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THE STATE OF SOCIAL JUSTICE IN MEDIA, TELECOM AND BROADBAND – 2014

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Welcome to the Fifth Annual MMTC Broadband and Social Justice Summit. I'm going to take you on a journey today into the Open Internet, the digital divide, telecom redlining, and minority spectrum entrepreneurship.

But before that, I'm going to try not to gag as I read the most horrible tweet in the eight-year history of tweeting. Two weeks ago, the communications director of a large American company actually tweeted these words as she was boarding a plane in London bound for Johannesburg:

"Going to Africa. Hope I don't get AIDS. Just kidding. I'm white!"

I don't want to pile on, but the online community's reaction to this ignorant tweet offers considerable insight about telecom policy. During the 12 hours when this woman was airborne with no WiFi, tens of thousands of tweeters demanded – successfully – that she be fired, and a website named after this woman was created from scratch and was collecting contributions for AIDS victims in South Africa.

As an unreconstructed community organizer, I find this amazing! Thanks to the Internet, community mobilization is infinitely faster and more efficient today than it was 50 years ago when I was setting up telephone trees for the Southern Christian Leadership Conference. For those of you are under 35, telephone trees were the 1964 equivalent of tweeting!

To be clear, the power of the shaming culture of the Internet is real.

Just as the online social justice community dealt with Ms. Justine Sacco and her horrible tweet, an online army of highly trained and motivated computer geeks is constantly monitoring the Internet to prevent abuses such as blocking, to call out violators, and to keep the Internet open and accessible.

The key to enabling that "shaming culture" to function effectively is the FCC's new transparency rule, which enables online watchdogs to be sure that what a carrier promises matches up with what it does online. So it's fortunate that yesterday's court decision in Verizon v. FCC upheld the transparency rule, for which MMTC was a strong advocate.

Although the decision overall was a mixed bag, on balance it was a victory for underserved consumers.

Why? Because the court has made it abundantly clear that the FCC has the authority, under Section 706, to regulate broadband and the Internet. This means that the FCC has the tools it needs to ensure first class digital citizenship for people of color and other underserved communities.

Specifically the FCC can focus on expanding digital learning and tele-healthcare, and the FCC can move aggressively to foster minority ownership and equal employment opportunity in the Internet and broadband space.

Every civil rights organization should be celebrating this jurisdictional holding on which the FCC prevailed - and most importantly we should all hold the FCC accountable for doing more.

Now let's talk about the overarching issue: how the FCC should use all of the authority it possesses to close the digital divide.

In a world governed by social justice, we would expect to see our most important and influential industries – media, telecom and broadband, which together constitute one-sixth of our economy - looking just like America. That's because talent, initiative, creativity, management skill and entrepreneurial ability are equally distributed throughout society.

Over one-third of our population are people of color. To put that in context, this means that people of color possess at least a third of the nation's intellectual capital, at least a third of its inherent managerial capability, and at least a third of its entrepreneurial initiative.

Yet today, people of color lag far behind in communications industry employment and management. In STEM education. In broadband adoption. In venture capital. In ownership of FCC-licensed facilities. And, especially, in spectrum ownership.

Look at the many developed nations that outrank the United States in competitiveness, in education, and in quality of life. Those nations almost always have two things we don't have: universal broadband, and the absence of a caste system. Those nations' economies are not being dragged down by the gross economic inefficiency and moral repugnance of a third of their people lacking broadband at home, lacking adequate STEM education, and lacking the proficiency needed to unlock their full potential in the workforce and in entrepreneurship. And these nations haven't blocked a third of their citizens from opportunities to own and deploy spectrum.

Former NTIA Director Larry Irving coined the name for this in 1999: the "digital divide."

Let's clearly understand what the digital divide is. It is the greatest threat to first class citizenship since segregation. It represents the very real possibility that the vast opportunities of broadband won't be available to everybody. We could wake up and discover that this enormously powerful tool – high speed, affordable, accessible broadband – that we thought was going to be the great equalizer - is instead going to be unavailable to a segment of our society that's already burdened with systematic and structural inequalities – particularly the overwhelming 38% racial income inequality gap and the truly staggering 20:1 racial wealth gap.

This leads us to a profoundly critical question that MMTC is looking into and trying to figure out: why are some of our cities allowing a company to build very fast – gigabit-speed – broadband in all neighborhoods except the low-income, minority neighborhoods that need broadband, and broadband competition, the most?

Imagine that you live in Anacostia when a major corporation announced that it would deliver gigabit broadband to every D.C. neighborhood whose residents promised to buy the

service right away. If you can't get enough of your neighbors to agree to sign up for the service, you are out of luck. And out of opportunity. The broadband provider will draw a red line around your neighborhood, just like banks and insurance companies used to do, and just like cable and phone companies used to do until we fought them and won.

Redlining of deployment of an essential service like broadband may be good business in the short term. But it is so morally wrong. That's not the way we do things in the United States of America.

Our federal laws guarantee that no one can be deprived of accessible banking, home mortgages and insurance because their neighbors aren't wealthy.

State and federal court cases have held that no one can be deprived of ambulance service, health care or good schools because their community lines were drawn up under segregation.

And the time has come for the Federal Communications Commission to ensure that no one is going to be deprived of fast broadband service because of what neighborhood they live in.

There are some services that are so fundamental to our life quality, our life chances, that they shouldn't be available only to those who live in a wealthy neighborhood, which, given the enormous income gap and wealth gap usually means a white neighborhood.

Now you might be thinking "gigabit broadband is a luxury today. It's not a necessity like banking, or health care, or good schools. So why can't a gigabit provider come into town and cherry pick neighborhoods when it deploys fiber?"

Here is the answer: yes, gigabit broadband is a luxury TODAY. But we know to a moral certainty that tomorrow, gigabit broadband will be a necessity. Twenty years ago, even slow-speed broadband was a luxury, but today you can't apply for a job, and your children can't do their homework, without at least medium-speed broadband. If we've learned anything at all about disruptive technology, we should clearly understand that in ten years or less, gigabit broadband will be the key to unlocking applications not yet invented, technologies not yet thought of, wild dreams given life in the garages of today's geeks who will become tomorrow's billionaires.

So if a carrier is allowed not to deploy broadband in certain neighborhoods, or to create contests that result in a predictable outcome as to which neighborhoods will be served, that's relegating those who live in the other neighborhoods to second class citizenship.

As some of you know, I'm old enough to have fought redlining twice before – in the 1970s against cable, and we won; and in the 1980s and 1990s against wireline telephony and DSL, and we won again. Each time, the industries protested that if they weren't allowed to redline they couldn't turn a profit. And each time, after they weren't allowed to redline, they still made enormous profits providing equal service to everybody.

This issue has nuances that deserve careful thought and contemplation. We want to be effective, and we're going to be fair by bearing in mind that gigabit providers are new entrants that face long-tenured broadband competitors. But I promise that by the time of our Access to Capital Conference July 28-29 of this year, we'll announce a plan to end urban gigabit redlining.

Finally, let's turn our attention to what should be a highest tier priority at the FCC and in our industries: how to facilitate the formation and growth of new entrant and also large minority enterprises that will own and deploy spectrum.

Let's recount the many ways that large and small minority business enterprises benefit society as a whole. These firms provide affordable service and equipment, adoption programs, public purpose media, and digital literacy training. They mentor, train and employ people of color at rates far above those of other companies. They create jobs that help build healthy minority communities. And above all, they generate wealth and recirculate dollars that stay in the minority community.

Sometimes we unconsciously make two mistakes in the way we think about minority businesses.

The first mistake is that too often we frame the primary mission of minority businesses as being the suppliers of goods and services through corporate or federal procurement programs.

To be sure, procurement is very important. Not all procurement is just selling paper clips. But selling stuff to spectrum owners is not enough. People of color should also BE spectrum owners.

The second mistake we make in contemplating minority business is that too often we conflate "minority" business and "small" business. So let me put that to rest right now: while we strongly encourage innovative startups, there is nothing, absolutely nothing, about being a minority business that requires smallness. All entrepreneurs start small, but a real entrepreneur wants to be big, and thinks big. And minority businesses really must think big if we're going to close the income gap and the wealth gap, create thousands of new jobs, and pull the minority community out of structural and cross-generational poverty. To do these things, we need minority businesses that have scale – businesses with market caps in the billions, not millions. There is no such thing as a business that is too big for minorities to own, manage, and use for the benefit of all of us.

Now, is building very large minority businesses in the spectrum field achievable? Sure it is, but the industry – every major company in the industry – needs to do its part, and the FCC will need to step up its game as well. Over the past two years we've witnessed an extraordinary number of mergers, acquisitions, and secondary market spectrum transactions: Softbank/Sprint. T-Mobile/MetroPCS. The Spectrum Co. deal. The Verizon A and B Block sales. AT&T/LEAP. AT&T/Aloha. And there are sure to be more to come. Yet very few of these major transactions have incorporated any diverse partnerships or demonstrated any real consideration of diversity and inclusion. In the public interest statements associated with their FCC applications you will seldom find a word about how the deal, which contains not a single megahertz of spectrum for minority ownership, benefits the public interest.

It's not like the FCC hasn't been asked to do something about this dilemma. The agency has before it a petition to require a minority impact statement attendant to major transactions and rulemakings. This petition was filed by a wonderful organization, the National Association of Black Owned Broadcasters – NABOB – whose Executive Director Jim Winston is receiving MMTC's Extraordinary Service Award at our Broadband and Social Justice Awards Reception this evening. Take a guess how long this proposal has been pending at the FCC? Jim Winston filed it, and MMTC endorsed it, in 1990 and it is STILL PENDING 24 years later.

In the midst of consolidation and spectrum aggregation, with all of the opportunity they bring for wealth creation, the FCC should declare that much greater minority inclusion in these transactions will ultimately drive more competition, promote the delivery of new and innovative services, and help create a more robust economy for all Americans.

In closing, I call upon the FCC in 2014 to do four big things to promote equity in spectrum ownership.

FIRST, the Commission should make diversity and inclusion a compelling factor in its determination of whether any transaction before it meets the public interest standard.

SECOND, the Commission should adopt strong new rules to strengthen the Designated Entity program, which Congress created in 1993 to promote competition and ownership diversity including minority and women ownership. Unfortunately, in 2006 the Commission adopted severe new regulations that eviscerated minority participation. In the "beachfront property" Auction 73, minorities won only seven of the 1,090 licenses – less than one percent. Commissioner Jonathan Adelstein was moved to declare that "[i]t's appalling that women and minorities were virtually shut out of this monumental auction This gives whole new meaning to [the term] 'white spaces.'"

To correct its epic mistake, the Commission should increase designated entity bidding credits to at least 40%, and repeal the Attributable Relationship Rule, which unreasonably restricts designated entities from leasing, wholesaling or reselling more than 25% of their spectrum capacity to any one entity without potentially losing their designated entity eligibility.

THIRD, the Commission should consider the state of minority ownership as a factor in evaluating whether a market is truly competitive. In July of last year, upon Chairwoman Mignon Clyburn's initiative, the Commission sought comment on whether and how to include minority ownership in the report on wireless competition that the agency must submit to Congress every year. In this age of data-driven policymaking, it's essential for the Commission to gather full information on the extent of minority wireless spectrum ownership, and to factor those numbers into the Commission's determination of whether the market is competitive.

FOURTH and last, we encourage the Commission to call in all of the major carriers for a multi-stakeholder mediation that will produce an industry-wide compact to bring about large-scale minority spectrum ownership. In his address last month at Ohio State University, Chairman Tom Wheeler laudably pointed to multi-stakeholder mediations as an effective way for the Commission to solve otherwise intractable problems through consensus rather than regulation. In this way, the FCC can create a long-term business climate that is more competitive, more innovative, and more productive.

I will conclude with a few words about this institution – the Minority Media and Telecommunications Council - that we have built over the past 28 years. And first I'd like our staff, our Board of Directors, our Board of Advisors, Policy Committee, and our New Telecom and Internet Policy Taskforce to please stand and be acknowledged for your hard work to advance the cause of social justice.

Recall that in 1996 advocates for minority participation had no seat at the table when the 1996 Telecom Act was being written. But not this time around. Our 65-member New Telecom and Internet Policy Taskforce, which met this last night and this morning, will make sure that diversity and inclusion are a key focus of any new Telecommunications Act.

When you turn on the television and show your children people of color anchoring and reporting the news, MMTC had a lot to do with that. When you see new minority broadcast and wireless owners getting a foothold in their industries, we helped with that. And after 27 years, when the FCC adopted and began enforcing its broadcast advertising nondiscrimination rule – MMTC and NABOB made that possible. Last year, we witnessed the largest minority spectrum deal in history, and MMTC helped broker the deal. We're proud of that and much more.

But we're not done yet. Not even close to done. We still have to close the digital divide. We have to end broadband redlining. We have to preserve and grow vast new entrepreneurial and career opportunities in traditional and new media and in telecommunications.

At today's Summit, with so many creative, enterprising minds in the room I am certain we will generate great dialogue about these issues and deliver the spirit of Social Justice to the world of media, telecom and broadband.

Thank you so much for being here.
