



## Council Tree Investors, Inc.

80 Broad Street, 5<sup>th</sup> Floor  
New York, NY 10004  
Phone: (212) 286-8702  
Fax: (917) 591-4507  
[www.counciltree.com](http://www.counciltree.com)

October 20, 2009

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Ex Parte Presentation in MB Docket No. 07-57, Implementation of Third-Party Access Commitment

Dear Ms. Dortch:

On October 20, 2009, representatives of Council Tree Investors, Inc. ("CTI") spoke by teleconference with Sherrese Smith, Legal Advisor for Media, Consumer and Enforcement Issues to Chairman Genachowski. Participating on the teleconference from CTI were Steve Hillard and Jonathan Glass.

CTI discussed matters relating to the implementation of the Third-Party Access commitment for the channels on its satellite radio platforms that Sirius XM Radio, Inc. has voluntarily committed to lease to a Qualified Entity or Entities.

In particular the discussion focused on Indian Tribes as ideal lessees by meeting the Qualified Entity definition while being excepted from the Adarand decision. The predicate for this exception is that such government actions are not "race-based", but rather are based on relations with quasi-sovereigns under the Indian Commerce clause. U.S. Const., art. I, §8, cl.3.

CTI proposed that a tribally owned entity, such as Mosaic Communications Partners, serve as the lessee of all of the Sirius XM Channels made available for lease and would in turn sublease channels to third parties that meet the Qualified Entity definition.

Respectfully submitted,

**/s/ Jonathan Glass**  
Jonathan Glass  
Principal