

February 13, 2012

***VIA ELECTRONIC FILING***Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., TW-A325  
Washington, D.C. 20554**Re: Summary of the Ex Parte Telephone Conversation with Erin A. McGrath,  
Acting Legal Advisor, Media, for Commissioner Robert McDowell  
MM Docket Nos. 99-25 and 07-172**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission Rules, this notice of an ex parte conversation in the above-referenced matter is being provided. On February 9, 2012, the undersigned counsel for Educational Media Foundation (“EMF”) had a telephone conversation with Erin A. McGrath, Acting Legal Advisor, Media, for Commissioner Robert McDowell to discuss matters concerning the above referenced dockets. The conversation was a follow-up to a meeting between Ms. McGrath and representatives of EMF on January 26, 2012. The undersigned specifically reiterated EMF’s opposition to any sort of national cap on the number of translators from the 2003 translator window that can be processed after the Commission’s resolution of the priorities between LPFM stations and translators in this docket. Specifically, the undersigned reiterated that.

- EMF has always opposed a nationwide cap on the number of applications that one party can prosecute, and continues to oppose the adoption of any cap pursuant to the *Further Notice*. When EMF and Prometheus offered a settlement proposal to the Commission in 2010, one of the most important points to EMF in that settlement was the lack of a national cap.
- There is not a spectrum shortage for translators in rural areas, and there is also likely to be less demand for LPFM applications outside of the metropolitan areas, another area of agreement between EMF and Prometheus in their settlement agreement from 2010. *See*, revised settlement agreement between EMF and Prometheus Radio Project, filed in this Docket on September 22, 2010, at Item I(1) of the Memorandum of Agreement. Thus, any forced dismissal of translator applications outside of the major markets does not significantly advance LPFM

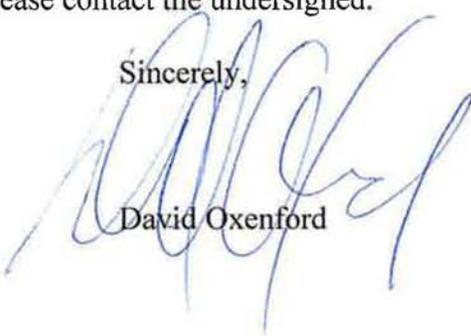
opportunities, but instead just denies service to listeners who desire the service that EMF provides.

- If there are concerns about unjust enrichment that prompted the calls for an application cap, these calls can be answered through direct restrictions on such enrichment – e.g. prohibitions on the sale of applications granted as a result of the FCC’s actions, either through outright bans on such sales, the imposition of holding periods on stations received as a result of the window, or limitations on compensation that can be received (e.g. limits on sales to the out-of-pocket expenses of the applicant). EMF does not oppose any such restrictions, as it filed its applications for purposes of building stations and expanding its service to the public.

In addition, counsel submitted that the Third Further Notice of Proposed Rulemaking in this matter, at Paragraphs 32 and 34, put commenting parties on notice that the FCC was looking for solutions to concerns about unjust enrichment and trafficking in permits. In fact, EMF specifically advanced such proposals in its Comments to this Third Further Notice. Thus, caps which indirectly try to accomplish the FCC’s goals should not be used, as they will harm service to rural areas. Instead, the tools described above are more appropriate to combat abuses, and can be implemented without further notice and comment.

A copy of this notice is being submitted in the relevant docket. Should there be any questions concerning this matter, please contact the undersigned.

Sincerely,



David Oxenford

cc: Erin A. McGrath, Esq.