



**Minority Media &  
Telecom Council**

3636 16<sup>th</sup> Street N.W. Suite B-366  
Washington, D.C. 20010  
Phone: 202-332-0500 Fax: 202-332-7511  
<http://www.mmtconline.org>

---

May 8, 2014

Hon. Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th Street S.W.  
Washington, D.C. 20554

RE: Notice of *Ex Parte* Communication, WT Docket No. 05-211 (Modernization of Competitive Bidding Rules); WT Docket No. 13-135 (Wireless Competition); GN Docket No. 13-185 (Amending Commercial Operation Rules in 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands); GN Docket No. 12-268 (Incentive Auction); GN Docket No. 09-51 (National Broadband Plan); GN Docket No. 09-191 (Preserving the Open Internet); WC Docket No. 07-52 (Broadband Industry Practices)

Dear Chairman Wheeler:

The Minority Media and Telecommunications Council (MMTC) respectfully reiterates its request for the Commission to facilitate small, minority-owned, women-owned, and rural telephone companies (collectively, Designated Entities or DE) participation in the wireless industry.

MMTC has explained how poor policy decisions, including the 2006 DE rule changes, which (1) increased the bidding credit repayment schedule and required a 10-year hold period, (2) implemented a 50% impermissible material relationship rule, and (3) created a 25% attributable material relationship (AMR) rule – inhibited DE participation in spectrum auctions.<sup>1</sup>

Specifically, MMTC advocates for the elimination of the AMR rule, increasing bidding credits to

---

<sup>1</sup> See e.g. *Council Tree Communications, Inc. v. FCC*, 619 F.3d 235 (3d Cir. 2010). See also S. Jenell Trigg and Jeneba Jalloh Ghatt, *Digital Déjà Vu: A Road Map for Promoting Minority Ownership in the Wireless Industry* (Feb. 25, 2014); MMTC Ex Parte Letter re WT Docket No. 05-211 et al. (March 14, 2014); MMTC Ex Parte Letter re WT Docket No. 05-211 et al. (March 17, 2014); MMTC Ex Parte Letter re WT Docket No. 05-211 et al. (April 3, 2014); MMTC Ex Parte Letter re WT Docket No. 05-211 et al. (April 25, 2014).

Hon. Tom Wheeler

May 8, 2014

Page 2.

at least 40%, and incorporating diversity and inclusion into the Commission's public interest analysis of mergers and acquisitions as well as secondary market transactions.<sup>2</sup>

In addition, as the Commission goes forward with the Incentive Auction proceeding, it should avoid imposing restrictions on the transfer of any "reserved" low-band spectrum that may be made available during the auction.

Unreasonable restrictions, such as the continued existence of the AMR rule and bars on post-auction lease, resale or wholesale agreements, erect barriers to a DE's ability to gain access to capital, create viable (and flexible) business plans, and successfully participate in the capital-intensive wireless industry. For example, restricting a DE's ability to transfer reserved spectrum would severely curtail its ability to recoup potential losses in the secondary market and serve as a deterrent to investment in such a firm. The Commission should not create another hurdle for small, minority-owned, and women-owned firms seeking access to capital.

Instead, to promote the participation in the Incentive Auction of a diversity of entities, the Commission should pursue its usual policy (which it has recognized to be successful) of allowing licensees the flexibility to transfer the licenses won at auction to the extent their business plans change in the future. Again, MMTC and its coalition of supporters fully support efforts to fulfill the Commission's statutory mandate under Section 309(j) through the revitalization the DE program to provide *meaningful* DE participation.

Sincerely,

*David Honig*

David Honig

President

Nicol Turner-Lee, Ph.D.

V.P. / Chief Research & Policy Officer

Jacqueline Clary

Senior Counsel and Policy Fellow

cc: Hon. Mignon Clyburn  
Hon. Ajit Pai  
Hon. Jessica Rosenworcel  
Hon. Michael O'Rielly

Attachment: S. Jenell Trigg and Jeneba Jalloh Ghatt, Digital Déjà Vu: A Road Map for Promoting Minority Ownership in the Wireless Industry (Feb. 25, 2014).

---

<sup>2</sup> See *id.*