

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the matter of:  
Competitive Bidding Procedures )  
FM Auction 79 – September 2009 ) AU Docket No. 09-21  
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To the Commission

**REPLY COMMENTS OF THE MINORITY  
MEDIA AND TELECOMMUNICATIONS COUNCIL**

The Minority Media and Telecommunications Council (“MMTC”) supports the following proposals in the Comments of Mullaney Engineering, Inc. (“Mullaney”)<sup>1</sup> and respectfully submits these reply comments.<sup>2</sup>

**The Commission Should Increase Discounts to New Entrants**

MMTC fully supports Mullaney’s proposal to increase discounts to new entrants and broadcasters that own fewer than three facilities. Specifically, the Mullaney proposal calls for an increase in discounts, to new entrants, from 35% to 60%, and an increase in discounts, for existing broadcast owners that own fewer than three facilities, from 25% to 40%.<sup>3</sup> The twenty facilities requirement that was applied in previous auctions is unhelpful to new entrants and smaller operators. Therefore, MMTC agrees that these discounts should be substantially augmented, both to facilitate broadcast ownership for new applicants and to offset the effects of the ineffective requirements that the Commission applied in the past.

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<sup>1</sup> See Comments of Mullaney Engineering, Inc. (AU Docket 09-21) (filed March 20, 2009).

<sup>2</sup> These Reply Comments represent the institutional views of MMTC and are not intended to reflect the individual views of MMTC’s officers, directors and advisors.

<sup>3</sup> See *id.*

### **More than Nominal Consideration Should Be Given in Exchange for Excessive Bids**

MMTC further endorses the Mullaney proposal that the Commission require bidders who bid for an excessive proportion of the available allotments – *i.e.* 10% or more—to place on deposit the Minimum Opening Bid (“MOB”) for all of the allotments for which they bid.<sup>4</sup> MMTC agrees that the practice of allowing bidders to simply state their intentions to bid, while only providing nominal consideration in exchange, is a market entry barrier that the Commission has clear Section 257 authority to remedy.<sup>5</sup>

### **End Bidding Practices that Drive Up the Monitoring Costs of Smaller Bidders**

Currently, the Commission allows bidders to place bids *ad infinitum* throughout the competitive bidding process, thereby needlessly increasing the monitoring costs of smaller bidders who wish to remain the highest bidder. Therefore, MMTC agrees with the Mullaney proposal to allow subsequent bids to be made within no more than six (6) rounds following the initial bid. This proposal will increase transparency and expedite the bidding process.

### **The Commission Should Postpone the Auction**

MMTC agrees with Mullaney that the Commission should postpone this auction until the economic recovery takes hold. MMTC recommends at least a six month postponement.

A postponement to a time when the economy has improved would yield greater economic returns for the Treasury, as well as more diversity. Access to capital has always been the primary stumbling block for minority media ownership. In the present economic environment,

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<sup>4</sup> See *id.*

<sup>5</sup> See *id.*; see also 47 C.F.R. §1.2106 (2009) (stating that the Commission has maximum flexibility for determining the amount of upfront payments required for each competitive bidding proceeding).

almost no equity or debt capital is available – except from high net worth individuals – to finance the acquisition and buildout of bare construction permits. In such an environment, minorities are especially disadvantaged, given the approximately 6:1 white/minority wealth gap that persists in this country. Indeed MMTC Media Brokers – the only minority owned media brokerage in the United States - has been approached by only one minority entrepreneur interested in bidding on these allotments. Others have passed because no funding is available. This does not bode well for the success of this auction.

Therefore, MMTC asks that the Commission postpone Auction 79 for at least six months, when all interested parties might be able to obtain the necessary resources to participate.

Respectfully submitted,

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