Minority Media & Telecom Council

3636 16th Street N.W. Suite B-366
Washington, D.C. 20010
Phone: 202-332-0500 Fax: 202-332-0503
www.mmtconline.org

August 2, 2010

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

Re: ***Notice of Ex Parte Presentation:*** **GN Docket No. 09-191 (Preserving the Open Internet); WC Docket No. 07-52 (Broadband Industry Practices) (filed July 28, 2010)**

I write today to add a point of clarification to the letter of July 28, 2010, filed by MMTC on behalf of the National Organizations.* That letter urged, contrary to the advocacy of other parties, that the Commission should not ban voluntary agreements between broadband providers and businesses for enhanced quality of service ("QoS") capabilities. Businesses, including minority and women business enterprises ("MWBEs") and socially and economically disadvantaged businesses ("SDBs") have obtained service under such agreements for a number of years. As stated in the July 28th letter, these capabilities allow these businesses to ensure that the performance-sensitive applications that they wish to run receive the service quality needed to function properly. These capabilities may also allow them to offer higher quality, more compelling applications and content to users. These agreements have proven especially vital in enabling new entrants to compete effectively with large incumbents.

According to press reports, parties advocating for a ban on such agreements appear to have characterized the capabilities referred to in the July 28th letter as "CDNs" or "geographic prioritization." I want to make clear that the capabilities to which that letter referred include router-based prioritization of packets based on the standard developed under the Internet Engineering Task Force for Differentiated Services. RFC 2474 (Dec. 1998), Definition of the Differentiated Services Field (DS Field) in the IPv4 and IPv6 Headers, http://www.ietf.org/rfc/rfc2474.txt?number=2474.

In order to compete effectively with large, incumbent Internet-based companies, MWBEs and SDBs should have the option of entering into voluntary agreements for any QoS capabilities that are available. These should not be artificially limited to CDNs or "geographic prioritization," but should also continue to include router-based prioritization capabilities. Services that include use of capabilities like the IETF Standard for Differentiated Services may prove particularly effective in competing against incumbents because they do not necessitate investment in geographically distributed servers, which may be beyond the scale of a small entrant.

The digital divide is so deep that the Commission should embrace every available tool to close it.

Respectfully submitted,

David Honig
President and Executive Director
Minority Media and Telecommunications Council
Counsel for the National Organizations

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* The Hispanic Institute has taken no position on today's letter.