

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In re:)
)
Auction of FM Broadcast) Auction No. 62
Construction Permits)
Scheduled for November 1, 2005)

To: Office of the Secretary
Attn: WTB/ASAD

Comments of CODO Group, LLC

The following comments are submitted on behalf of CODO Group, LLC ("CODO") in response to the Commission's Public Notice released April 14, 2005 (DA 05-1076) (the "Notice") requesting the filing of Comments in anticipation of Auction No. 62, which is scheduled to begin on November 1, 2005.

Although not expressly solicited for comment in the Notice, CODO strongly urges the Commission to continue to award new entry bidding credits for eligible entities, and to consider the adoption of provisions that would expand the available bidding credits that are available to companies like CODO which are trying to acquire FM broadcast stations for the first time. CODO was an active and hopeful participant for 23 FM channels in Auction 37. It was in Auction 37, and is for Auction 62, eligible for the maximum 35% new entrant bidding credit. However, CODO was shut out in Auction 37, which seems to have been the experience of most new entrant bidders.

Although it owns no broadcast stations, CODO is not unsophisticated in business matters. CODO had available to it through its own resources substantial funds with which to bid in Auction 37, yet it could not compete with established broadcast groups and local broadcasters. CODO used its business experience and invested considerable energy and resources to evaluate carefully

the channels available in Auction 37. To the best of its ability, CODO determined reasonable bidding strategies for the markets in which it was interested, only to see winning bids far surpass what it believes were commercially reasonable amounts. Unfortunately, the efficiencies and synergies that can be realized by established broadcasters bidding for a new channel permit them to outbid new entrants in virtually any market, even against the new entrant bidding credits.

While CODO recognizes that one purpose of the auction process is to generate public revenue for the assignment of valuable spectrum, Congress in Section 309(j) of the Communications Act also recognized the public interest in an auction process that will foster the introduction of new broadcast voices. Indeed, the value of that second objective is even more evident today in the frustration expressed by numerous members of Congress over the increased media concentration arising under the Commission's multiple ownership rules. The Commission should focus its auction rules for Auction No. 62, and future broadcast auctions, to strengthen the new entrant bidding credits to lessen to some degree local radio concentration. The existing rule (73.5007) is simply insufficient to introduce a reasonable number of newcomers through the Commission's auction procedures.

If it has not already done so, the Commission must evaluate the results of Auction 37 to confirm CODO's experience and consider raising the new entrant bidding credits above the 35% and 25% levels. In addition, the Commission should evaluate all the auction rules to determine what other adjustments are appropriate to accomplish one of the purposes of Section 309(j) of the Communications Act, the expansion of new media owners. For example, the Commission should consider the reservation of certain channels in highly concentrated markets for bidding only by parties eligible for new entrant bidding credits, or create a sliding scale that requires higher bids

depending on the number of media already owned by a particular bidder.

CODO submits that the current bidding rules do not work as intended and it is incumbent on the Commission to consider alternative measures to address the problem.

Respectfully submitted,
CODO GROUP, LLC

By: _____
Dale F. Ostler, Manager
44 South Village Court
Alpine, UT 84004
(801) 209-0108

April 28, 2005