

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures	)	WT Docket No. 05-211
	)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
	)	
Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands	)	GN Docket No. 13-185
	)	

To The Commission

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

The Minority Media and Telecommunications Council (MMTC) respectfully urges the Commission to take this opportunity to eliminate the Attributable Material Relationship (AMR) rule as it negatively impacts Designated Entities’ (DEs) ability to compete by limiting standard industry practices – i.e., entering into spectrum leases, wholesale, and resale arrangements.<sup>1</sup>

Until such time as the Commission has eliminated the AMR rule, MMTC supports the specific

---

<sup>1</sup> See 47 C.F.R. §1.2110(b)(3)(iv)(A). “*Attributable material relationships.* An applicant or licensee must attribute the gross revenues (and, if applicable, the total assets) of any entity, (including the controlling interests, affiliates, and affiliates of the controlling interests of that entity) with which the applicant or licensee has an attributable material relationship. An applicant or licensee has an attributable material relationship when it has one or more arrangements with any individual entity for the lease or resale (including under a wholesale agreement) of, on a cumulative basis, more than 25 percent of the spectrum capacity of any one of the applicant’s or licensee’s licenses.” *Id.*

clarification of the rule requested by Grain in order to increase opportunities for DE participation in the telecommunications industry.<sup>2</sup> If the Commission elects instead to waive application of the rule, it should be waived for all DEs or at least reviewed on a case by case basis.

As detailed in MMTC's recent White Paper,<sup>3</sup> this rule significantly impedes a DE's ability to create flexible business plans and gain access to capital.<sup>4</sup> As demonstrated by the need for Grain to file its petition, the AMR Rule hampers the ability of qualified DEs – new entrants and incumbents alike – to secure capital and grow their business, or to expand spectrum holdings at auction. Additionally, it restricts new entrant DEs that do not have a ready-made subscriber base (i.e., steady incoming revenue) from securing financial support from an anchor tenant through a lease, resale or wholesale arrangement. A firm should be able to retain its status as a DE when

---

<sup>2</sup> See Grain Management, LLC's Request for Clarification or Waiver of the Commission's "Attributable Material Relationship" Rule, WT Docket No. 05-211 *et al.* (March 4, 2014) ("Grain Request"). See also *Wireless Telecommunications Bureau Seeks Comment on Request for Clarification or Waiver of the Commission's "Attributable Material Relationship" Rule*, Public Notice, WT Docket No. 05-211 (rel. March 27, 2014).

<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) ("White Paper").

<sup>4</sup> See *id.* See also MMTC Ex Parte Letter, WT Docket No. 05-211 *et al.* (March 14, 2014); MMTC Ex Parte Letter, WT Docket No. 05-211 *et al.* (April 3, 2014). See also Diversity Committee Draft Resolution Supporting Retention of Designated Entity Rules (October 4, 2004), available at <http://transition.fcc.gov/DiversityFAC/recommendations.html> (follow link to "Designated Entity Rules Draft") (last visited April 9, 2014) (explaining, two years prior to the 2006 DE rule changes, the necessity of maintaining a stable regulatory climate to ensure DEs are able to secure capital to effectively compete in spectrum auctions). The Diversity Committee stepped in two more times to urge the Commission not to harm the viability of the DE program and rely instead on enforcement rules that allow the Commission to conduct compliance audits and enforce unjust enrichment penalties if violations occur. See Diversity Committee Resolution Regarding Designated Entity Investment Rules (April 25, 2006), available at <http://transition.fcc.gov/DiversityFAC/recommendations.html> (follow link to "Designated Entity Rules") (last visited April 9, 2014); Diversity Committee Resolution Regarding Designated Entity Investment Rules (Sept. 22, 2009), available at <http://transition.fcc.gov/DiversityFAC/recommendations.html> (follow link to "Designated Entity Investment Rules") (last visited April 9, 2014) (urging the Commission to begin a rulemaking to reverse the 2006 Rule Changes and consult the Committee prior to all auctions).

entering into a lease, resale, or wholesale agreement. The transaction costs and time necessary to secure multiple tenants limited to only 25% each can also be additional market entry barriers for DEs.

MMTC continues to strongly urge the Commission to restore effective DE rules, starting with the elimination of the AMR rule for all DEs.<sup>5</sup> Until the Commission has taken this step, given the lack of DE participation in auctions since implementation of the 2006 DE rule changes,<sup>6</sup> and in anticipation of all future auctions, including but not limited to the AWS-III and the spectrum incentive auctions, the Commission should promptly grant Grain's well-reasoned request for clarification of the AMR rule in order to enable greater near-term DE participation in upcoming auctions and in the secondary markets.

Respectfully Submitted,



David Honig, Esq.  
President  
Nicol Turner-Lee, Ph.D.  
Vice President and Chief  
Research and Policy Officer  
Jacqueline Clary, Esq.  
Senior Counsel

Minority Media and  
Telecommunications Council  
3636 16th Street NW, Suite B-366  
Washington, D.C. 20010  
(202) 332-0500  
[dhonig@mmtconline.org](mailto:dhonig@mmtconline.org)

April 25, 2014

---

<sup>5</sup> See Council Tree Investors, Inc. Ex Parte Letter Re: Grain Management LLC's Request for Clarification or Wavier of "Attributable Material Relationship" Rule, WT Docket No. 05-211 et al. (March 18, 2014) (reiterating the need for broad relief from the last remaining 2006 DE rule).

<sup>6</sup> See White Paper.