



Public Knowledge

May 11, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: Developing a Unified Intercarrier Compensation Regime, CC 01-92; Federal-State Joint Board for Universal Service, CC 96-45; High-Cost Universal Service Support, WC 05-337; Connect America Fund, WC 10-90; A National Broadband Plan for Our Future, GN 09-51; Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations, WT 11-65; Economic Impact of Low-Power FM Stations on Full-Service Commercial Fm Stations, MB 11-83.

Dear Ms. Dortch:

On May 11, various groups that are part of the Media and Democracy Coalition, a coalition of over two dozen local and national organizations committed to amplifying the public's voice in shaping media and telecommunications policy, met with FCC personnel. This notice of *ex parte* discloses the substance of two of those meetings.

The first meeting was between Joshua Cinelli, Media Advisor to Commissioner Copps, and John Bergmayer (Public Knowledge), Gavin Dahl (Common Frequency), Katie Ingersoll (Prometheus Radio Project), Edyael Casaperalta (Center for Rural Strategies), Amalia Deloney (Center for Media Justice), Maxie Jackson (National Federation of Community Broadcasters), Brandy Doyle (Prometheus Radio Project), and Cheryl Leanza (United Church of Christ).

The second was between Jenniffer Tatel, Legal Advisor; Charles Mathias, Senior Legal Advisor; and Brad Gillen, Legal Advisor from Commissioner Baker's office, and John Bergmayer (Public Knowledge), Cheryl Leanza (United Church of Christ), Katie Ingersoll (Prometheus Radio Project), Dee Davis (Center for Rural Strategies), Gavin Dahl (Common Frequency), DeAnne Cuellar (Media Justice League).

At the meetings, MADCo advocates presented their views on the Universal Service Fund (USF), Low Power FM (LPFM) radio service, and the proposed merger between AT&T and T-Mobile.¹

USF

Advocates summarized the recent comments on the Universal Service Fund's Lifeline and Linkup programs filed by various MADCo member groups. They stressed that the program should not be limited by outdated assumptions and arbitrary caps. They argued that the FCC should expand eligibility to ensure that all those who find that basic telecommunications services are not affordable qualify for the benefit, and to address the under-utilization of the program by qualified individuals. Advocates further observed that "one-per-address" limitations on the

¹ The United Church of Christ did not express views on the proposed merger at these meetings.

program (in addition to being inconsistent with the statute²) were designed for a wireline era when one phone line per household was the norm. By contrast, today, mobile telephones tend to be one per person. Both artificial “per address” limitations and unrealistic eligibility criteria keep the programs from fulfilling their potential.

Improving broadband adoption through digital literacy and other programs is a part of many universal service proposals. Advocates observed that the government has already embarked on a large-scale program to educate people about a technology change: the DTV transition. Some MADCo groups were involved in helping communities with that transition, and understand that a lot of hands-on work will be required. Nevertheless, they expressed their willingness to help with this work.

Advocates also discussed high-cost reform. Broadband is vital to the long-term economic health of rural communities—while the presence of affordable and available broadband does not ensure the success of any particular community, its *absence* can cause severe problems. To help ensure that broadband is available to all Americans, advocates argued that the definition for Eligible Telecommunications Carriers (ETCs) should be broadened so that municipalities, nonprofits, and community-based organizations could receive funding to provide service. They also reminded the Commission that, especially in some rural, tribal, and remote areas, USF-supported voice service should remain a priority. The expansion of the program to include broadband, while sorely needed, should not imperil voice service for these vulnerable communities.

The groups also discussed the need to engage low-income and rural communities at the FCC’s field meetings.

Proposed AT&T / T-Mobile Merger

Advocates stated their belief that neither the DoJ nor the FCC should not allow the merger to go through, and that no divestitures or conditions would be enough to ensure that the merger served the public interest. The immediate result of the merger would be a loss of jobs, higher prices for millions of Americans, fewer price plan and handset choices, and squelched innovation. They argued that the Commission should not allow the wireless market to become an effective duopoly where neither competition nor regulation protected consumers. Although AT&T has described ways in which the merger would help it improve its service, advocates noted that AT&T could achieve those ends in other ways that did not involve eliminating one of the remaining national wireless carriers. Further, to the extent that the US relies on inter-carrier competition rather than direct regulation to protect consumers, advocates predicted that an inevitable result of further consolidation in the wireless industry would be increased calls for regulation.

Advocates then described the overwhelming grassroots opposition to the proposed merger. They noted that T-Mobile is often the affordable option for some communities, and that AT&T does not have a strong history of offering affordable and accessible devices and plans. It was pointed out that many people use wireless phones as their sole means of communication, including for access to the Internet, and that the loss of a low-cost alternative would hit them particularly hard. Additionally, the advocates described how rural America would be left behind

² See <http://www.civilrights.org/advocacy/letters/2011/universal-service-lifeline-4-21-11.pdf> at 8.

after such a merger. While AT&T has enough spectrum to blanket rural America with coverage, they observed that its support for rural communities has been lacking. They concluded that the merger does not appear to be motivated by a desire to better serve underserved communities and does not serve the public interest.

LPFM

Many of the groups present at these meetings have been involved with LPFM for many years, and they offered their insight on both technical matters and the importance of LPFM in providing diverse, local content to groups that are overlooked and underserved by other media outlets.

Advocates said they look forward to the release of the FCC's NPRM implementing the Local Community Radio Act,³ but described how an improper resolution of the translator question could undermine the Act's goals. LPFM advocates believe that translators and LPFM can coexist, but that the Commission should bear in mind differences between urban and rural markets. In particular, they argued that the Commission should not adopt a policy, such as the "ten cap" rule, that would allow translators to claim most available urban spectrum, leaving little to none for LPFM.⁴

Advocates also encouraged the FCC to speedily resolve translator applications for areas with fewer spectrum constraints. They also pointed out that the urban communities that would be hurt by an ill-crafted resolution of the translator/LPFM issue are those that could benefit most from LPFM. LPFM has the potential to provide communities with the kinds of programming that are not provided by other outlets. For example, LPFM is an ideal medium for local affairs programming (including emergency and public safety information) as well as minority-interest, minority-owned, and religious programming.

Advocates noted an increase in interest in LPFM since the passage of the Act, and expressed hope that the FCC will be prepared to serve LPFM applicants with less experience in communications law and FCC procedures than larger, commercial applicants generally have.

On a related matter, Common Frequency expressed its view that broadcasters' public file requirement, while it could be reformed to be more streamlined, served the public interest.

Respectfully submitted,

/s John Bergmayer
Staff Attorney
Public Knowledge

³ Local Community Radio Act of 2010, Pub. L. No. 111-371, 124 Stat. 4072 (2011).

⁴ A summary of the Common Frequency data that shows the danger of the ten-cap proposal is available at <http://www.prometheusradio.org/sites/default/files/tencapinformation.pdf>.