

Minority Media and Telecommunications Council

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November 18, 2009

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Submission, MB Docket No. 07-294

Dear Ms. Dortch:

The Minority Media and Telecommunications Council (“MMTC”) respectfully encourages the Commission to reconsider its plan to require the submission of Social Security numbers in the process of preparing Broadcast Ownership Reports on the revised FCC Form 323.¹ Requiring individuals to submit their Social Security Numbers to the Commission to obtain the FCC Registration Number (“FRN”) required by the form would represent an unnecessary invasion of personal privacy.

MMTC has strongly supported enhanced ownership information disclosures as a critical step in the advancement of minority ownership.² Expansion of the scope of parties required to file ownership reports will assist in enhancing the race and gender data collection because more people identifying themselves as broadcast owners will be counted.³ We also supported the collection of broadcast ownership data on an annual basis to better reflect the immediate impact of changes in the Commission’s rules on the investment community.⁴ These goals, however, do not necessitate the intrusion on personal privacy represented by a mandate to register Social Security numbers with the Commission.

¹ This Letter reflects the institutional views of MMTC and is not intended to represent the views of individual MMTC officers, directors and advisors.

² See “Initial Comments of the Diversity and Competition Supporters in Response to the Third Further Notice of Proposed Rulemaking,” July 30, 2008 (“Initial Comments”). MMTC is a member of and counsel for the Diversity and Competition Supporters.

³ *Id.* at 18.

⁴ *Id.*

Such a requirement would impede compliance with the Commission's enhanced ownership disclosure requirements. The Social Security Administration ("SSA") suggests that individuals question the need for submission of Social Security numbers, demand legal justification, or consider refusing to provide the numbers.⁵ This justified resistance would slow down the submission and compilation of ownership data, the opposite of what is intended by the new Form 323, and for no good reason: the FRN adds no additional information and no further reliability to accurate data otherwise provided in the revised form.

The concept of requiring an FRN for each person with an attributable interest in a broadcast licensee or permittee, and then requiring the submission of a Social Security number in order to obtain the FRN, is apparently designed to uniquely identify an individual and permit accurate cross-checking to determine the full extent of broadcast ownership and influence. However, the Commission could just as easily require each submitting person to use the same valid address in each FCC ownership report filed by or on that person's behalf. "Leslie Moonves of 51 West 52d Street, New York" or "Jeffrey Zucker of 30 Rockefeller Plaza, New York" provides enough information, if used consistently, to clearly identify the extent of the person's involvement in the industry. If this is not enough, many online, telephone, and government agencies verify identity through the use of the final four digits of the Social Security Number; for example, those digits are all a citizen must supply in order to register to vote in the District of Columbia.⁶ The Administrative Procedure Act ("APA") requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency.⁷ Requiring a complete Social Security number adds no additional relevant information, places information in the Commission's records that is not necessary to accomplish the intended purpose, and subjects the reporting person to significant potential dangers.

In advising the public to treat Social Security numbers as confidential and to avoid giving them out unnecessarily, the SSA recommends that if a number is requested, a person should ask why the number is needed, how the number will be used, what happens if she refuses, and what law requires her to provide the number.⁸ This advice is a reflection on directives to federal agencies within the APA, which requires an agency to inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual: (A) the authority which authorizes the solicitation of the information and whether the disclosure of information is mandatory or voluntary; (B) the principal purposes for which the information is intended to be used; (C) the routine uses which

⁵ Social Security Administration website, <http://www.ssa.gov/pubs/10002.html#protect> (visited November 15, 2009).

⁶ See D.C. Board of Elections and Ethics, Online Voter Registration Form, available at http://www.dcboee.org/voter_info/register_to_vote/ovr_step2.asp (last visited November 17, 2009).

⁷ 5 U.S.C. § 552a(e)(1).

⁸ Social Security Administration website, *see* footnote 5 *supra*.

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may be made of the information; and (D) the effects, if any, of not providing the information.⁹ On pages linked to its FRN registration site, the Commission explains that its authority for the requirement to supply a Social Security number is the Debt Collection Improvement Act of 1996. The responses to Frequently Asked Questions indicate that the Commission will use the information to verify that the registrant has made proper payments, and that if a person fails to obtain an FRN, it will be unable to do business with the FCC. These responses clearly do not apply to the use of a Social Security number to identify officers and directors of media companies. Thus, in order to comply with the precepts of the APA, the Commission must – if it can – supply this information as it applies to this new use before it can request Social Security numbers.

For an example of what could result from the collection of Social Security numbers, the Commission need look no further than a fairly typical data security incident at the National Institutes of Health in April 2008. A stolen laptop contained Social Security Numbers of at least 1,281 patients enrolled in a National Heart, Lung and Blood Institute study. The NIH was required to offer participants free registration in a service that monitored credit reports and provided insurance to each for losses from identity theft. These measures resulted in costs to taxpayers. Said U.S. Rep. Joe Barton (R-Tex.), Ranking Member of the House Energy and Commerce Committee and one of the persons whose records were on the stolen laptop, “In the wrong hands, Social Security Numbers let people unlock our lives and steal both our money and our reputations. . . and the government largely has failed to do much about it.”¹⁰ It makes no sense for the Commission to subject itself and reporting persons to this kind of risk when there is no significant advantage to be gained from a requirement to submit Social Security Numbers to the agency.

MMTC urges the Commission to rethink its requirement for individual FRNs that require the submission of Social Security numbers. In that way the agency can get on with the much-needed task of restoring credible Form 323 data collection that is so vital to the FCC’s civil rights mandate.

Sincerely,



David Honig
President and Executive Director

⁹ APA, 5 U.S.C. § 552a(e)(3).

¹⁰ Rick Weiss and Ellen Nakashima, “Stolen NI Laptop Held Social Security Numbers,” *Washington Post*, April 10, 2008.