DA 04-3583
November 12, 2004

Lauren A. Colby, Esq.
Post Office Box 113
Frederick, Maryland 21705-0113

Dear Mr. Colby:

We are in receipt of your letter of November 5, 2004, providing information about a communication received on November 4, 2004, by your client, John Fuller, who is a bidder in the Commission's auction of FM broadcast construction permits, Auction No. 37.[1] As you know, Auction No. 37 commenced on November 3, 2004 and is currently ongoing.[2]

The Commission takes allegations of wrongdoing very seriously. However, we are also sensitive to the fact that any action we take during the course of an ongoing auction, or before the long-form applications are filed, could harm the integrity of the auction process. Generally, we believe it is more prudent to address such allegations after the winning bidders have submitted their long-form applications (FCC Form 301), when there is greater opportunity for investigation of such allegations.[3] After review of the information you have submitted, the Auctions and Spectrum Access Division will refer this matter for such further action as it deems appropriate.

Sincerely,

Gary D. Michaels
Deputy Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

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[1] Letter from Lauren A. Colby, Esq. to Gary D. Michaels, Deputy Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, dated November 5, 2004.

[2] *See* "Auction of FM Broadcast Construction Permits; 456 Bidders Qualified to Participate in Auction No. 37," *Public Notice*, DA 04 -3252 (rel. Oct. 18, 2004).

[3] *See* Baker Creek Communications, L.P., For Authority to Construct and Operate Local Multipoint Distribution Services In Multiple Basic Trading Areas, DA 98-1921, *Memorandum Opinion and Orde*r, 13 FCC Rcd 18709 (1998); Letter from Margaret W. Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, to Steven R. Sixberry, Nevada Wireless, DA 00-1949 (rel. August 24, 2000).