

# Minority Media and Telecommunications Council

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March 14, 2012

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

RE: Notice of *Ex Parte* Communication, MB Docket No. 09-182 (2010 Quadrennial Review), MB Docket No. 07-294 (Diversity Proceeding), EB Docket No. 04-296 (Emergency Alert System), ET Docket No. 10-235 (In the Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF), WT Docket No. 11-186 (Sixteenth Annual Report on the State of Competition in Mobile Wireless, including Commercial Mobile Radio Services), BO Docket No. 12-30 (A Request for Quotation for Study Examining the Critical Information Needs of the American Public)

Dear Ms. Dortch:

This reports on meetings held March 13, 2012 with Erin A. McGrath, Acting Legal Advisor, Media to Commissioner Robert M. McDowell, and Zachary Katz, Chief of Staff of Chairman Julius Genachowski, and a meeting March 14 with Commissioner Mignon Clyburn and her Chief of Staff, David Grimaldi. Representing MMTTC at the meetings were Julia Johnson, Chair; Maurita Coley, Vice President and Chief Operating Officer; Kenneth Mallory, Staff Counsel (for the March 13 meetings), Latoya Livingston, Fellow (for the March 14 meeting) and myself.

Attached are the agendas to these meetings and two pleadings distributed at the meetings.

During the meeting the following items were discussed:

- **Spectrum Incentive Auctions.**

I noted MMTTC's position that preventing spectrum exhaust has profound implications for minorities who over-index on wireless phone usage and increasingly depend on mobile service to access broadband Internet. Further, in evaluating the issue of eligibility for auctions, the Commission should intervene if it becomes apparent that a duopoly will be created, but otherwise should allow all companies to participate so that the customers of all companies – who have considerable sunk costs invested in their choice of a wireless carrier – will not be penalized because, years ago, they chose and remained loyal to a

carrier that, later, reaches spectrum exhaust. We believe that set-asides for Designated Entities are not precluded by the Payroll Tax Extension legislation and that given the inadequacy of bidding credits to remedy the underrepresentation of designated entities in auction winners, the Commission should consider including a provision for DE set-asides entities in the upcoming spectrum auction. I also urged the Commission to expedite the rulemaking regarding the auctions and, hopefully, complete it by the end of this year.

- **Spectrum-Related Transactions.**

Economists agree that by 2014, there will be spectrum exhaust in large minority-majority cities, which will result in price increases and bad cell service. If there are no negative consequences for consumers if large companies want to buy unused or underutilized spectrum, then the Commission should not stand in the way of those transactions. The Commission should also ensure that the spectrum auctions and spectrum-related transactions provide opportunities for minorities on the front and back end.

- **Multilingual Emergency Broadcasting Petition.**

This petition for emergency relief was filed in September 2005. It recommended that the Commission should promptly act to ensure that emergency broadcasting incorporates multilingual service. The Commission, not state entities, must ensure that multilingual emergency alerts are broadcast.

- **Media Ownership Quadrennial.**

I noted that MMTC's recent filing in response to the notice of proposed rulemaking in the media ownership quadrennial proceedings received the endorsement of 50 organizations (including virtually all of the nation's civil rights organizations) – the most national organizations on a rulemaking comment in FCC history. I highlighted the most salient features of the Comments including (1) 47 minority ownership proposals (with a supplement to be filed promptly), so that the Commission will have the opportunity to pick and choose the ones it likes; (2) the media incubator proposal, unopposed since its origin in the Commission's Minority Ownership Advisory Committee in 1990, which envisions waivers of the local radio rule to entities that pledge to incubate small and disadvantaged business and thus create a new voice in the market or a larger market; (3) non-opposition to relaxation of the newspaper-broadcast cross-ownership rule if such relaxation would not diminish minority ownership. Cross-ownership could also help relieve the endangered state of print journalism. The commenters believe that the Commission should not further relax the duopoly rule because of its negative impact on minorities in broadcasting.

- **Public Notice Regarding Media Ownership Studies.**

I noted that MMTC plans to file a request that the Commission produce an erratum to amend the recent public notice issued by the Office of Communications Business

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Opportunities and the Media Bureau, as the notice does not provide any substantive mention of the need for studies that address (1) constitutional requirements laid by *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235 (1995) to collect data to support potential race-conscious policies (2) the state of minority and women's participation in the telecommunications industry (3) the need for remedial efforts that will cure the present effects of past discrimination in the telecommunications industry. Thus we are unclear whether the notice intended to incorporate these points or whether the Commission intends to address them at a later time should funding be available.

Respectfully submitted,

*David Honig*

David Honig  
President

Attachments