



**Minority Media &
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August 19, 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. 14-28 (Open Internet); GN Docket No. 09-191 (Preserving the Open Internet); WC Docket No. 07-52 (Broadband Industry Practices)

Dear Ms. Dortch:

This letter reports on two meetings held on August 18, 2014. The first meeting was with representatives of Chairman Wheeler's office including Renee Gregory, Legal Advisor, and Daniel Alvarez, Legal Advisor. The second meeting was with Commissioner Pai, Matthew Berry, Chief of Staff, and Nicholas Degani, Legal Advisor. David Honig, President, Dr. Nicol Turner-Lee, Vice President and Chief Research & Policy Officer, Jacqueline Clary, Senior Counsel and John W. Jones Fellow, and Maria Lesinski, Law Clerk, represented MMTC.

With respect to the Open Internet proceeding, MMTC continues to support a Section 706 as a rational framework but notes room for improvement on the complaint process. Specifically, MMTC urged the Commission to model its process after the consumer-friendly complaint process established by Title VII of the 1964 Civil Rights Act.¹ A complainant could provide the Commission with enough information as to a prima facie case of specific or systemic harm to allow the Commission to conduct an initial screening and, if the Commission finds probable cause, institute expedited enforcement or mediation.² Implementing this type of process could provide consumers with timely and cost-effective resolutions.

¹ See Comments of the National Minority Organizations, GN Docket Nos. 14-28, 10-127 (July 18, 2014), at p. 13.

² See *id.* at p. 14.

MMTC requested a status update on the forthcoming proceeding to examine the Designated Entity (DE) rules. MMTC reiterated the critical importance of this proceeding to building a record to support a program that provides more effective DE engagement. MMTC also encouraged all Commissioners to vote on the item and publicly circulate the item to give DEs adequate time to develop business plans and raise capital for the upcoming spectrum incentive auction.

Consistent with MMTC's White Paper on DE participation,³ we urged the Commission to eliminate the Attributable Material Relationship (AMR) rule and increase bidding credits. We also urged the Commission to use the DE proceeding as a vehicle to examine how today's market realities are different from the marketplace that existed when the rules were created. There are various types of DEs, each with different access to capital issues, strategic plans and objectives. For example, one DE might want to be facilities based while another DE might want to work with an established retail outlet to help them establish a telecommunications arm. To be effective, MMTC hopes that the final rules will be written to maximize flexibility – the ability for DEs to adapt to market conditions and new technologies – and be designed to increase access to capital.

Responding to concerns about similarities between Joint Service Agreements (JSAs) and the AMR rule, MMTC pointed out differences between the agreements that impact diversity of voices and the capital intensive industries in which DEs seek to participate. The Commission needs to get the right incentives to ensure that DEs are able to access the investors and capital necessary to be successful in spectrum auctions.

MMTC stated 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. MMTC reiterated its support for existing rules, such as the random audit provisions, that the Commission can, and should, use. However, the Commission should also recognize that factors other than fraud or abuse have impacted the ability of DEs, especially new entrant DEs, to acquire and retain licenses.

Respectfully submitted,

David Honig

David Honig
President

³ 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).