



**Minority Media &  
Telecom Council**

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July 11, 2014

Marlene Dortch, Esq., Secretary  
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 Ms. Dortch:

This letter reports a meeting held on July 9, 2014 with members of the Wireless Telecommunications Bureau, including Roger Sherman, Bureau Chief, Margaret Wiener, Chief of the Auctions and Spectrum Access Division, Jessica Almond, Chief of Staff, Patricia Robbins, Legal Advisor, and Sue McNeil, Special Counsel. Rev. Steven J. Smith, Executive Director at the Public Policy Institute and Media & Telecom Project, Rainbow PUSH Coalition, S. Jenell Trigg, MMTC Advisory Board Member and Member of Lerman Senter, PLLC, and Dr. Nicol Turner-Lee, Vice President and Chief Research & Policy Officer, MMTC and Jacqueline Clary, Senior Counsel and John W. Jones Fellow, MMTC, represented MMTC at both meetings.

MMTC requested a status update on the timeline for the forthcoming proceeding to review the Commission's Designated Entity (DE) rules.<sup>1</sup> MMTC reiterated that it is critically important that this proceeding be completed as expediently as possible so that DEs have adequate time to develop business plans and raise capital for the upcoming spectrum incentive auction.<sup>2</sup>

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<sup>1</sup> See e.g. Estimated Timeline of Key Events Leading Up to FCC's Broadcast Incentive Auction (updated June 25, 2014), available at [http://wireless.fcc.gov/incentiveauctions/learn-program/Incentive\\_Auction\\_Timeline.pdf](http://wireless.fcc.gov/incentiveauctions/learn-program/Incentive_Auction_Timeline.pdf) (last visited June 26, 2014).

<sup>2</sup> 47 U.S.C. § 309(j)(3)(E).

<sup>3</sup> See 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 White Paper"). See also 47 U.S.C. § 309(j)(3)(E).

We continued to urge the Commission to eliminate the Attributable Material Relationship (AMR) rule and increase bidding credits (which is the only remaining DE-specific incentive adopted under Section 309(j)).<sup>3</sup> We also urged the Commission to recognize that today's market realities for DEs are different from the marketplace in 1994 when the rules were created.

There are various types of DEs, each with different access to capital issues, strategic plans and objectives. To have an effective DE program, the rules must be written to maximize flexibility – the ability for incumbent and new entrant DEs to adapt to market conditions and new technology – and be designed to increase access to capital by encouraging investment and innovation, create regulatory stability and certainty, and reduce market entry barriers to participation. The AMR rule in particular is a major impediment for DEs to implement viable and flexible business plans, especially for new entrants who will compete against large and small incumbents, and it unreasonably restricts capital that is generated by leasing, wholesaling, or reselling, industry standard practices. Elimination of the AMR rule operates in tandem with increased bidding credits to provide new entrant DEs an opportunity to participate in auctions. Eliminating the AMR rule would provide increased flexibility to create viable business plans while bidding credits would provide DEs with greater access to the financial marketplace.

We urged the Commission to consider additional measures that can help DEs grow and stay in business longer, including the review of the holding period post-auction.

Finally, in response to concerns raised about the potential of fraud or abuse of the DE program, MMTC reiterated that while only bona-fide DEs should be the beneficiaries of this program, the Commission should not allow the fear of program fraud or abuse to overshadow the program's potential to create opportunities for increased diversity and competition. The Commission has existing rules such as a random audit provision at its disposal to examine and help prevent improper relationships.

Respectfully submitted,

*Jacqueline Clary*

Jacqueline Clary  
Senior Counsel and John W. Jones Fellow

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<sup>3</sup> See 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 White Paper”). See also Letter to Chairman Wheeler and Commissioners, *Modernization of Competitive Bidding*, WT Docket No. 05-211 *et al.* (March 7, 2014) (a coalition of 20 civil rights and public interest organizations and individuals in support of the recommendations put forth in the MMTC White Paper) (Joint Letter of Support).