

Minority Media and Telecommunications Council

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January 4, 2013

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) and MB Docket No. 07-294 (Diversity Proceeding).

Dear Ms. Dortch:

This letter reports on a meeting held Thursday, January 3, 2013 with Thomas Reed, OCBO Director, Carolyn Fleming Williams, Senior Deputy Director, and Daniel Margolis, Attorney Advisor. Participating from MMTC were Maurita Coley, Vice-President and Chief Operating Officer, Joycelyn James, Senior Attorney, and myself.

The topic of discussion was minority ownership, specifically the Diversity and Competition Supporters' ("DCS") proposals currently in the docket,¹ the FCC's long-term plan to collect data and what actions the Commission can take in the interim to stop the decline of minority ownership. Prior to the meeting, we submitted the attached chart of the DCS' 47 proposals.

MMTC urged the Commission to examine incentive based regulations or pilot programs, such as the minority ownership incubation proposal, DCS proposal #1, as a way to boost diverse ownership. Further, while the Commission gathers funds to complete the Adarand or participation studies, it should begin gathering longitudinal data and examining the impact of major actions or transactions, as discussed in DCS proposals #5 and #27. Other available opportunities to increase diverse ownership now include issuing clarifications on certain rules, as discussed in DCS proposal #17, and modifying the Commission's engineering rules to help alleviate barriers to entry.²

¹ See Supplemental Comments of the Diversity and Competition Supporters in Response to The Notice of Proposed Rulemaking, 2010 Quadrennial Regulatory Review - Review Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 09-182 *et. al.* (Apr. 3, 2012).

² See *e.g. id.* See also MMTC Radio Rescue Petition, Review of the Technical Policies and Rules Presenting Obstacles to Implementation of Section 307(b) of the Communications Act and to the Promotion of Diversity and Localism, RM-11565 (July 19, 2009).

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Proposals that rely on the vacated eligible entity definition should not be abandoned; instead the Commission should consider race-neutral measures, such as the Diversity Committee's Overcoming Disadvantages Preference, that could apply to these proposals while the Commission works to create a valid eligible entities definition.³

Respectfully submitted,

Jacqueline Clary

Jacqueline Clary
Senior Attorney, John W. Jones Fellow

Attachment

³ See Initial Comments of the Diversity and Competition Supporters in Response to the Notice of Proposed Rulemaking, 2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 09-182 (Mar. 5, 2012), p. 21.

December 31, 2012

47 Proposals Included in DCS' Initial Comments (filed March 5, 2012)			
DCS Proposal #	Proposal Description	Previous Proposal #	Candidate for ODP
1	Minority ownership incubation proposal	20	X
2	Relax broadcast foreign ownership restrictions	23	
3	Reinstate and Expand the Tax Certificate	72	
4	Migrate Most AM Service to VHF Channels 5/6	47	
5	Examination of how to promote minority ownership as an integral part of all FCC general media rulemaking proceedings; examine major rulemaking and merger applications to discern the potential impact of the proposed rules or transactions on minority and female ownership; consider ownership impact and viewpoint diversity as part of the qualifications of an applicant, without comparing applicant to other potential applicants, for assignment and transfer applications	1	
6	Designate a Commissioner to oversee access to capital and funding acquisition recommendations	8	
7	Create a media and telecom public engineer position to assist small business and nonprofits with routine engineering matters	34	
8	Issue a one-year waiver, on a case-by-case basis, of application fees for small businesses and nonprofits	35	
9	Grant eligible entities a rebuttable presumption of eligibility for waivers, reductions, or deferrals of Commission fees	5	X
10	Extend the cable procurement rule to broadcasting	61	
11	Extend grandfathering for one year if the cluster or noncompliant station(s) are sold to a small business	19	X
12	Bifurcation of channels for share-times with SDBs	21	X
13	Structural rule waivers for financing construction of an SDB's unbuilt station	13	X
14	Use of the share-time rule to allow broadcasters to share frequencies to foster ownership of DTV and FM subchannels	24	X
15	Retention on air of AM expanded band owners' stations if one of the stations is sold to an SDB	25	X
16	Relax the main studio rule	30	

17	Clarify that eligible entities can obtain 18 months to construct major modifications of authorized facilities	31	X
18	Extend the three-year period for new station construction permits for eligible entities and SDBs	32	X
19	Create medium powered FM stations	36	
20	Authorize interference agreements	38	
21	Harmonize regional interference protection standards; allow FM applicants to specify Class C, CO, C1, C2 and C3 facilities in Zone I and IA	39	
22	Relax the limit of four contingent applications	41	
23	Request the removal of AM nighttime coverage rules from Section 73.21(i)	48	
24	Relax principal community coverage rules for commercial stations	49	
25	Replace minimum efficiency standard for AM stations with a "minimum radiation" standard	50	
26	Create a new local "L" Class of LPFM stations	52	
27	Collect, study and report on minority and women participation in each step of the broadcast auction process	69	
28	Redefine Community of License as a "market" for Section 307 purposes	71	
29	Increase new entrant discounts in broadcast auctions from 35% to 60% and increase discounts for small broadcast owners with less than three stations from 25% to 40%	43	
30	Require minimum opening bid deposits on each allotment for bidders bidding for an excessive proportion of available allotment	44	
31	Only allow subsequent bids to be made within no more than six rounds following the initial bid	45	
32	Require bidders to specify intention to bid only on channels with total minimum bid of four times their deposit, and designate a second place bidder if winning bidder withdraws	46	
33	Mathematical touchstones: tipping points for the non-viability of independently owned radio stations in a consolidating market and quantifying source diversity	26	
34	Must-carry for certain Class A television stations	28	
35	Conduct tutorials on radio engineering rules at headquarters and annual conferences	33	

36	Develop an online resource directory to enhance recruitment, career advancement, and diversity efforts	60	
37	Engage economists to develop a model for market-based tradable diversity credits as an alternative to voice tests	27	
38	Remove non-viable FM allotments	40	
39	Study the feasibility of a new radio agreement with Cuba	42	
40	Create a new Civil Rights Branch of the Enforcement Bureau with staff and compliance officers for EEO, transactional, advertising and procurement nondiscrimination for all platforms	62	
41	Legislative recommendation to expand the Telecommunications Development Fund (TDF) under Section 614 and finance TDF with auction proceeds	13	
42	Legislative recommendation to amend Section 257 to require the Commission to annually review and remove or affirmatively prohibit known market entry barriers including bundling, bonding, excessive minimum-years-in-business requirements, preferences for loans over grants, and previous large project experience; authorize an annual media and telecom diversity and digital divide census, and expand the scope of Section 257 to afford the Commission ancillary jurisdiction over civil rights enforcement for Title I and Title II services	14	
43	Legislative recommendation to clarify Section 307(b) to provide that rules adopted to promote localism are presumed to be invalid if they significantly inhibit diversity	15	
44	Legislative recommendation to amend the FTC Act (15 U.S.C. §§ 41-58) to prohibit racial discrimination in advertising placement terms and advertising sales agreements	16	
45	Legislative recommendation to amend Section 614 to increase access to capital by creating a small and minority communications loan guarantee program	17	X
46	Legislative recommendation to amend Section 614 to create an entity to purchase loans made to minority and small businesses in the secondary market	18	X

47	Provide a tax credit for companies that donate broadcast stations to an institution whose mission is or includes training minorities and women in broadcasting	un-numbered	
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