEGISLATIVE PRIORITIES

June 7, 2010

MMTC's number one legislative priority is reinstatement of the Tax Certificate Policy for socially and economically disadvantaged businesses (SDBs), and extension of the Policy (which originally covered only broadcasting and cable) to telecommunications. Legislation reinstating the Policy should include a tax credit for donations of radio stations to HBCUs, HSIs, NASIs and AASIs and minority/women nonprofit training institutions.

Comprehensive telecommunications legislation, such as a bill to substantially amend the Communications Act, should also contain these three provisions, which MMTC regards as having equal priority to one another:

1. Wireless Auctions - Section 309(j) – Direct the FCC to eliminate the ten-year holding rule and the excessive limitations on DE leases of capacity to incumbent carriers.
2. Broadcast foreign ownership – Section 310(b)(4) – Relax these ownership limits so that a foreign owner (subject to reciprocity from its nation) could own up to 49% of the voting power of a U.S. broadcaster and up to 80% of the equity.
3. AM Migration - Direct the FCC to approve a plan to transition all or most AM radio to analog TV channels 5 and 6 by 2012, and to complete the transition by 2014.

A narrow bill primarily focused on the classification of information services should include this provision:

- Market Entry Barriers - Section 257 – Direct the FCC to provide annual (rather than triennial) reports to Congress on the Commission's efforts to identify and lift market entry barriers. The reports must include longitudinal statistical and descriptive data – an annual diversity census - to track minority, women and small business inclusion in media, telecom and broadband as owners, employees and informed consumers. Data supplied to the Commission must be transparent; no "trade secrets" exemption for civil rights data (must apply to DOL as well for EEO-1 data). Finally, Congress should extend civil rights data collection authority to broadband entities irrespective of whether they are regulated as information services, as common carriers, or in some other way.

The Appendix contains all of the legislative proposals developed by the MMTC Policy Committee and its Section 257 Task Force, excluding USF reform.

APPENDIX

LEGISLATIVE PROPOSALS TO PROMOTE DIVERSITY AND CLOSE THE DIGITAL DIVIDE

MMTC Policy Committee and its Section 257 Task Force

June 7, 2010

[Scope Note: this compilation does not include USF reform.]

- I. Revisions to Current Sections
 - A. Section 151 (race/gender nondiscrimination):
 1. FCC should strive for the full inclusion of minorities and women in all industries it regulates or oversees, through any legal means.
 2. All FCC civil rights regulations – EEO nondiscrimination and outreach transactional nondiscrimination, procurement outreach, and advertising nondiscrimination – must apply to all FCC-regulated industries including broadband (if jurisdictional issues arise, the FCC should advance its goals by coordinating via MOUs with the EEOC, DOL, DOC, FTC and other agencies with subject matter jurisdiction).
 - B. Section 160 (forbearance): FCC should be precluded from applying forbearance in a manner that diminishes New Entrant/DBE/MBE/WBE opportunity.
 - C. Section 161 (quadrennial media ownership review): all regulations (not just media ownership regulations) should be periodically reviewed for their impact on market entry barriers, as well as for the current purpose of Section 161 (repealing or modifying ownership rules that are no longer necessary in the public interest).
 - D. Sections 201 and 202 (or analogous provisions): very relaxed oversight of network management for carriers that report annually on their efforts to use price discounts and incubation to foster new entry – particularly for DBEs, MBEs and WBEs (analogous to the Community Reinvestment Act (CRA) – starting point is very light touch, but banks can opt out and accept intrusive regulation if they prefer not to submit CRA reports).
 - E. Section 257 (market entry barriers)
 1. Reports to Congress must be annual rather than triennial
 2. Reports must include longitudinal statistical and descriptive data – an annual diversity census - to track minority, women and small business inclusion in media, telecom and broadband as owners, employees and informed consumers. Data supplied to the Commission must be transparent; no “trade secrets” exemption for civil rights data (must apply to DOL as well for EEO-1 data). Should extend civil rights data collection authority to broadband entities irrespective of whether they are regulated as information services, as common carriers, or in some other way.
 - F. Section 307(b) (localism) – should be repealed or modified to avoid the current adverse impact of ill-defined localism rules on minority broadcasters.
 - G. Sections 309(d) and 309(e) (designations for hearing; denials of broadcast license renewals) – relax standing requirements; require issuance of hearing designation order where there is evidence of substantial EEO or other civil rights violations, including recidivism; but streamline hearings to facilitate small business and public participation.

- H. Section 309(j) (auctions) – direct the FCC to eliminate the ten-year holding rule and the excessive limitations on DE leases of capacity to incumbent carriers.
- I. Section 310(b)(4) (broadcast foreign ownership) – should be relaxed so that a foreign owner (subject to reciprocity from its nation) could own up to 49% of the voting power of a U.S. broadcaster and up to 80% of the equity.
- J. Sections 334 and 554 (EEO) – expand FCC obligations to include all FCC-regulated industries; intensify and refocus the EEO audit process; provide that the FCC must investigate serious EEO noncompliance allegations (codifying the holding in Bilingual Bicultural Coalition on the Mass Media v. FCC, 595 F.2d 621 (D.C. Cir. 1978)).
- K. Telecommunications Development Fund (TDF): Restoration and Refocusing
 - 1. Focus on access to capital for historically disadvantaged populations (DBEs, MBEs, WBEs); provide greater service to minorities and women through race-neutral full file review of applicants.
 - 2. Diversify products: offer a balanced portfolio of loans, purchases of loans, loan guarantees, grants, equity investments and educational services.
 - 3. Diversify deal sizes: provide microloans, and participate in larger deals by providing mezzanine financing.
 - 4. Diversify the scope of the industries in which the TDF participates; invest in many sub-fields of telecommunications.
 - 5. Expand the size of the Fund by providing for it to draw on auction revenues, rather than just drawing on the interest on auction deposits, as is the case presently.

II. New Provisions

- A. Reinstate, and extend to telecommunications, the Tax Certificate Policy for socially and economically disadvantaged businesses (SDBs), extend it to telecommunications, and include a tax credit for donations of radio stations to HBCUs, HSIs, NASIs, AASIs and minority/women nonprofit training institutions.
- B. Direct the FCC to approve a plan to transition all or most AM radio to analog TV channels 5 and 6 by 2012, and to complete the transition by 2014.
- C. Require the FCC to ensure that in the event of a public safety or health emergency, broadcast stations in a given market, in addition to their EAS carriage requirements, must collaborate to ensure that warnings and pre-emergency and post-emergency health and safety information will be available in all languages that are widely spoken in the market.
- D. Amend the Federal Trade Commission Act to afford the FTC authority over racial discrimination in advertising placement (“no urban dictates” and “no Spanish dictates”), paralleling the FCC’s advertising nondiscrimination rule; require the FCC and the FTC to cooperate to eliminate racial discrimination in advertising placement in the broadcasting, cable, and information services.